



Texas

DEPARTMENT OF FAMILY
AND PROTECTIVE SERVICES



REPORT TO THE
SUNSET ADVISORY COMMISSION:

CHILD PROTECTIVE SERVICES
TRANSFORMATION

OCTOBER 2014

The logo for "Bridge to a Better CPS". It features a white silhouette of a bridge with three arches on a red background. Below the bridge is the word "BRIDGE" in bold, white, sans-serif capital letters. Underneath "BRIDGE" is the phrase "TO A BETTER CPS" in a smaller, white, sans-serif font.

BRIDGE
TO A BETTER CPS



TEXAS HEALTH AND HUMAN SERVICES COMMISSION

KYLE L. JANEK, M.D.
EXECUTIVE COMMISSIONER

October 17, 2014

Mr. Ken Levine
Director
Sunset Advisory Commission
1501 North Congress, 6th Floor
Austin, Texas 78701

Dear Mr. Levine:

Pursuant to Recommendation 2.2 in the Sunset Commission's report on the Department of Family and Protective Services, we are pleased to present this plan which details our priorities for the year and outlines a definitive path for CPS transformation. Our goal is nothing short of becoming a national leader as the most effective, highest quality child services agency in the country.

The plan offers a status update on our progress implementing recommendations adopted by the Sunset Advisory Commission and those offered by The Stephen Group in its operational review of CPS. In addition, it incorporates recommendations from Casey Family Programs specific to Harris County.

As part of this effort, the plan contains a thorough review of agency statutes and identifies statutory changes that will give CPS more flexibility in determining best practices, enable CPS caseworkers to spend more time with children and families, and eliminate unnecessary duplication and deviation from federal law.

CPS transformation is a HHS system priority. From the time the operational review was complete, CPS has worked with executive and regional leadership along with field staff from across the state to set priorities and develop this plan. While there is much to be done, we believe this plan contains all the elements needed to truly transform CPS. Every transformation activity ties to one of three priorities: developing and maintaining a professional and stable workforce; ensuring child safety, permanency and well-being; and establishing an effective and efficient organization and operations.

CPS is guided by the belief that people can change for the better. We work in partnership with families and communities to create safe environments for children. We hold the same belief for

Mr. Ken Levine
October 17, 2014
Page 2

our organization as we work in partnership with staff and community stakeholders to create positive change for our workforce and operations.

CPS employees are ready for, and committed to, positive change and are excited about making it happen. As you will see in this plan, there will be many more accomplishments in coming months. We realize meaningful change will not be easy and is a continuous process. We look forward to working with you as we transform CPS.

Sincerely,



Kyle L. Janek, M.D.
Executive Commissioner, HHSC



John J. Specia, Jr.
Commissioner, DFPS

Attachment

Table of Contents

Summary of Accomplishments	2
CPS Transformation Implementation Update	3
Priority A: Develop a Professional and Stable Workforce.....	3
Recruitment and Hiring.....	4
Core Training.....	6
Specialty Training.....	8
Mentoring	9
Management Training.....	10
Performance Evaluation and Recognition	11
Priority B: Ensure Child Safety, Permanency, and Well-being.....	12
Structured Decision Making Safety and Risk Assessment	13
Practice Model	15
Investigation and Family-Based Safety Services (FBSS)	16
Reunification and Permanency.....	18
Harris County	20
Purchased Family Preservation and Reunification Services	22
Foster Care.....	23
Office of Child Safety	25
Prevention and Early Intervention.....	26
Faith-Based Programs	27
Priority C: Establish Effective Organization and Operations.....	28
Organization and Operations.....	29
Policy Strategy.....	31
Using Data to Improve Outcomes for Children and Families	32
Appendix A: Review of Statutory Barriers	33
Appendix B: Transformation-Related Initiatives by Region.....	137
Appendix C: Calendar of Key Transformation Dates in Fiscal Year 2015.....	138
Appendix D: Transformation Outcome Metrics.....	139
Appendix E: Recommendations Crosswalk.....	140

Summary of Accomplishments

Develop a Professional and Stable Workforce

- Launched mentoring pilot (Regions 1, 3, 4/5, and 8) – August 27 - September 5, 2014
- Launched Strengths-Based Supervision (Harris County in Region 6) – September 24, 2014
- Approved approach for redesign of core and specialty training – September 29, 2014

Ensure Child Safety, Permanency, and Well-being

- Launched web-based portal to communicate DFPS client needs to faith communities – August 1, 2014
- Harris County pilot of new geographic case assignment – September 1, 2014
- Elevated Prevention and Early Intervention programs within the agency – September 1, 2014
- Created Office of Child Safety – September 1, 2014
- Priority process and practice changes identified for Investigations and Family-Based Safety Services and initial implementation efforts begun – September 30, 2014
- Priority process and practice changes identified for efforts to expedite reunification and permanency and initial implementation efforts begun – September 30, 2014
- U.S. Department of Human Services granted DFPS a Title IV-E waiver for new service approaches in Harris County – October 1, 2014
- Completed long-range foster care redesign implementation plan – October 1, 2014
- Finalized contract with the National Council on Crime and Delinquency (NCCD) to adapt Structured Decision Making (SDM) instruments for Texas and identified early adopter units in every region of the state – October 3, 2014

Establish Effective Organization and Operations

- Developed Commissioner and legislative dashboards – July 30, 2014
- Implemented new policy strategy – August 22, 2014
- Reorganized CPS state office – August 28, 2014
- Centralized CPS quality management functions – August 28, 2014
- Paused non-critical activities and refocused CPS quality initiatives on transformation goals – September 1, 2014
- Launched regional stakeholder meetings – September 19, 2014 - January 22, 2015
- Eliminated non-safety-related duplicate approvals to shift more decision making to workers and supervisors – October 1, 2014
- Developed plan for use of predictive analytics to inform system improvement – October 1, 2014

CPS Transformation Implementation Update

Priority A: Develop a Professional and Stable Workforce

Improving quality outcomes for children and families depends on CPS' ability to build a high-quality, professional, and stable workforce. Thus, a key priority of CPS transformation is to raise caseworkers' professional standing. CPS caseworkers help Texas' children in complex environments that demand skilled, professional performance and behavior. The work requires a specialized set of intellectual and behavioral skills and appropriate, effective training.

A stable and well-trained CPS workforce will improve CPS' ability to protect children. Therefore, CPS has designed a comprehensive approach that includes redesigning recruiting and hiring practices, overhauling the current learning model for workers, and providing additional support through mentoring, strengthened management capabilities, and improved employee performance evaluation and recognition efforts.

To enhance the skills and mastery of the workforce, CPS will improve recruitment and hiring practices to identify the most qualified candidates who truly want a career at CPS, not just those who need a job, and who will work for the agency for a long time. Beyond this, CPS will collaborate with colleges and universities to develop innovative curriculum structures and other partnerships over the short and the long-term that will build the foundation for more child protection professionals.

In addition, CPS will redesign the current learning and ongoing training model to better prepare staff for their work and continue their professional development. This will include changes to classroom-based learning, a shift of most training to the field to be delivered by experts, and implementing a mentoring program to provide employees with additional support before, during, and after initial training. CPS will also dramatically enhance training for managers and supervisors to help bridge the gap as they transition from workers to supervisors and supervisors to managers, and learn how to develop their staff and provide clinical supervision.

Finally, CPS will revise performance evaluation tools for all workers to align with new professional expectations that are consistent with revised job descriptions, the competencies developed through the new learning model, and practice expectations. CPS will implement a new and effective performance recognition program to promote positive performance and recognizing employees for their contributions, which will improve morale and the work environment culture.

Recruitment and Hiring

A workforce with aptitudes, skills, and values appropriate for a challenging protective services career provides the foundation for good case outcomes. As both the Sunset Advisory Commission and operational assessment found, CPS struggles to retain a number of qualified employees beyond their first few years of employment. CPS must find ways to attract strong candidates who will transition from the difficult and challenging early years to making service to CPS clients a career. For this to happen, recruitment and hiring practices must be strategic and effective.

Currently, the agency lacks an effective approach to recruiting appropriate individuals for the job. Recruiting efforts primarily include sporadic attendance at job fairs and classroom presentations. As part of this plan, CPS will develop a strategic approach that will substantially enhance these existing efforts. Through this new initiative, CPS will collaborate with targeted colleges and universities to promote the work of child protection professionals as a desirable and rewarding career for potential candidates. CPS will work with these colleges and universities to develop innovative curriculum and placement programs that will inspire future dedicated child welfare professionals. To further increase the pool of strong candidates, recruiting strategies will also include identifying applicants with diverse degrees and fields of expertise.

DFPS’ hiring practices must also ensure that all potential candidates have a realistic understanding of job expectations. Candidates not suited for the work must be eliminated from consideration early. DFPS will improve its hiring practices to identify candidates who truly want a career at CPS (not those who simply need a job). In addition, DFPS will effectively manage the hiring process so quality job applicants are not waiting too long from the time an application is submitted to the time a job offer is made. The agency will now monitor these timelines, pinpoint the root cause of delays, and promptly make changes to speed up the process. Finally, hiring specialists will take on a new and revised role to strengthen the quality of candidate screening and hiring, and improve staff development and retention.

Implementation Status: In Progress

Initiative	Comments
<p>Expand recruiting and marketing efforts and opportunities for DFPS to be viewed as a place to build a career in protective services. An important component of this effort will include collaborating with colleges and universities on recruitment, course curriculum development, and other avenues to develop and attract qualified students, including some with diverse degree plans.</p> <p>Outsource more administrative hiring functions to speed up the process and allow trained hiring specialists to dedicate more time to recruitment and retention efforts. For example, realignment of contractor and DFPS responsibilities will allow</p>	<ul style="list-style-type: none"> • September 1, 2014 – Intensify recruiting efforts with targeted colleges and universities throughout Texas, establishing a greater presence on campuses and in resource centers and broadening involvement in areas of academic research, curriculum development, internships, and best practices to build strong bridges from classrooms to DFPS careers. • December 1, 2014 – Begin implementation of a strategic recruitment plan. The initial focus will be on creating innovative partnerships with selected colleges and universities focused on developing highly

Initiative	Comments
<p>hiring specialists to establish relationships with candidates during the hiring process and follow and support new employees through their early career development.</p> <p>Strengthen the quality of candidate screening and hiring by:</p> <ul style="list-style-type: none"> • revising job descriptions • updating the job preview process to more realistically reflect the work environment • enhancing interview questions • providing training on generational differences in the workforce • adding personal contacts, such as phone interviews, with applicants during the hiring process <p>Expedite the screening and hiring process by revising or eliminating unnecessary steps, establishing performance targets, monitoring timelines, and making revisions to the process.</p> <p>Improve staff development and retention by contacting each worker in the 6- to 24-month tenure range periodically for support. Feedback will be collected and applied to continuous improvement of the hiring and training program.</p>	<p>qualified candidates and instilling an eagerness to seek child protection services careers.</p> <ul style="list-style-type: none"> • December 1, 2014 – Execute human resource contract changes with fiscal year 2015 funds, and improve and tighten in-house screening and hiring practices. For example, DFPS is enhancing candidate screening, including the addition of a personal statement about why candidates want to work for DFPS and use of situational and behavioral-based interview questions to more accurately identify candidates who are a good fit for the job. • October 15, 2014 – CPS regional management staff complete contacts to each employee in the 6- to 24-month tenure range. Management staff report this has been a very positive experience. An ongoing process will be coordinated between the hiring specialists and program to ensure continued success.

Core Training

DFPS provides training for new workers through regional training academies with dedicated trainers. Current training includes classroom learning and several weeks of observation. Workers receive core training that is predominately classroom-based and focused on policy, and specialty training specific to their unique role in a CPS case, such as Investigations, Family-Based Safety Services, Conservatorship, or Foster/Adopt Home Development.

Unfortunately, this training model fails to prepare new employees for the actual rigors and real world challenges of CPS casework. It also fails to instill a model of consistent learning to identify, document, learn, and share best practices.

Focus groups and surveys of frontline workers, management and regional training staff identified numerous problems with the current training model. Specifically, the model is overly focused on classroom-based learning, leaves new caseworkers unprepared for real casework, focuses on the teaching of tasks rather than teaching broader concepts and critical thinking skills that would allow the worker to put together the tasks in order to do the job, and uses methods of assessment that do not measure real ability.

CPS' learning approach is not aligned with the way adults learn or with current best practices. The implication of these findings is that new workers are unprepared and fearful when released to the field because they do not have the requisite skills to do the job. This contributes to frustration, lack of preparedness and turnover. Many new workers require significant help early on. Currently, supervisors must invest considerable time for "retraining" after the workers have completed formal training. New hires are not effectively learning, and do not generally absorb the material during training, even though most pass the training assessments.

In response to these findings that demand action, CPS is designing and implementing a new learning model (as opposed to simply training) in which new workers spend more time in the field. This new model shifts from a focus on task-specific knowledge to one that develops measurable worker "competencies," such as the ability to detect abuse/neglect, recognize a child's emotions, and strengthen collaboration skills. Workers will understand the broader concepts and purposes behind required tasks, and how they fit together in the context of a case. The opportunity to observe case practice first will make classroom learning less abstract.

These changes are built on the reality that adults develop competencies in different ways, with research that demonstrates a real-world, experiential environment is often the best method for building these abilities. Moreover, CPS must move away from the notion that training happens at the start of a new job and then ends. Instead, the agency must develop a learning culture that stresses continuous growth and education at all experience levels so that best practices are constantly integrated.

Critical differences between the current and new approaches to learning include:

Current Approach:

- 80 percent classroom-based
- Teaches tasks
- Graduation from training in 13 weeks
- Certification based on graduation

New Approach:

- 80 percent field-based
- Teaches competencies
- Individual plan for continuous learning with nine months of core learning
- Certification based on demonstrated competencies

This learning approach, combined with mentoring, will more effectively prepare workers for their jobs, reduce turnover, and strengthen and increase the quality of the CPS workforce.

Implementation Status: In Progress

Initiative	Comments
<p>Overhaul CPS core training and implement in combination with mentoring and specialty training initiatives as one pilot to test use of these strategies together.</p> <p>Institute new accountability measures that assess a worker’s readiness to perform their job duties.</p>	<ul style="list-style-type: none"> • October 1, 2014 – Completed analysis of existing core training curriculum and began formulating recommendations for redesign, due by December 1, 2014. • January 1, 2015 – Launch a combined core, specialty, and mentoring pilot in Region 8 and complete assessment by March 31, 2015 to inform changes to statewide rollout.* • May 1, 2015 – Begin statewide rollout to be completed by October 1, 2015. • December 31, 2015 – Conclude one-year evaluation.

*See Appendix B for map of transformation-related initiative locations.

Specialty Training

After core training, workers receive specialty training specific to their area of focus within CPS (such as Investigations, Family-Based Safety Services, Conservatorship, or Foster/Adopt Home Development) that includes classroom and field learning. These areas of focus require specialized and unique training to building expertise.

In conjunction with the changes to core training and implementation of a statewide mentoring program, CPS will also make changes to specialty training. As training shifts to predominately field-based approach, regional experts, including child safety specialists, special investigators, and subject matter experts (nurses, education specialists, etc.), will begin teaching new workers in small-group settings. Learning will become more individualized. After core training, each worker will receive a customized plan for up to nine months of learning in their specific field of practice.

Under this approach, a supervisor will determine when a worker becomes “case assignable” based on demonstration of identified competencies, rather than relying on the current 13 weeks of basic skills development training regardless of experience level or needs. This allows CPS greater flexibility to meet increased staffing demands. New workers with more professional experience will be case assignable sooner than other new workers who will continue to develop competencies at their own pace.

Implementation Status: In Progress

Initiative	Comments
<p>Change delivery of specialty training to be primarily field-based, delivered by staff with field experience (including regional leadership, specialist staff such as child safety specialists and special investigators, and training staff) and shift to an “apprenticeship” model. This approach provides caseworkers with greater exposure to field experts, as recommended in the operational review.</p> <p>Pilot to determine the best way to shift classroom-based training to the field and coordinate among the regional experts to deliver the training, then launch a combined mentoring, core, and specialty training pilot to test use of these strategies together.</p>	<ul style="list-style-type: none"> • November 1, 2014 – Launch pilot for investigator specialty training. A group of investigators currently enrolled in basic skills development core training in Region 7 has been identified to participate.* • November 30, 2014 – Complete initial evaluation. • January 1, 2015 – Begin combined mentoring, core, and specialty pilot.* • May 1, 2015 – Begin statewide rollout to be completed by October 1, 2015. • December 31, 2015 – Conclude one-year evaluation.

*See Appendix B for map of transformation-related initiative locations.

Mentoring

Child Protective Services casework is stressful and complex. Once hired, new caseworkers complete a training program, but current practices fail to provide enough transition time for newly hired, newly trained workers to apply what they learned before handling their own caseloads.

To maximize effectiveness of a new learning model, and build a culture of continuous learning, CPS will implement a mentoring program to ensure new workers receive technical and personal support before and after training. The mentoring relationship will begin when workers are hired. A new caseworker will pair with a veteran caseworker and spend one month shadowing their mentor before core training.

This real-world “job preview” will provide the new worker with an understanding of the work and prepare them for their core and specialty training. After completing classroom training and once the worker begins field-based training, the mentor, unit supervisor and regional experts, will help deliver field training based on the individual’s customized learning plan. The mentor will continue to support the new worker for up to a year. This will raise the new worker’s confidence and capability, which will increase their productivity and tenure and provide better case outcomes.

Implementation Status: In Progress

Initiative	Comments
<p>Implement a statewide mentoring program, wherein experienced workers are paired with new workers, beginning with pilot sites to test the design. Key features of the pilot include a shared caseload between mentor and protégé and financial compensation for the mentors (paid overtime).</p> <p>After an initial pilot to determine the best features for a statewide program and how to best organize mentors and protégés effectively, CPS will launch a combined mentoring, core and specialty training pilot to test use of these strategies together.</p>	<ul style="list-style-type: none"> • August 27, 2014 – CPS launched first pilot mentoring program for investigators in Regions 1, 3, 4/5, and 8.* • January 1, 2015 – Begin combined mentoring, core, and specialty pilot.* • May 1, 2015 – Begin statewide rollout to be completed by October 1, 2015. • December 31, 2015 – Conclude one-year evaluation.

*See Appendix B for map of transformation-related initiative locations.

Management Training

Both the Sunset Commission and the operational review noted that effective supervisors, who are responsible for supporting and developing staff, increase the quality of caseworker performance and job satisfaction. Ineffective supervisors can lower the quality of service to children and families and drive staff to leave. Good supervisors, those with fine-tuned technical skills *and* solid management techniques, will help retain staff and improve their skills and abilities.

Strong supervisors will also be pivotal in implementing the many changes delivered to the field as part of transformation. As such, the success of transformation heavily depends on supervisors’ ability to become proficient in their new responsibilities, including an increased level of decision making, moving towards a field-based learning model, and new safety and risk assessment tools. Supervisors also need support and direction from their managers (regional directors, program directors, and program administrators) as they learn to develop their staff and take on these new responsibilities. Delivery of training will begin with management (regional directors, program directors, and program administrators), who will learn and model desired behaviors, principles, and values for their staff and thoroughly understand driving improved performance from their teams.

DFPS selected Strengths-Based Supervision (SBS) as the optimal program for management and supervisor training and support. Adapted for Texas CPS by Casey Family Programs, the evidence-based program develops staff as they transition from caseworker to supervisor and from supervisor to higher levels of management. Through a combination of classroom sessions and group coaching led by management (program directors and program administrators), the curriculum provides practical and emotional support and highlights the importance of clinical supervision essential to the complex work of child welfare. Management staff will provide ongoing group coaching for supervisors, who will in turn use group coaching to develop workers.

Implementation Status: In Progress

Initiative	Comments
Implement Strengths-Based Supervision training model statewide to improve management and supervisor capabilities in three essential areas: critical thinking and analysis; guidance and support; and administrative responsibilities.	<ul style="list-style-type: none"> • September 24, 2014 – Launched SBS training for frontline supervisors in Harris County.* • October 8, 2014 and November 14, 2014 – Deliver SBS training to all CPS management staff statewide. • January 2, 2015 – Launch rollout of SBS training statewide to all supervisors, with completion by March 31, 2015.

*See Appendix B for map of transformation-related initiative locations.

Performance Evaluation and Recognition

The Sunset Advisory Commission highlighted the need for CPS to evaluate caseworker performance by better assessing quality. Improving performance evaluation, increasing feedback, and expanding recognition efforts are part of the broader objective of elevating the professionalism of CPS' workforce. These approaches will also improve the agency's culture, work environment, and staff retention.

CPS will implement new performance evaluation tools for caseworkers. The operational review found employee performance measurement focuses heavily on quantity ("checking the boxes") and using performance evaluations to support punitive measures rather than emphasizing staff development and high quality outcomes for children and families. The new tools will provide consistent employee performance evaluation, using competencies that will be included in revised job descriptions, developed as part of the new learning model, and integrated into daily work aligned with the CPS practice model.

CPS will use "360-degree" performance feedback for the ongoing development of management staff. This assessment tool provides comprehensive performance feedback from supervisors, peers, and other relevant personnel to help managers better understand their job performance and increase the likelihood that managers will identify and change less-effective behaviors and practices.

In addition to other efforts to improve the culture and work environment, such as strengthening supervisors in their roles, CPS will implement comprehensive employee recognition programs.

Implementation Status: In Progress

Initiative	Comments
<p>Revise performance evaluation tools for all caseworkers that incorporate qualitative and quantitative indicators and correspond to new job descriptions, competencies established in training, and practice model guidelines.</p> <p>Implement 360-degree performance feedback for program directors and program administrators.</p> <p>Evaluate successful regional recognition campaigns for expansion statewide. For example, an "e-Rewards" campaign in Region 2 that rewards workers with privileges like parking.*</p>	<ul style="list-style-type: none"> • January 1, 2015 – Provide guidance to managers on revised caseworker performance evaluation tools in a test area and rollout statewide beginning May 1, 2015 (for caseworkers). • October 1, 2014 – "Test Market" 360-degree performance feedback for management staff to assure desired level of impact before piloting in a select region on February 1, 2014. • November 1, 2014 – Expand successful regional recognition campaigns. • November 5, 2014 – Kick off "DFPS Stars", the DFPS Commissioner's statewide recognition program.

*See Appendix B for map of transformation-related initiative locations.

Priority B: Ensure Child Safety, Permanency, and Well-being

The CPS mission and mandate is to protect children from abuse and neglect; provide services so children can live with their families when possible or in another permanent setting; and ensure the health and well-being of children in the state's care. This work is undeniably challenging given the nature of helping children and families in crisis while navigating requirements of a complex and bureaucratic system.

The operational review included staff survey results in which staff who work with children and their families reported that only 26 percent of their time is spent with families. Process mapping of casework steps yielded numerous delays, duplications, and inconsistencies between regions. Fixing these problems to create more time with families and for other critical casework is a signature goal of transformation, and is essential to retaining staff and providing quality services. Face-to-face time is vital to making accurate assessments and appropriate interventions.

In addition, improving outcomes for children and families requires giving caseworkers the right tools and consistent training to aid in judgment and decision-making from beginning to end of a case. DFPS is implementing new tools, Structured Decision Making, to help workers assess and document risk earlier in a case and make safety-focused decisions throughout the course of their work with children and families. Such tools enable caseworkers to engage services for families most in need and to move more quickly to close investigations with families when children are safe. A new practice model for CPS will further provide consistent guidelines on the values and expectations of CPS activities and specific techniques that can be applied in the staff's daily work.

DFPS is striving to be a national model of excellence by forging new ways of contracting for foster care placements and services to families, promoting permanency and reunification, improving coordination of child fatality case reviews that seed prevention efforts, and building a unique, Texas model for partnering with faith communities to dramatically increase supports for children and families involved in the child welfare system.

Structured Decision Making Safety and Risk Assessment

A caseworker's core responsibility is to collect and assess information and make sound decisions for children and families. Currently, caseworkers lack effective tools to assess safety and risk at key points in a case.

To complement the efforts underway to create a professional workforce, CPS will implement safety and risk assessment instruments to support caseworker decision-making in a manner consistent with the agency's philosophy of protecting children. The safety assessment tool will assist a caseworker during the first contact with a child and family, a critical opportunity to assess safety. The caseworker will use the tool to evaluate all available information and identify the most important issues related to safety. This will support the caseworker in making decisions necessary to ensure the child's safety early in the case.

Once the child is safe, the caseworker will use the risk assessment tool to determine the likelihood of future abuse and neglect. This information will help CPS focus attention and resources on cases with the highest risk and more quickly identify families who no longer require CPS involvement.

Implementation Status: In Progress

Initiative	Comments
<p>Implement a 24-hour safety assessment to be used during initial contact with the child or children. Aspects of the safety assessment tool can be completed on site, with additional factors being completed following initial contact but within 24 hours.</p> <p>Implement a new risk assessment for use within 30 days from the start of the case. This new tool will be more objective and based on actuarial principles that have been scientifically accepted and adapted for Texas.</p>	<p>Safety Assessment</p> <ul style="list-style-type: none"> • October 6-10, 2014 – Intensive work session with early adopters and subject matter experts to develop the policy and procedures manual for the safety assessment tool (to be completed by November 26, 2014).* • January 6-22, 2015 – Begin rollout of safety assessment training for early adopter units with the first early adopter units deploying the Structured Decision Making (SDM) Safety Assessment beginning January 12, 2015. • March 29, 2015 – Deploy statewide. <p>Risk assessment.</p> <ul style="list-style-type: none"> • February 6, 2015 – Begin adjusting SDM with Texas' unique case information, completed by February 27, 2015. • May 7, 2015 – Deploy SDM Risk Assessment with early adopter units. • August 23, 2015 – Deploy statewide.

Practice Model

CPS lacks a standardized practice model to guide its program. Across the nation, state child welfare agencies develop and implement practice models to better define values, principles, relationships, approaches, and techniques used at the system, and individual casework level throughout the life of a case. Practice models support consistent values, defining the essential elements of how CPS interacts with children and families and expectations for the child/family's experience of interacting with CPS. The practice model framework informs practice guides – evidence-informed, best practices that support or exceed policy execution. Re-energizing and prioritizing the development, completion, and implementation of a Texas CPS practice model as a transformation priority is timely and consistent with the goal of improving the child welfare program in an integrated framework.

Implementation Status: In Progress

Initiative	Comments
Implement a practice model, including a consistent framework for the standards, approaches, and methods that define the essential elements of how CPS interacts with children and families, as well as expectations of the child/family's experience with CPS.	<ul style="list-style-type: none"> • October 31, 2014 – Finalize the Practice Model framework and communication strategy and begin developing training curriculum. • January 31, 2015 – Launch early adopters through training of all regional directors and program administrators at quarterly leadership meeting.* • April 15, 2015 – First regional rollout of practice guides and training for Investigators and FBSS staff.

*See Appendix B for map of transformation-related initiative locations.

Investigation and Family-Based Safety Services (FBSS)

The CPS operational review identified process, practice, organizational, and technology issues that posed obstacles for investigations and FBSS caseworkers. These issues ranged from minor nuisances to major time-consuming activities. Subsequent to the operational review, two regional leaders organized a team with field staff from every region and state office subject experts to address these issues. Regional focus groups generated numerous ideas for streamlining workflow, improving services to families, increasing the amount of time spent with families, accelerating connecting families with needed and tailored services, while maintaining a priority focus on child safety. Ideas have been prioritized and aligned with IMPACT modernization efforts to make better use of technology. The technology recommendations focus on improving safety and risk decisions and tailoring specific services to families to maximize results.

Implementation Status: In Progress

Initiative	Comments
<p>Decrease time spent on activities that can be handled more efficiently, by other staff or eliminated altogether, and adopt practice improvements.</p> <p>The team generated 320 process and practice changes and prioritized several including:</p> <ul style="list-style-type: none"> • Change the process for moving a case from the Investigation to the FBSS stage to allow the FBSS caseworker to start providing services to families within 10 days of the case initiation, when families are more receptive to services, versus up to 45 days later as is the current process. • Standardize interregional case action request forms into one statewide standard to eliminate paperwork and streamline submission. • Create “Caseworker Support Centers” designed to be a one-stop shop for caseworker administrative support. • Deploy a new mobile application to allow caseworkers to use their smart phones to audio record interviews, take photos and upload all digital information directly into the case file. 	<ul style="list-style-type: none"> • October 31, 2014 – Begin testing select process and practice changes in specific areas. For example, expedite case transfer between the Investigation and FBSS stages of service and coordinate joint visits to expedite service delivery to families.* • October 31, 2014 – The universal form will be piloted in one region. • November 12, 2014 – Begin piloting the caseworker support center in Region 7. • February 28, 2015 – Deploy the mobile application for all caseworkers statewide. • Long-term initiative – Pilot new ways to provide services. • December 31, 2014 – CPS will assess effectiveness, resources, and priority level to determine further implementation of the team’s ideas.

<ul style="list-style-type: none">• Establish a new way of providing services to families that maximizes online and computer-based delivery for families in rural and underserved areas of the state.	
---	--

*See Appendix B for map of transformation-related initiative locations.

Reunification and Permanency

CPS believes that all children deserve a lifelong connection to a family and it is CPS’s responsibility to find safe, permanent, family relationships for each child and youth in foster care. Because of this, DFPS continues to be dedicated to creating a practice that supports developing family connections for children and youth, and exiting children and youth expediently to positive permanency. Towards this goal, two regional leaders organized a cross-functional team with field staff from every region and state office subject experts to identify CPS system improvements to move children more quickly to permanency. The group targeted agency practices that inadvertently delay reunification and other exits to positive permanency. The team also focused on field-driven ideas for reducing time spent on activities that could be eliminated or streamlined to allow workers more time for critical casework. Together, these efforts seek to improve time to permanency for children and increase caseworker morale and retention.

Implementation Status: In Progress

Initiative	Comments
<p>Increase the average number of children who can be reunified with their families in less than a year, and reduce the average time to permanency by involving field staff in identifying immediate solutions.</p> <p>The team generated 95 process and practice changes and prioritized 17 ideas for immediate solutions that can be implemented statewide and practice changes for testing and replication, including:</p> <ul style="list-style-type: none"> • Assign a conservatorship caseworker at the time a child is removed from the home and have the caseworker attend the first court hearing alongside the investigator. This enables the new worker to learn about the family’s needs firsthand and establish a relationship sooner. And it reduces loss of information when the investigative caseworker hands over the case to the conservatorship worker. • Embed kinship workers, who provide support for relatives or others caring for children, in units with caseworkers working with the children and families to promote coordination. • Identify cases appropriate for rapid family reunification (45 days) to more quickly address safety concerns. • Provide training on using family visits as an 	<ul style="list-style-type: none"> • August 5, 2014 – The Reunification and Permanency Team generated 95 process and practice changes and ultimately prioritized 17 ideas. • October 2014 – CPS will begin to implement immediate process improvements and test specific process and practice changes in certain locations (assign conservatorship caseworker at time of removal, embed kinship workers, identify cases for rapid reunification, visitation training, and streamline adoptions verification for kinship homes).* • December 31, 2014 – CPS will assess effectiveness, resources, and priority level to determine further implementation of the team’s ideas.

<p>opportunity for parent coaching.</p> <ul style="list-style-type: none">• Streamline adoptions verification for kinship homes.• Standardize interregional case action request forms into one statewide standard to eliminate paperwork and streamline submission.	
--	--

*See Appendix B for map of transformation-related initiative locations.

Harris County

Transformation is a statewide effort. But with a child population of over 1 million and almost 4,500 children in the care of CPS on average each month, Harris County’s problems are especially acute. Children living in Harris County remain in foster care longer than the statewide average (29 months compared to 24 months) and are less likely to be reunified with their families (22 percent compared to 32 percent statewide). Recognizing the specific needs of this urban area, Casey Family Programs coordinated with CPS on a three-month assessment to identify barriers to permanency and recommended a targeted permanency campaign and structured effort toward making long-term practice improvements. Transformation initiatives closely coordinate with this work, given the potential for transformation efforts to further support goals, especially improved permanency outcomes statewide. Lessons learned in Harris County, such as new methods of case assignment being piloted in investigations and potentially developed for conservatorship, may be applied statewide.

Additionally, the Administration on Children, Youth and Families granted DFPS a waiver of certain requirements of Title IV-E for a five-year child welfare waiver demonstration project in Harris County. Meeting children’s behavioral and mental health needs is a key barrier to permanency identified in Harris County and across the state. DFPS will use the funding flexibility to test new evidence-supported approaches to service delivery, including a new behavioral health assessment tool that aids decision-making and service planning. Successful efforts in Harris County may be used throughout the state.

Implementation Status: In Progress

Initiative	Comments
<p>Begin development and implementation of Title IV-E demonstration waiver.</p> <p>Reduce the length of stay in foster care and the time to permanency in Harris County by identifying key barriers and making practice improvements.*</p> <p>Move a targeted group of 600 children who have been in care for more than two years, most of whom have a goal of adoption, to successful permanency by December 31, 2014</p> <p>Test better case referral methods, including geographically driven case distribution. Harris County was divided into four quadrants (north, south, east and west).</p> <p>Establish close coordination with transformation efforts related to recruitment and hiring, supervisor training, retention, and developing and</p>	<ul style="list-style-type: none"> • October 1, 2014 – HHS granted DFPS Title IV-E waiver for new service approaches to be implemented in Harris County, including a new behavioral health assessment • July 1, 2014 – Deployed Master Conservatorship supervisor and workers to Harris County where they are paired with program directors. • October 15, 2014 – CPS has moved over 200 children to permanency. • September 1, 2014 – Began new methods of geographic case referral for investigators. To date, case distribution has been even among quadrants and workers are reporting relief at having their cases in one area. • September 4, 2014 – Established project management leadership and structure and adopted a vision of “Safety and Permanency are Job #1” • September 24, 2014 – Strengths-Based

implementing new Practice Model.	Supervision launched for supervisors in Harris County
----------------------------------	---

*See Appendix B for map of transformation-related initiative locations.

Purchased Family Preservation and Reunification Services

Purchased family preservation and reunification services such as counseling, substance abuse, and mental health treatment, support families and keep children safe. Noted by Sunset staff in their report, just as CPS tracks families that enter the CPS system repeatedly to assess its program, CPS should track the efficacy of specific contracted services and service providers in producing outcomes.

CPS will use existing and new data metrics to better drive contracting and referral decision-making, including the most effective types of services, the types of cases where specific service provision has the best results, and which providers are associated with better outcomes. DFPS also intends to strengthen communication among workers, contractors, and providers and increase provider capacity. For example, program staff need more detailed information regarding service availability within a region, not only to make effective service referrals but to identify and address delivery gaps.

Implementation Status: In Progress

Initiative	Comments
<p>Develop a method to assess the efficacy of services using data on removals from FBSS and client recidivism at the region, unit, and provider level. Implement strategies to improve service assignment and contracting practices based on data.</p> <p>Implement strategies to improve the timeliness and quality of information available to caseworkers and contract management staff.</p>	<ul style="list-style-type: none"> • November 30, 2014 – Complete analysis of existing data available in the data warehouse, from contract staff, and through quality assurance processes, and develop recommendations. Include in analysis the benefit of ongoing review of existing data and new ways to access data. • March 1, 2015 – Begin implementing practice, contract, and communication process improvements through August 31, 2015. • September 1, 2015 – Incorporate ongoing data analysis into continuous quality improvement, making contracting data a regular part of management reporting and improvement efforts.

Foster Care

The current Texas foster care system does not encourage providers to establish services where needed and does not reward providers for delivering quality results to the children they serve.

Foster Care Redesign will improve outcomes for children and families by creating sustainable placement resources in communities, finding community-based placement settings, and keeping children closer to their homes and communities. Primary business changes under Foster Care Redesign include competitively procuring a Single Source Continuum Contractor (SSCC), partnering with SSCC using a performance-based contract, and paying for foster care services using a single-blended rate, to ensure that the focus is on outcomes, not revenue maximization.

The Sunset Advisory Commission identified a need for long-range planning as part of this redesign and planning for rollout (pacing and location) will take place in the larger context of CPS transformation. Sunset also identified the need to develop a consistent approach to measuring and monitoring provider quality in the “legacy” foster care system.

Implementation Status: In Progress

Initiative	Comments
<p>Develop a long-range plan for fully implementing foster care redesign that is informed by thorough evaluation, cost-analysis of redesign to date, and a Request for Information (RFI).</p> <p>The Internal Audit report on Residential Foster Care Contract Monitoring identified the traditional “one size fits all” monitoring approach to one that uses predictive analytics to improve how the agency identifies residential childcare providers and foster homes that present the greatest risk to child safety.</p> <p>CPS Purchased Client Services division is changing from the traditional approach:</p> <ul style="list-style-type: none"> • Reactive • Compliance focused • Annual assessment <p>To an improved approach:</p> <ul style="list-style-type: none"> • Proactive • Outcome focused • Continuous risk assessment 	<p>Foster Care Redesign</p> <ul style="list-style-type: none"> • January 1, 2014 – DFPS contracted with ACH Child and Family Services in Region 3 to serve as the SSCC for Tarrant, Palo Pinto, Parker, Erath, Johnson, Somervell, and Hood counties.* • September 26, 2014 – Public Consulting Group (PCG) completed an SSCC cost analysis and provided the report to DFPS. • November 15, 2014 – Post RFI for a 30-day comment period. • February 1, 2015 – DFPS will publish a long-range foster care redesign implementation plan informed by the evaluations, cost-analysis, and results of the RFI. <p>Other Foster Care Initiatives</p> <ul style="list-style-type: none"> • July 24, 2014 – Internal Audit Report on Residential Foster Care Contract Monitoring issued. • August 2014 – As an interim measure, the current risk assessment tool and monitoring practices were updated to incorporate some predictive safety risk factors and a more

	<p>safety-focused approach to monitoring.</p> <ul style="list-style-type: none">• August 31, 2015 – A detailed work plan for full implementation of a predictive contract monitoring system will be established (contingent on funding request).
--	--

*See Appendix B for map of transformation-related initiative locations.

Office of Child Safety

Abuse/neglect fatalities as well as near fatal events occur in every program within DFPS. Historically, CPS, Adult Protective Services (APS), and Child Care Licensing (CCL) have been independently responsible for identifying and addressing issues relating to the fatality. There has not been a centralized mechanism for insuring an independent case review, coordination of efforts, development of an agency perspective of systemic issues, or for targeting prevention efforts to reduce fatalities. This has resulted in fragmented responses from the agency as well as a perception that the agency is unable to provide unbiased reviews of its own work. An Office of Child Safety will instill a laser-focused and objective approach needed to research systemic problems, identify areas of prevention and intervention, initiate enhancements to practice, and bolster increased collaboration opportunities among DFPS, Department of State Health Services (DSHS), other agencies and stakeholders. With this new office leading the charge, Texas can be a model for other states and a national leader in addressing child fatalities and serious injury.

Implementation Status: In Progress

Initiative	Comments
<p>Establish Office of Child Safety to house the child fatality review process within the Prevention and Early Intervention Division. This office will support independent data analysis, identification of systematic issues, and support cross-program (CPS, APS, CCL) initiatives to address preventable child fatalities, serious injuries and increase overall child safety. Policies and procedures for both investigations and reviews will be centralized and made available to all staff and the general public.</p>	<ul style="list-style-type: none"> • April 30, 2014 – DFPS trained staff on new policies and protocol guidebook including child fatality process logic model, guided checklists, use of real time information to inform staff actions, and improved tracking of recommendations and action items in line with operational review recommendations. • September 1, 2014 – DFPS created the Office of Child Safety and will fill three new positions by November 1, 2014. • November 30, 2014 – DFPS will produce draft DFPS/DSHS strategic plan to reduce abuse/neglect fatalities.

Prevention and Early Intervention

The Sunset Advisory Commission recommended prioritizing prevention programming at DFPS, which until recently, has been a contracting function within CPS Purchased Client Services. Elevating Prevention and Early Intervention (PEI) to report directly to the Commissioner allows prevention to administer programs that maintain a connection to both the agency’s critical child welfare function and with community and public health partners who participate in broader prevention efforts. PEI will benefit from data and research provided by the Office of Child Safety. Better use of data and partner involvement in the agency’s prevention strategy will improve programs serving at-risk families.

Implementation Status: In Progress

Initiative	Comments
Reorganize DFPS’ organizational structure to elevate Prevention and Early Intervention efforts as a direct-report to the Commissioner. Also, better use existing data to focus on programmatic outcomes, and develop a comprehensive strategic plan for PEI programs.	<ul style="list-style-type: none"> • September 1, 2014 – DFPS leadership approved plan to reorganize and the new structure will be in place by November 1, 2014. • October 31, 2014 – DFPS will develop a final plan for completing the five-year strategic plan including methods to involve stakeholders in the planning process.

Faith-Based Programs

DFPS collaborates with faith-based organizations and an array of faith-based community partners across the state to serve children and families involved with or at risk of involvement with the CPS system. Through this collaboration, churches and communities provide goods, services, and supports to prevent children from entering the child welfare system or to lessen the time children stay in foster care. This work is unprecedented in its transformative approach that honors the leadership of pastors in launching ministries within their congregations designed to provide sustainable services to children, youth and families.

Through this Texas faith-based model, faith organizations conduct outreach to churches and faith leaders within their same faith community, while DFPS provides technical assistance such as providing information and attending as well as presenting at informational and outreach meetings. Each local church receives data specific to the needs of children, youth, and families in their area that help inform the type of ministry they are called to develop from “prevention to permanency.”

Implementation Status: In Progress

Initiative	Comments
<p>Increase the number of churches establishing ministries to serve children and families involved with the child welfare system.</p> <p>Recent expansion occurred:</p> <ul style="list-style-type: none"> • West Texas District Assembly of God 109 churches • South Texas District Assembly of God 300 churches • Ministries focused on transitioning youth in Wichita Falls, Bryan, and Dallas/Ft. Worth <p>Continue the work of the Advisory Committee for the Promotion of Adoption of Minority Children including adoption forums.</p>	<ul style="list-style-type: none"> • August 1, 2014 – Launched the Care Portal, an online church engagement tool that provides a platform for CPS staff to connect with the faith community to request church support for needs of children and families. • November 15, 2014 – Will propose legislative language for the Advisory Committee for the Promotion of Adoption of Minority Children. • December 31, 2014 – Will produce a written chronicle that describes the faith-based practice model and collaborative work underway in Texas between churches and the state child welfare system. <p>August 31, 2015 – Will complete an evaluation of faith-based collaboration.</p>

*See Appendix B for map of transformation-related initiative locations.

Priority C: Establish Effective Organization and Operations

CPS has been given a unique opportunity to pause, assess the value and direction of current initiatives and work efforts, and refocus on transformation and addressing the agency's most-pressing problems from within.

Part of that work is developing a stronger team orientation across all disciplines. CPS reorganized state office to align with the field and maximize use of existing resources. CPS is also testing and evaluating how to break down silos among direct delivery functional units to improve service to children and families. Efforts include pilots to more closely align investigations and FBSS and to embed kinship workers in units with caseworkers and will explore the impact of new ways of organizing staff on outcomes for children and families.

CPS paused non-critical policy updates and adopted a more effective policy structure to better support the work direct delivery staff do. CPS has a clear definition of policy as critical tasks essential to ensuring safety, permanency, and well-being. Using this definition, CPS has begun streamlining and updating its current policy handbook – separating policy from best practice and improving the content, clarity, and accuracy of policy provisions. CPS has also created a better process for communicating policy changes in a more coordinated and effective manner, so that staff can more readily digest and understand agency policies. The task of revising policy and separating policy from practice is significant. CPS assigned additional resources to the effort and is moving forward quickly to coordinate this work with development of the new practice model and the modernization of CPS' data system, IMPACT, which will reinforce policies and practice and make case documentation easier.

CPS is also rethinking how data can be used to guide change and in program oversight. In the past, CPS has moved forward in implementing change without always having the benefit or time to evaluate whether the change is having the intended impact. Transformation involves a more purposeful and planned evaluation approach. "Real time" evaluation will allow CPS to make adjustments during the course of implementation as well as evaluate outcomes over time. This allows DFPS to move forward quickly, while retaining the ability to assess whether or not solutions will result in desired outcomes. DFPS will also track statewide and regional performance data and report at six-month intervals after release of this Plan. Appendix C provides baseline trend data for fiscal years 2012 to 2014.

With regard to ongoing quality management, CPS will expand the use of predictive analytics to address emerging problems, coordinate and improve fragmented quality assurance processes, and establish clear accountability for overseeing change in state office and in the regions. DFPS will engage in annual planning in line with Sunset staff recommendations and will tie annual planning to quality management timeframes and practices.

Organization and Operations

The operational review found that CPS needs a stronger team focus across disciplines to support day-to-day field operations. For state office, CPS must eliminate silos; sharpen the focus on supporting the field; align and coordinate changes in policy, practice, technology, and training for the field; and enhance communications. These efforts will result in a more mission-focused state office that fosters greater regional support.

In the field, transformation efforts will be a catalyst for maximizing use of positions to carry out desired change, for example by engaging subject matter specialist and leadership positions in training efforts. Efforts to make practice improvements in each of the CPS direct services – investigations, conservatorship, foster care, and adoptions – will also require revisiting organizational structures and new ways to align divisions to better coordinate and support work with families.

CPS will also address specific administrative burdens, such as duplicative approval requirements that may result in longer waits to close cases, adding to the number of issues that lead to low morale and ultimately increased turnover. Eliminating duplicative approvals and other unnecessary paperwork gives both leadership staff and caseworkers more time to do their jobs, including spending more time with families.

Implementation Status: In Progress

Initiative	Comments
<p>Restructure state office to better align stages of services and functions.</p> <p>Identify regional resources to support transformation activities ongoing.</p> <p>Pause non mission-critical CPS policy updates and training and realign quality initiatives and projects with transformation goals.</p> <p>Eliminate duplicate approvals across points in a case shifting more decision making to workers and supervisors and freeing time for management staff.</p> <p>Revise form letters so they communicate more clearly with families.</p>	<ul style="list-style-type: none"> • August 28, 2014 – DFPS leadership approved new organizational structure to establish a single division for Investigation and FBSS, a Permanency Division to oversee all efforts to support children and youth in care, and consolidation of policy functions and quality management functions. • October 15, 2014 – Pilot the placement of kinship workers in CVS units to increase the speed of communication between these vital functions. • November 1, 2014 – Complete analysis of inefficiencies in Investigations and FBSS and recommend changes to meet transformation priorities. • September 1, 2014 – CPS paused non-critical policy updates and training to the field through December 31, 2014. • October 1, 2014 – Eliminated non-safety-related duplicative approvals and identified duplicative approvals that are safety-related for possible future elimination as part of transitioning more critical decision-making to

	<p>workers and supervisors, once new supervisor training is completed.</p> <ul style="list-style-type: none">• October 31, 2014 – Create an inventory of form letters and begin to identify priority letters for revision.
--	--

Policy Strategy

The current CPS policy handbook and process for revising, distributing, and implementing policy is unwieldy and ineffective. The existing policy handbook includes policy, practice, and reference information of an uneven quality and level of detail, making it an ineffective resource for staff. In addition, frequent policy changes and lack of coordinated communications to staff make it difficult for staff to effectively incorporate policy changes into practice.

CPS has enacted a new policy strategy to improve the clarity and accuracy of policy and practice resources for staff by clearly defining policy and practice; establishing a centralized process for policy review, development, and dissemination; and streamlining the existing handbook to separate policy from practice and clarify content to focus on tasks that are critical to achieving safety, permanency, and well-being. More coordinated and strategic distribution of policy will enable staff to identify key policy changes and allow them to more effectively incorporate the changes into their daily work.

Implementation Status: In Progress

Initiative	Comments
<p>Streamline the current CPS policy handbook by separating policy from practice and create a more effective and efficient process for revising, disseminating and implementing policy and practice in the future.</p> <p>Policy and practice changes, as well as recommendations to increase usability, will be integrated into IMPACT modernization.</p>	<ul style="list-style-type: none"> • August 11, 2014 – Revised definitions of policy and practice and established a new process of policy development including centralized review. • October 31, 2014 – Implement a new process for dissemination of policy to field staff. • December 31, 2014 – Complete streamlining of policy and practice for Investigations and Family-Based Safety Services and begin streamlining the conservatorship stage of service, to be completed in fiscal year 2015.

Using Data to Improve Outcomes for Children and Families

DFPS maintains hundreds of data reports along with all the data and information gathered through the regional, investigation and Child and Family Services Review (CFSR) case reads. To effectively use this information to improve outcomes, CPS must integrate and align its existing efforts and support field and state office in using the integrated information to identify and implement improvements.

To promote efficiency, ensure objectivity, and maintain the critical connection to field and state office, the work must be consolidated within CPS but outside of day-to-day operations. The effort should also drive field and state office in more effectively using data to make decisions, driving change, and ensure accountability for improvement.

Implementation Status: In Progress

Initiative	Comments
<p>CPS will develop a coordinated process that: (1) expands the use of data analysis and predictive analytics to identify emerging problems and high risk cases; (2) coordinates and aligns investigation CFSR quality assurance case reads; (3) integrates information and data gathered through investigation and CFSR quality assurance case reads, data analysis, predictive analytics, program evaluation, policy development, IT, and legislative support and transformation; and (4) has dedicated staff to support field and state office in strategically using the integrated information when making decisions.</p>	<ul style="list-style-type: none"> • Current CPS efforts are focused on data-driven development and evaluation of transformation priorities and activities. As pilot efforts are evaluated, adapted and incorporated into ongoing practice, these efforts will shift toward continuous quality improvement. • August 28, 2014 – Approved organizational changes consolidate quality management in one division. • October 1, 2014 – Completed planning for integration of predictive analytics into each stage of service. • October 15, 2014 – Will produce first fiscal year 2015 dashboards and finalize processes for using data to drive management decisions. • December 1, 2014 – Complete evaluation plans for all transformation activities.

Appendix A: Review of Statutory Barriers

In response to the Sunset Commission’s directive, DFPS identified statutory barriers that complicate or prevent implementation of needed changes recommended in the CPS operational assessment. This list identifies potential statutory changes that would untether the agency from prescriptive mandates that prevent expeditious implementation of best practices and nimble decision making. In compiling this list, the Department relied on feedback gathering during the operational assessment, but also gathered new information from field staff, attorneys, and foster youth to better inform the impacts of changing or amending statute.

This list does not intend to substitute judgment for the Legislature, but rather attempts to cast a wide net of options for the Legislature to consider. As such, this list contains all statutory provisions that create a potential barrier to CPS’ transformation efforts, regardless of author, stakeholder support, or enactment date. The list does offer proposed changes, but the Department recognizes that many options exist to achieving the same goal.

“Having worked with many states on child protection issues, and having served as a Commissioner myself, I found the Texas Family Code is more restrictive and requires considerably more compliance documentation than other states. This has the effect of reducing productivity and limiting CPS’ ability to change and adjust to new circumstances impacting children and families. A simpler, more streamlined code would provide the agency the needed flexibility, stakeholders with more clarity, and allow caseworkers to focus on the most important tasks at hand - protecting children and spending more time with families.” – John Stephen, The Stephen Group.

Contents	Page
Reduce Turnover and Improve Retention.....	34
Improve Child Safety, Permanency, and Well-being.....	42
Enable Caseworkers To Spend More Time With Children and Families	58
Remove Prescriptive Statutory Provisions.....	67
Eliminate State Law That Duplicates or Deviates From Federal Law	95
Streamline Texas Law To Support Caseworker Best Practices For Safety, Permanency, and Well-being.....	100

REDUCE TURNOVER AND IMPROVE RETENTION

Statutory Provision	Summary of Problem	Proposed Change
<p>Budgetary Rider.</p>	<p>Limits Agency Flexibility. The approach to paying stipends should be reevaluated, as current Riders prescriptively apply stipend eligibility, limiting the agency’s flexibility to determine priorities and target resource allocation.</p>	<p>Remove Riders 20, 32, 33, 34 and 35 (or similar Riders for the FY 15-16 biennium) and replace with general authority similar to the following: <u>DFPS may pay out of amounts allotted, in addition to the salary rates stipulated by the General Provisions of this Act, relating to the position classifications and assigned salary ranges, appropriate amounts to attract and retain qualified direct delivery staff based on factors including but not restricted to:</u></p> <ol style="list-style-type: none"> <u>1. On-call duty;</u> <u>2. Assigned caseload;</u> <u>3. Stage of service;</u> <u>4. Targeted college or other degrees;</u> <u>5. High-risk duty;</u> <u>6. Residence in high-cost localities;</u> <u>7. Responsibilities for mentoring new staff; and</u> <u>8. Any other factor determined by DFPS to be a priority to attracting and retaining qualified direct-delivery staff.</u> <p>Additionally, add clarification that staff receiving the investigative stipend under prior law will continue to receive it in accordance with prior law.</p>

<p>Tex. Fam. Code (TFC) § 162.308(d). State employee who violates state laws restricting race or ethnicity based adoptive placement decisions subject to immediate dismissal.</p>	<p>Duplicative of Federal Law. Differences in state statute and federal law cause confusion while DFPS could rely on federal law, which provides financial penalties and injunctive relief.</p>	<p>Repeal and rely on federal law.</p>
--	--	--

<p>TFC § 261.301(d). Requires DFPS, by rules, to assign priorities and prescribe investigative procedures for investigations based on the severity and immediacy of the alleged harm to the child. Specifies the priority time frames that must be assigned in rules, subject to the availability of funds, including 72-hour response times for “a report of abuse or neglect that is assigned the second highest priority.”</p> <p>SB 6 (79 (R)), § 1.16(c) also requires DFPS to develop an automated system for tracking response time to monitor compliance with § 261.301(d).</p>	<p>Limits Agency Flexibility. One of the greatest sources of morale drain for investigative staff is the required 72-hour response time for P2 (lower priority) reports. The current system essentially means that P2 reports received late on a Thursday or any time on a Friday are de facto handled as a P1 case, forcing additional afterhours work and early week backlog. The cumulative effect of this arbitrary timeframe creates unnecessary crisis mode reactions.</p> <p>In addition, prescribing all time frames in statute limits flexibility. All states require CPS to initiate an investigation in a timely manner. However, while some states specify the time frames for initiating an investigation in statute, other states allow the agency to define priority time frames in rules. (See Child Welfare Information Gateway. (2013). <i>“Making and screening reports of child abuse and neglect.”</i> Washington, D.C.: U.S. Department of Health and Human Services, Children’s Bureau. http://www.childwelfare.gov/systemwide/laws_policies/statutes/repproc.pdf.)</p> <p>Allowing DFPS to define priority time frames in rule would ensure best practices, such as the 24-hour response time for P1 cases, remain while giving CPS the flexibility to balance employee morale with child safety.</p>	<p>Amend TFC § 261.301(d) as follows:</p> <p>(d) The department shall by rule assign priorities and prescribe investigative procedures for investigations based on the severity and immediacy of the alleged harm to the child. The primary purpose of the investigation shall be the protection of the child. [The rules must require the department, subject to the availability of funds, to:</p> <p>_____ (1) immediately respond to a report of abuse and neglect that involves circumstances in which the death of the child or substantial bodily harm to the child would result unless the department immediately intervenes;</p> <p>_____ (2) respond within 24 hours to a report of abuse and neglect that is assigned the highest priority, other than a report described by Subdivision (1); and</p> <p>_____ (3) respond within 72 hours to a report of abuse and neglect that is assigned the second highest priority.]</p> <p>Repeal § 1.16(c) from SB 6. DFPS can report on timely case initiation even if the mandate is not in place.</p>
---	--	---

<p>TFC § 261.3021. Subject to the appropriation of money, mandates specific casework documentation and management by DFPS.</p>	<p>Limits Agency Flexibility. Statute contains unnecessarily prescriptive direction for management tasks typically left to agency decision making.</p> <p>Such detail ties the agency’s hands, limiting its ability to adjust procedures and streamline processes without legislative intervention. Currently, under this statutory directive, caseworkers lack flexibility to adjust workload considerations or higher priority tasks that may have a greater and more immediate bearing on child protection during the same time frame. Caseworkers could benefit from an internal approach regarding best practice.</p>	<p>Repeal statute and replace casework documentation mandates in agency policy or rule, as necessary.</p>
<p>TFC § 262.115(c). Requires parent-child visits three days after the department is appointed temporary managing conservator.</p>	<p>Limits Agency Flexibility. While DFPS recognizes the importance of early parent-child visits, prescriptive statutory provisions leaves little room for adjustment based on case circumstances and good professional judgment. The Department remains committed to fostering parent-child relationships, and could benefit from additional flexibility to adjust competing demands.</p>	<p>Replace current language with language similar to the following:</p> <p><u>The department is directed to establish protocols to ensure parent-child visits, where appropriate, as soon as possible after removal.</u></p> <p>The Department suggests replacing the three-day timeframe with a policy of no more than five days.</p>

<p>TFC § 263.303. Required content of the permanency progress report.</p>	<p>Limits Agency Flexibility. Including instructions, the permanency progress report is a 13-page form. The estimates on the time required to complete initial permanency progress reports ranged from 30-45 minutes on the low end to one or more days on the high end, with reports on siblings and children prescribed multiple medications representing the greatest workload.</p>	<p>Given competing feedback, recommend preserving flexibility without dictating form of report, by replacing the current statute with the following:</p> <p><u>Sec. 263.303. PERMANENCY PROGRESS REPORT.</u> <u>(a) Not later than the 10th day before the date set for each permanency hearing other than the first permanency hearing, the department or other authorized agency shall file with the court and provide to each party, the child’s attorney ad litem, the child’s guardian ad litem, and the child’s volunteer advocate a permanency progress report unless the court orders a different period for providing the report. [no change]</u></p> <p><u>_____ (b) The permanency progress report must contain:</u></p> <p><u>_____ (1) any information required to inform the court’s conduct of the permanency review hearing in accordance with § 263.306;</u></p> <p><u>_____ (2) information on significant events as provided in [new section--no number yet]; and</u></p> <p><u>_____ (3) any other information the department determines is appropriate.</u></p> <p><u>_____ (c) Nothing in this section shall be construed to require the department to file a separate report if the department determines that the requirements of state and federal law can be met using another document, including the child’s or family’s case plan, as applicable.</u></p> <p><u>SEC. ____ . DFPS shall review its current permanency progress and placement review reports and</u></p>
	<p>38</p>	<p><u>determine whether: 1) another document such as the child’s or family’s service plan could be filed instead of the current report, or 2) a brief summary report would maximize department and court resources in order to better serve children and families</u></p>

<p>TFC § 263.502. Required distribution and contents of placement review report.</p>	<p>Limits Agency Flexibility. Similarly to the permanency progress report, the current placement review report has grown lengthy to accommodate various directives, many of which target the same basic information regarding safety, permanency and well-being. The form itself is 12 pages, including the instructions.</p> <p>In addition, the entire subchapter focuses on “placement review” when the focus should continue to be on permanency for the child, even though a final order has been issued.</p>	<p>Recommend modifying similarly to 263.303, as follows:</p> <p>Sec. 263.502. [PLACEMENT REVIEW] <u>PERMANENCY PROGRESS REPORT FOLLOWING FINAL ORDER.</u> (a) Not later than the 10th day before the date set for a <u>permanency</u> [placement review] hearing, the department or other authorized agency shall file a <u>permanency progress</u> [placement review] report with the court and provide a copy to each person entitled to notice under Section <u>263.501(c)</u> [263.501(d)].</p> <p>(b) The permanency progress report must contain:</p> <p style="padding-left: 40px;">(1) any information required to inform the court’s conduct of the permanency review hearing in accordance with § 263.503;</p> <p style="padding-left: 40px;">(2) information on significant events as provided in [new section--no number yet];</p> <p style="padding-left: 40px;">(3) for any child or youth whose permanency goal is another planned permanent arrangement, documentation of:</p> <p style="padding-left: 80px;">(A) the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the State agency to return the child home or secure a placement for the child with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for the children; and</p> <p style="padding-left: 80px;">(B) the steps the State agency is taking to ensure that:</p> <p style="padding-left: 120px;">(i) the child’s foster family home or child care institution is following the reasonable and prudent parent standard; and</p> <p style="padding-left: 120px;">(ii) the child has regular, ongoing opportunities to engage in age or</p>
	<p>39</p>	

<p>TFC § 264.108 (e). State employee who violates state laws restricting race/ethnicity based foster placement decisions subject to immediate dismissal.</p>	<p>Duplicative of Federal Law. Differences in state statute and federal law cause confusion while DFPS could rely on federal law, which provides financial penalties and injunctive relief.</p>	<p>Repeal and rely on federal law.</p>
<p>Tex. Human Res. Code (HRC) § 40.0324. Requires DFPS, subject to the availability of funds, to develop a program to provide for the timely replacement of caseworkers with trainees hired in anticipation of vacancies, and to consider the turnover rate for caseworkers by region in developing the program.</p>	<p>Unnecessary Provision. Currently, the FTE cap, not statutory authority, limits hiring making this provision unnecessary.</p>	<p>Repeal mandate of caseworker replacement program and add a provision in HRC or Rider that DFPS caseworker trainees do not count against the FTE cap.</p>
<p>HRC § 40.0326. Requires DFPS to target individuals who hold bachelor’s degrees or advanced degrees in certain fields in its recruitment of CPS caseworkers.</p>	<p>Limits Agency Flexibility. This provision is unduly restrictive. DFPS may need to prioritize workers with associate degrees or other critical training to ensure maximum hiring flexibility and changes in need.</p>	<p>Repeal.</p>

<p>HRC § 40.0327. Requires DFPS to use special assessment tools in screening applicants for employment with the child protective services division.</p>	<p>Limits Agency Flexibility. This provision is unduly prescriptive and inhibits needed flexibility in hiring practices. DFPS should use good business judgment to determine the screening method for hiring CPS staff.</p>	<p>Repeal.</p>
<p>HRC § 40.036. Specifies required training and curriculum for CPS caseworkers.</p>	<p>Limits Agency Flexibility. This provision is unduly prescriptive and could interfere with future retention and training decisions. Management needs flexibility to alter structure and content of training to best meet the agency's changing needs.</p>	<p>Repeal.</p>
<p>HRC § 40.037. Specifies required training for CPS managers as soon as they are hired or promoted before they can begin working in the new managerial position.</p>	<p>Limits Agency Flexibility. This provision creates delays in managers starting their positions because managers frequently have to travel long distances for trainings or wait for a training to be offered in their area before they can begin working. Inability to deploy critical staff like supervisors is directly damaging to staff job function, morale and willingness to remain with the agency. Transformation efforts will address training needs, but removing this barrier only further supports that goal.</p>	<p>Repeal or modify the management training mandate to give DFPS general direction to develop managers flexibly and according to evolving best practices.</p>

<p>HRC § 40.0528. Mandates a comprehensive staffing and workload distribution plan for CPS to reduce caseloads, enhance accountability, improve quality of investigations, eliminate delays, and ensure efficient and effective use of resources; mandates numerous steps for carrying out the plan, including financial incentives for recruiting and retaining investigative staff.</p>	<p>Unnecessary Provision. This provision requires an additional report that duplicates ongoing agency efforts. In addition, the investigative incentives may need to be explored in light of the agency’s current recruitment and retention efforts. See recommendation re: incentives in budgetary Rider.</p>	<p>Repeal.</p>
--	---	----------------

IMPROVE CHILD SAFETY, PERMANENCY, AND WELL-BEING

Statutory Provision	Summary of Problem	Proposed Change
---------------------	--------------------	-----------------

<p>New Provision.</p>	<p>Unclear Statutory Authority. Federal law (recently passed HR 4980) includes a provision requiring licensing standards to “ensure appropriate liability for caregivers when a child participates in an approved activity and the caregiver approving the activity acts in accordance with the reasonable and prudent parent standard.” DFPS currently lacks the ability to grant immunity from liability in this circumstance.</p>	<p>Add a provision to Texas law, similar to that in place in Florida (Florida Statutes § 409.145), which provides, <i>inter alia</i>:</p> <p>“Limitation of liability.—A caregiver is not liable for harm caused to a child who participates in an activity approved by the caregiver, provided that the caregiver has acted in accordance with the reasonable and prudent parent standard. This paragraph may not be interpreted as removing or limiting any existing liability protection afforded by law.”</p>
------------------------------	---	---

<p>Tex. Educ. Code (TEC) §25.001(g). Requires a public school to allow a student in DFPS conservatorship to continue attending the school the student attended at the time the student entered conservatorship (without having to pay tuition) until the student completes the highest grade offered by the school, even if the placement is outside the attendance zone for the school.</p>	<p>Unclear Statutory Authority. State statute is not broad enough to allow DFPS to comply with federal law aimed at improving child well-being. Federal law (Fostering Connections) requires DFPS to coordinate with local educational agencies to ensure that a child remains in the school in which the child is enrolled at the time of initial placement (or any subsequent placement change), unless remaining in that school is not in the best interests of the child.</p> <p>Changes to this section of the Texas Education Code in 2013 expanded the ability of a child coming into conservatorship to remain in the school the child was in at the time of initial placement to all grades rather than just high school. However, the Texas Education Code still does not require a school district to allow a student to continue attending the same school <i>district</i> the student attended at the time of placement, in cases where the current school is not appropriate but another one in the district might be. It also does not apply to subsequent school changes that might occur because of placement changes while a child is already in DFPS conservatorship.</p>	<p>Amend to expand the guarantee to allow a student to remain in the same school district, and for any subsequent placement changes after the child is already in conservatorship.</p> <p>Suggested language: A student enrolled in a primary or secondary public school who is placed in the conservatorship of DFPS at a residence outside the attendance area for the school or outside the school district is entitled to continue to attend the school <u>or a school in the same district</u> in which the student was enrolled immediately before entering conservatorship <u>or at the time of any placement change</u> [until the student successfully completes the highest grade level offered by the school at the time of placement] without payment of tuition.</p>
<p>TEC § 25.087(b)(1)(F). Authorizes “excused absences” from school, including absences for foster children who are participating in any activity ordered by a court under TFC Chapter 262 or 263 that cannot be scheduled outside of school hours.</p>	<p>Unclear Statutory Authority. Children’s services are not generally court-ordered, although the parents’ may be. Therefore (b)(1)(F) is not clearly applicable to the child if the child’s therapy or other activities in the service plan are not court-ordered.</p>	<p>Amend to cover any absence to comply with the child’s plan of service under Texas Family Code Chapter 262 or 263.</p> <p>Also recommend non-substantive clean-up: Due to the number of education bills passed during the 2013 legislative session, three different versions of this same section 25.087 (b)(1)(F) of the Ed Code currently exist and need to be reconciled.</p>

<p>TEC § 54.366. Outlines eligibility criteria for higher education tuition fee waiver for certain students formerly in DFPS conservatorship.</p>	<p>Limits Agency Flexibility. Based on the current eligibility criteria, in cases where either the parental rights of the parent are reinstated after a termination of parental rights, or where permanent managing conservatorship is awarded to the biological parents after termination, the youth will not be eligible for this important benefit. This exclusion can operate as a disincentive against permanency, and there are reports of youth remaining in care so they do not lose the tuition and fee waiver.</p>	<p>Recommend adding language that adds flexibility so that youth who leave care for the legal responsibility of a parent are not penalized for factors outside the youth’s control. Specifically, recommend adding subsection (c) as follows:</p> <p><u>(c) Notwithstanding Subsection (a)(1), a child who exits conservatorship to the legal responsibility of the child’s parent, including a parent whose rights were previously terminated, may be exempt from the payment of tuition and fees if the department determines, utilizing factors specified in department rule, developed in consultation with the Texas Higher Education Coordinating Board.</u></p>
<p>TFC § 58.0052. Requires juvenile service providers, upon request of another juvenile service provider, to share a multi-system youth’s personal health information or history of governmental services for purposes of identifying such a youth, coordinating and monitoring care for the youth, and improving quality of services provided.</p>	<p>Impedes Case Work. Probation departments do not always share the terms of probation for a youth in conservatorship with CPS, making it difficult for caseworkers to find a suitable placement for a youth leaving the juvenile justice system.</p>	<p>Amend statute (or another appropriate provision of Chapter 58) to require probation officers to share the youth’s terms of probation with CPS immediately upon request.</p>

<p>TFC § 103.001(b). Provides venue for suit in which an adoption petition can be filed.</p> <p>TFC § 155.001(c). Sets forth the parameters of the jurisdiction for the court of continuing, exclusive jurisdiction.</p>	<p>Impedes Case Work. Some courts hearing adoptions of CPS children require the underlying CPS suit be transferred, if the adoption petition is filed in a different Texas county than where the original case is filed. This practice, not required by law, causes a delay in getting the court file transferred and additional work for CPS caseworkers.</p>	<p>Amend TFC §§ 103.001 and 155.001(c) as follows:</p> <p>Sec. 103.001(b): A suit in which adoption is requested may be filed in the county where the child resides or in the county where the petitioners resides, <u>notwithstanding that another court has continuing, exclusive jurisdiction under Chapter 155. Transfer of the suit in which a court acquired continuing exclusive jurisdiction is not required pursuant to chapter 155.</u></p> <p>Sec. 155.001(c): If a court of this state has acquired continuing exclusive jurisdiction, no other court of this state has jurisdiction of a suit with regard to that child except as provided by this chapter, <u>Sec. 103.001(b)</u>, or Chapter 262.</p>
--	---	--

<p>New provision for TFC Chapter 104.</p>	<p>Unclear Statutory Authority. The limitations on using a child’s prerecorded or remote testimony, as specified in TFC § 104.002-104.006, could be applied or construed to require a child in care to attend Chapter 263 hearings in-person even when the child’s physical presence is not necessary to convey the child’s wishes to the court or the child does not want to attend the hearing. The requirement of in-person attendance can also lead to additional caseworker stress and strain, as discussed in TFC § 263.302.</p> <p>Allowing remote or prerecorded testimony for Chapter 263 hearings, yet mandating that every child is allowed to attend or participate in the hearing will allow children to effectively communicate with the court <i>and</i> enable caseworkers to help carry out the children’s wishes without having to force children who do not want to attend hearings to attend.</p>	<p>Add new statute to TFC Chapter 104 that provides the following:</p> <ol style="list-style-type: none"> 1. The limitations on using prerecorded or remote testimony of a child 12 years of age or younger, as specified in TFC § 104.002-104.006, do not apply to a child’s out-of-court testimony in any status, permanency, or placement review hearing held pursuant to Chapter 263, and 2. A child of any age must be allowed to attend or participate in the hearing as provided in Chapter 263.
<p>TFC § 104.007. Allows professionals in a DFPS case to testify via videoconference upon agreement of DFPS’ and defendant’s counsel.</p>	<p>Impedes Case Work. Current law requires agreement from both parties to a case in allowing videoconference. Amendment would improve case efficiency and facilitate obtaining testimony of professionals without having to delay hearings until professionals are able to attend the hearing.</p>	<p>Amend TFC § 104.007(b) to allow judge to order the testimony of a professional to be taken by videoconference even if the state’s counsel and defendant’s counsel do not agree, if good cause exists.</p>

<p>TFC § 107.002. Defines powers and duties of a child’s guardian ad litem (GAL). As currently defined, the GAL’s powers include the entitlement to “participate in case staffings by an authorized agency.”</p>	<p>Unclear Statutory Authority. DFPS relies on internal staffings to discuss case matters. Currently, statute lacks clarity regarding who can participate in such meetings.</p> <p>In addition, the burden of finding appropriate placements falls heavily on the caseworker although each attorney/advocate has a unique relationship with their client and would likely be able to elicit placement resources that DFPS or another attorney would not have been able to obtain otherwise. Requiring all advocates on the case to discuss potential placements with their clients at the start of and throughout the case, in addition to CPS, would possibly generate better placement and permanency options in a timelier manner and relieve CPS of some workload.</p>	<p>Amend subsection (c)(3) to clarify the scope of the guardian ad litem’s entitlement to attend case staffings in the same manner as the Legislature did in TFC § 107.0131(a)(2)(F).</p> <p>Amend subsection (i) to require the guardian ad litem to discuss potential placements and relative information with the child and, if possible, provide any information obtained to DFPS prior to the adversary hearing. Further mandate that following the adversary hearing, the guardian ad litem has an ongoing obligation to continue to discuss potential placements and relative information with the child and provide the updated information to DFPS.</p>
---	---	--

<p>TFC § 107.003(b). Defines the duties of an attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263.</p>	<p>Unclear Statutory Authority. The burden of finding appropriate placements falls heavily on the caseworker although each attorney/advocate has a unique relationship with their client and would likely be able to elicit placement resources that DFPS or another attorney would not have been able to obtain otherwise. Requiring all advocates on the case to discuss potential placements with their clients at the start of and throughout the case, in addition to CPS, would possibly generate better placement and permanency options in a timelier manner and relieve CPS of some workload.</p> <p>Streamlining Roles and Responsibilities. In addition, foster youth note they do not understand what actions they are allowed to take if their rights are violated and sometimes feel they are not able to exercise their rights because of negative action threatened by their foster parents. However, caseworkers are only able to provide youth with a copy of the foster children’s bill of rights and inform them of the rights described within. As caseworkers are not lawyers, they are not able to provide legal advice regarding the rights or violation of the rights, and therefore, are not able to provide necessary and meaningful information. It is more within the scope of an attorney’s responsibilities to explain what each right means and what the youths’ options are if the rights are violated.</p>	<p>Add following duties to subsection (b):</p> <ol style="list-style-type: none"> 1. Discuss potential placements and relative information with the child and, if possible, provide any information obtained to DFPS prior to the adversary hearing. After the adversary hearing, an attorney ad litem has an ongoing obligation to continue to discuss potential placements and relative information with the child and provide the updated information to DFPS. 2. Explain to the child, in a developmentally appropriate manner, the rights described in the foster children’s bill of rights and the possible consequences of violation of the rights.
--	--	--

<p>TFC § 107.0131. Defines the powers and duties of attorney ad litem for parent.</p>	<p>Streamlining Roles and Responsibilities. The attorney ad litem, as the representative for the parent, is in the best position to inform their clients of their rights and responsibilities in connection with the plan.</p> <p>In addition, the burden of finding appropriate placements falls heavily on the caseworker although each attorney/advocate has a unique relationship with their client and would likely be able to elicit placement resources that DFPS or another attorney would not have been able to obtain otherwise. Requiring all advocates on the case to discuss potential placements with their clients at the start of and throughout the case, in addition to CPS, would possibly generate better placement and permanency options in a timelier manner and relieve CPS of some workload.</p>	<p>Add following duties to subsection (a)(1):</p> <ol style="list-style-type: none"> 1. Inform parents of their rights in connection with the service planning process. If a parent fails to go to court, or does not have an attorney, the warning in TFC§ 263.102(b) and the caseworker’s explanation of the plan should convey the essential purpose and function of the service plan. 2. Discuss potential placements with parents and assist them in completing and submitting the proposed child placement resource form.
<p>New provision for TFC Chapter 161.</p>	<p>Limits Agency Flexibility. Once a parent’s rights are terminated, there is no possibility of the rights being reinstated, even if a parent has rehabilitated. Although a parent can be named managing conservator, legally the parent is no longer the parent. The absence of that symbolic designation may not be as influential in determining outcome as other factors but it certainly plays a role. CVS staff think there could be some improvements in positive exits from care if this option were available, provided that it is coupled with a possibility of a child whose parental rights have been reinstated getting the tuition waiver. Youth feedback was mixed. Parents consulted fully support the concept.</p>	<p>Add to Chapter 161 (or 263) a section that authorizes a court to reinstate the parental rights of a parent whose rights have been terminated in a CPS case pursuant to Chapter 161 or similar law in another state. Clarify that the court’s authority does not confer standing on a parent whose rights were terminated. In order to ensure youth feedback is properly ascertained, require that the court discuss reinstatement of parental rights with a child or youth prior to ruling on the issue and provide that the court shall give primary weight to the wishes of the child or youth.</p>

<p>TFC § 162.0065. Exempts DFPS from certain redaction if the identity of persons whose identities would otherwise be redacted is already known to the adoptive parents.</p>	<p>Limits Agency Flexibility. DFPS supports the provision of a complete case record to a prospective adoptive family upon request. However, there are times when the most important document to an adoptive parent is the child’s health, social, educational, and genetic history report (known as a HSEGH), rather than the entire case file (e.g. a grandparent who is intimately familiar with the conservatorship case because the grandparent has been involved continuously).</p> <p>Compiling this information results in delayed adoptions, when the necessary information depends on the nature of the relationship between the adoptive and biological families. With greater flexibility to tailor the information compiled and, to eventually consider producing a more robust HSEGH in lieu of providing the entire case record with the associated redaction workload, DFPS can better provide for permanency.</p>	<p>Recommend authorizing, but not requiring, flexibility that could permit DFPS to increase the rate of adoption while balancing the competing needs of timeliness and the provision of thorough information with the following revision:</p> <p>[EDITING] ADOPTION RECORDS IN DEPARTMENT PLACEMENT. Notwithstanding any other provision of this chapter, in an adoption in which a child is placed for adoption by the Department of <u>Family and Protective</u> [and Regulatory] Services[;]:</p> <p>(a) the department is not required to edit records to protect the identity of birth parents and other persons whose identity is confidential if the department determines that information is already known to the adoptive parents or is readily available through other sources, including the court records of a suit to terminate the parent-child relationship under Chapter 161[;];</p> <p><u>(b) the department may, in accordance with department rule, develop a format for the report required by section 162.007, other than the format provided in section 162.007, which the department determines is appropriate based on the relationship between the adoptive parents and the child or the child’s family, the provision of the child’s case record to the adoptive parents, or other factor specified in department rule; and</u></p> <p><u>(c) the department must produce a child’s case record in accordance with section 162.006 upon request; however, the department may, but is not required to, produce the child’s case record in accordance with section 162.006 if the department has compiled a complete report on the</u></p>
---	--	--

<p>TFC § 262.114(b). Evaluation of kinship placements.</p>	<p>Impedes Case Work. Allows the Department to place a child without criminal or CPS background check. Not conducive to child safety.</p>	<p>Repeal.</p>
<p>TFC § 262.203. Requires the court in a DFPS suit to transfer a case under certain enumerated circumstances.</p>	<p>Impedes Case Work. In general, the most efficient use of staff, court, and attorney time occurs when a DFPS suit is carried out in the county of removal. While judges have discretion in many instances over whether a transfer will occur, current law is confusing inasmuch as it is not straightforward that associate judges can “pull in” a case from a court of continuing exclusive jurisdiction based on mandatory transfer grounds. In addition, the applicability of the mandatory discretion grounds in TFC § 155.201 are not clear in a DFPS lawsuit and there seems to be no policy-based reason to deny the courts the flexibility to consider whether a discretionary transfer is appropriate under the circumstances.</p>	<p>Amend provision as follows:</p> <p>(a) On the motion of a party or the court’s own motion, if applicable, the court that rendered the temporary order, <u>including an associate court under Subchapter C, Chapter 201, [shall] may</u> in accordance with procedures provided by Chapter 155:</p> <p>(1) transfer the suit to the court of continuing, exclusive jurisdiction, if any;</p> <p>(2) if grounds exist for mandatory transfer from the court of continuing, exclusive jurisdiction under Section 155.201, order transfer of the suit from that court;</p> <p><u>(3) if grounds exist for discretionary transfer from the court of continuing, exclusive jurisdiction under Section 155.202, order transfer of the suit from that court;</u> or</p> <p><u>(4) [(3)]</u> if grounds exist for transfer based on improper venue, order transfer of the suit to the court having venue of the suit under Chapter 103.</p> <p>(b)-(c) [no change].</p>

<p>TFC § 263.201. Sets forth requirements for a status hearing.</p>	<p>Impedes Case Work. While the “not later than the 60th day” language was presumably intended to ensure courts held timely hearings, some courts have started setting cases at the other extreme. DFPS suggests adding a new subsection and lowering the threshold for hearing timeframes.</p>	<p>Recommend amending Subsection (a) to ensure CPS has time between the adversary and status hearings for critical tasks, including locating and serving parents, assessing potential placements and conducting family group conferencing.</p> <p>New subsection (a) would read: “ <u>On or after the 45th but Not no</u> later than the 60th day after the date the court renders a temporary order appointing the department as temporary managing conservator of a child, the court shall hold a status hearing to review the child’s status and the service plan developed for the child.”</p>
--	---	--

<p>TFC § 263.302. Child shall attend hearing unless court specifically excuses attendance. Court shall consult with child age four or older if court determines in best interest of child.</p>	<p>Unclear Statutory Authority. Despite the fact that it is critically important to many youth to attend court, and despite the fact that it may be detrimental to a young child’s best interest to attend court, the CPS system is replete with stories of children and youth not being permitted to attend hearings (or not being permitted to speak once there), and of children as young as babies being required to attend even if it meant the foster parents staying at court all day waiting for the case to be called.</p> <p>Feedback obtained in the review reflects that CPS staff believe a child should be allowed to attend if the child wishes to attend, but no child should be forced unless the caseworker agrees there is a real reason the judge needs to address the child (e.g. a discussion on truancy). Substantial caseworker resources are expended to facilitate attendance, particularly for children placed out of region. The caseworkers must secure temporary placements, and for children with special needs, ensure that the child has medical equipment and care. For counties which hold all children’s review hearings on a single day, the workload of making travel and housing arrangements alone can be staggering.</p>	<p>Recommend repeal of current statute and replacement with new language:</p> <p>Sec. 263.302. CHILD’S ATTENDANCE AT HEARING.</p> <p>(a) A presumption exists that it is in the best interest of a child ten years of age or older to attend each permanency hearing, and a child over the age of 10 shall attend each permanency hearing unless the court specifically excuses the child’s attendance after considering the provisions of this section.</p> <p>(b) The court shall consult, in a developmentally appropriate manner, with each child who attends the hearing unless it is not in the child’s best interest to do so. A child or youth who attends court in person shall be permitted to speak to the court in chambers whenever possible.</p> <p>(c) The child may elect to attend the hearing by video or telephonic means, if available. The child may also elect to submit a written statement or pre-recorded video statement to the judge.</p> <p>(d) A presumption exists that it is not in the best interest of a child under the age of ten to attend each permanency hearing. Prior to ordering a child under the age of ten to attend the court shall consider:</p> <ol style="list-style-type: none"> (1) input from the child, if available; (2) the recommendations of the child’s caseworker; (3) the recommendations of individuals appointed to the case; (4) any negative consequences to the child such as absence from school, long wait time, emotional turmoil and other factors relevant to the child’s best interest; (5) whether the child will have an
	<p>54</p>	

<p>TFC § 263.401. Provides for dismissal of a DFPS suit unless the court finds there are extraordinary circumstances.</p>	<p>Unclear Statutory Authority. Current statute does not address the relationship of the dismissal deadline and cases that are halted because of a successful motion for new trial, the declaration of a mistrial, or a successful appeal and remand. A trial court, therefore, does not have a clear basis upon which to retain the case. DFPS must file a new removal and depend on the judge to reassert jurisdiction. In the interest of child safety, in addition to judicial and caseworker efficiency, there needs to be a clear path for the court to follow.</p>	<p>To clarify that if a court has taken jurisdiction in a CPS case and it must be retried or is remanded, recommend adding (b-1) and amending (c) as follows:</p> <p><u>(b-1) If, after commencement of the initial trial on the merits within the time required by Subsection (a) or (b), the court grants a motion for a new trial or mistrial, or the case is remanded to the court by an appellate court following an appeal of the court’s final order, the court shall retain the suit on the court’s docket and render an order in which the court:</u></p> <p><u>(1) schedules a new date on which the suit will be dismissed if the new trial has not commenced, which must be a date not later than the 180th day after the date:</u></p> <p><u>(A) the motion for new trial or mistrial is granted; or</u></p> <p><u>(B) the appellate court remanded the case;</u></p> <p><u>(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and</u></p> <p><u>(3) sets the new trial on the merits for a date not later than the date specified under Subdivision (1).</u></p> <p>(c) If the court grants an extension under Subsection (b) or (b-1) but does not commence the trial on the merits before the <u>new dismissal</u> [required] date [for dismissal under Subsection (b)], the court shall dismiss the suit. The court may not grant an additional extension that extends the suit beyond the required date for dismissal under Subsection (b) or (b-1).</p>
	<p>55</p>	

<p>TFC § 263.403. Sets forth dismissal time frames for cases in which the court has ordered a monitored return of the child to the child’s parent.</p>	<p>See TFC § 263.401.</p>	<p>For the reasons articulated under § 263.401, recommend adding the following new subsections similar to language from SB 768 from the 83rd Legislative Session:</p> <p style="padding-left: 40px;"><u>(c-1) If, after commencement of the initial trial on the merits within the time required by Subsection (b) or (c), the court grants a motion for a new trial or mistrial, or the case is remanded to the court by an appellate court following an appeal of the court’s final order, the court shall retain the suit on the court’s docket and render an order in which the court:</u></p> <p style="padding-left: 80px;"><u>(1) schedules a new date on which the suit will be dismissed if the new trial has not commenced, which must be a date not later than the 180th day after the date:</u></p> <p style="padding-left: 120px;"><u>(A) the motion for new trial or mistrial is granted; or</u></p> <p style="padding-left: 120px;"><u>(B) the appellate court remanded the case;</u></p> <p style="padding-left: 80px;"><u>(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and</u></p> <p style="padding-left: 80px;"><u>(3) sets the new trial on the merits for a date not later than the date specified under Subdivision (1).</u></p> <p style="padding-left: 40px;"><u>(c-2) If the court grants an extension under Subsection (b), (c), or (c-1) but does not commence the trial on the merits before the new dismissal date, the court shall dismiss the suit. The court may not grant an additional extension that extends the suit beyond the required date for dismissal under Subsection (b), (c), or (c-1).</u></p>
	<p>56</p>	

<p>TFC § 263.501. Schedule for and conduct of placement review hearings for children in DFPS' permanent managing conservatorship.</p>	<p>Unclear Statutory Authority. Subsection (f) provides that "The child shall attend each placement review hearing unless the court specifically excuses the child's attendance." However, as explained under TFC § 263.302, some courts have excused children's attendance even when attendance is critically important to the child. In addition, children who are not adjudicated into custody of Texas Juvenile Justice Department should be permitted to participate in hearings by video or telephone, in addition to attending in person. Title of "placement review" hearings conveys a focus other than permanency for the child, which should remain the continual focus for the legal case.</p> <p>Subsections (a) (b), and (g) indicate that the placement review hearings are to continue until the child is an adult (or in the case of a child whose parents' rights have been terminated until adoption). The hearings would cease if a child were reunified or if a person other than DFPS were appointed conservator, not only because a child reached adulthood or was adopted.</p>	<p>Recommend amending provision (and subchapter title) as follows:</p> <p><u>SUBCHAPTER F. [PLACEMENT REVIEW] PERMANENCY HEARINGS FOLLOWING FINAL ORDER</u></p> <p>Sec. 263.501. <u>PERMANENCY [PLACEMENT] REVIEW AFTER FINAL ORDER.</u> (a) If the department has been named as a child's managing conservator in a final order that does not include termination of parental rights, the court shall conduct a <u>[placement] permanency</u> review hearing at least once every six months until <u>[the child becomes an adult] the department is no longer the child's managing conservator.</u></p> <p>(b) If the department has been named as a child's managing conservator in a final order that terminates a parent's parental rights, the court shall conduct a <u>permanency [placement review]</u> hearing not later than the 90th day after the date the court renders the final order. The court shall conduct additional <u>permanency [placement review]</u> hearings at least once every six months until <u>[the date the child is adopted or the child becomes an adult] the department is no longer the child's managing conservator.</u></p> <p>(c) Notice of a <u>permanency [placement review]</u> hearing shall be given as provided by <u>section 261.301. [Rule 21a, Texas Rules of Civil Procedure, to each person entitled to notice of the hearing.</u></p> <p>(d) The following are entitled to not less than 10 days' notice of a placement review hearing and are entitled to present evidence and be heard at the hearing:</p> <ul style="list-style-type: none"> (1) the department; (2) the foster parent, preadoptive parent, relative of the child providing care, or director of the group home or institution in which the child is residing;
	<p>57</p>	

<p>HRC § 40.0521(b). Requires that written information concerning community services that are available to victims of domestic violence be distributed to those victims.</p>	<p>Impedes Case Work. The requirement that information be distributed in writing can pose a safety threat to victims as taking protective measures can be one of the most volatile and lethal times for a victim. In addition, the provision may be unnecessary, as ordinary casework practice would lead a caseworker to explain appropriate community resources to a victim.</p>	<p>Repeal or amend to address safety concerns about distributing information in writing.</p>
---	---	--

ENABLE CASEWORKERS TO SPEND MORE TIME WITH CHILDREN AND FAMILIES

<p>Statutory Provision</p>	<p>Summary of Problem</p>	<p>Proposed Change</p>
<p>TFC § 261.307. Requires DFPS, as soon as possible after initiating an investigation, to provide the parent or person with legal custody specific information relating to the investigation procedure. The information must be brief and easily understood and written in a language the person understands, or, if the person is illiterate, read to the person in a language the person understands.</p>	<p>Limits Agency Flexibility. State statute goes well beyond federal law. The statute can be interpreted to require a lengthy, line-by-line review which diverts focus from discussions of more immediate relevance to the investigation.</p> <p>Further, the parent, faced with the reality of an investigation, is not likely to want to go over information in the manual in depth with the caseworker, and being forced to do so damages any prospect the caseworker has of building rapport with the parent. DFPS staff agree it is critically important to develop helpful information for a parent but this can be done as a matter of best practice.</p>	<p>Repeal the section and replace with a mandate that DFPS is required to provide information to the child’s parents in accordance with federal law.</p> <p>Possibly further direct DFPS to develop protocols and necessary materials to provide information to individuals being investigated.</p>

<p>New provision for TFC Chapter 263 (or 264).</p>	<p>Impedes Case Work. The requirements for CPS caseworkers to notify key parties in a CPS case of important events are spread throughout the Family Code, do not consistently address the parties to whom notice must be given, exclude the child’s biological parents, and are not always realistic or an efficient use of caseworker time (e.g. § 264.117 requiring notice of “each event involving the child...report[ed] in the child’s case file”). See also TFC §§ 264.119 and 266.005(b). In addition, as agency technology evolves, several of the key parties may have access to information on significant events electronically, so a notification requirement for a caseworker would be unnecessarily duplicative. Finally, a consolidated provision serves to streamline the Code.</p>	<p>Consolidated section requiring notification of significant events to:</p> <ul style="list-style-type: none"> • Child’s biological parent, unless the parent cannot be located • Child’s attorney ad litem • Child’s guardian ad litem • Child’s CASA • Child’s caregiver <p>Provide that a significant event includes:</p> <ul style="list-style-type: none"> • placement changes, including inability to locate an appropriate placement for one or more nights; • major medical procedures or changes; • initial prescription of psychotropic medication; • major changes in school performance or serious disciplinary events; and • any other event at the discretion of DFPS. <p>Provide that notwithstanding any notification requirement, DFPS may but is not required to provide notice of a significant event if the individual has electronic access to the system where the significant event is reflected.</p>
---	--	---

<p>TFC § 263.004. Requires DFPS to: file a report with the court within five days of the adversary hearing with information on a foster child’s educational decision maker and any surrogate parent, provide a copy of the report to each person entitled to notice of the permanency hearing and to the child’s school, and to update and refile the report within five days of any change.</p>	<p>Impedes Case Work. While a school needs information regarding the identity of the education decision maker, there is no reason the court and other parties need the information within five days of the initial designation and within five days of any changes.</p> <p>In addition, this provision effectively necessitates a form because something must be filed with the court; requires caseworker time to get to drive to court, find parking, and file the document; requires caseworker time to notify parties and others in the case when the only entity with a clear need to immediately have the information is the school; and the form may go through multiple updates and necessitate new signatures and filings.</p>	<p>Amend to require DFPS to give notice to a child’s school of the education decision maker, and of any surrogate parent the court appoints, if known. This would permit maximum flexibility in the manner of notification and reduce unnecessary caseworker paperwork burden.</p>
<p>TFC § 263.103. Directs DFPS to develop the original service plan jointly with the child’s parents, including informing the parents of their rights in connection with the service plan process, and to note inability or unwillingness to cooperate in the plan.</p>	<p>Streamlining Roles and Responsibilities. The court admonishes parents about consequences to the parents’ actions in the service planning process. While DFPS can work with stakeholders and parents to develop informational materials without a statutory mandate, caseworkers cannot and should not provide what is in essence legal advice to parents during a CPS case.</p> <p>In addition, and more importantly from a practice standpoint, CPS staff indicated that providing such information smacks of an adversarial process at a time when the worker is trying to build rapport with the family and jointly plan services with an eye to reunification.</p>	<p>Repeal the directive to caseworkers about “informing the parents of their rights in connection with the service plan process.”</p>

<p>TFC § 263.104. Permits service plan amendments; requires DFPS to work jointly with the parents on any amendment to the service plan, including informing the parents of their rights in connection with the service plan process.</p>	<p>Streamlining Roles and Responsibilities. See rationale for recommended changes to TFC § 263.103.</p>	<p>Repeal the directive to caseworkers about “informing the parents of their rights in connection with the service plan process.”</p>
---	--	---

<p>TFC § 263.301. Required notice of permanency hearings to certain listed individuals and entities within 10 days prior to the hearing.</p>	<p>Impedes Case Work. DFPS caseworkers are already required to send a report to all the same individuals and entities prior to the hearing in question. Workers' efficiency could be maximized by utilizing the report to provide notice of an upcoming hearing.</p> <p>There is a slightly different list of parties to notify of a permanency hearing and a placement review hearing. While it may make additional sense to notify a child's child-placing agency (CPA) after rendition of a final order, there seems to be no compelling reason not to notify the CPA prior to a final order, and CPS has required as much by policy since it implemented the law. Moreover, the law is not clear inasmuch as a CPA administrator's designee may be the right person to notify in order for a person more involved in the child's case to attend a hearing or review the department's report in anticipation thereof.</p>	<p>Amend as follows:</p> <p>Sec. 263.301. NOTICE. (a) Notice of a permanency hearing shall be given as provided by Rule 21a, Texas Rules of Civil Procedure, to all persons entitled to notice of the hearing.</p> <p>(b) The following persons are entitled to at least 10 days' notice of a permanency hearing and are entitled to present evidence and be heard at the hearing:</p> <ul style="list-style-type: none"> (1) the department; (2) the foster parent, preadoptive parent, relative of the child providing care, or director of the group home or institution <u>general residential operation</u> where the child is residing; (3) each parent of the child; (4) the managing conservator or guardian of the child; (5) an attorney ad litem appointed for the child under Chapter 107; (6) a volunteer advocate appointed for the child under Chapter 107; (7) the child if: <ul style="list-style-type: none"> (A) the child is 10 years of age or older; or (B) the court determines it is appropriate for the child to receive notice; and (8) <u>the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee, including the child-placing agency's case manager for the child; and</u> (9) any other person or agency named by the court to have an interest in the <u>child's welfare.</u>
	<p>62</p>	<p>(c) If a person entitled to notice under Chapter 102 or this section has not been served, the court shall review the department's or other agency's efforts at attempting to locate all necessary persons and requesting service of</p>

<p>TFC § 264.015. Requires DFPS to include training in trauma-informed programs in training to foster care/kinship providers and staff, and to require caseworkers to complete annual refresher training courses; mandates that DFPS assist other programs in developing training.</p>	<p>Impedes Case Work. The required annual refresher training is a prescriptive requirement that forces caseworkers to take time to learn a lesson they have presumably already learned, and potentially at the cost of more timely training or at the cost of visiting children and families. Moreover, DFPS does not need a statute to embed principles of trauma-informed care. If trauma-informed care is a best practice that CPS determines should be prioritized over other best practices, then CPS can add it to any training given by DFPS to caregivers, caseworkers, etc. without a statutory mandate compelling it.</p>	<p>Repeal (and possibly replace with general directive to utilize Trauma Informed Care to the extent and in the manner DFPS determines appropriate).</p>
<p>TFC § 264.107(b). Requires DFPS to use HHSC’s “standard application” for the placement of children in contracted residential care.</p>	<p>Limits Agency Flexibility. At this time, the need for a “common application” is limited primarily to DFPS and possibly Texas Juvenile Justice Department. While there is an abbreviated form that can be used in certain circumstances, the primary form (without any content added) is 18 pages. With attachments and information added, the application can easily become 50 pages or more. Caseworkers must complete the application using information that is available elsewhere in the record, making double work. Feedback from providers is that the application is not helpful to them. Accordingly, and in light of evolving best practices, DFPS is examining the application and assessment process.</p>	<p>Repeal subsection to allow the agency the flexibility to develop alternate application materials and reduce duplicative paperwork requirements for caseworkers, improve provider efficiency, and allow the agency to keep pace with evolving best practice. Until DFPS and its partners reach consensus on the best application materials, the agency can continue to use the Common Application in the absence of the statutory directive.</p>

<p>TFC § 264.107(e). Except in an emergency placement, requires DFPS to consult with a child’s attorney ad litem (AAL), guardian ad litem (GAL) and court appointed special advocate (CASA) prior to making a placement change; requires DFPS to use “clinical protocols” in matching a child to a placement.</p>	<p>Impedes Case Work. CPS bears the responsibility of making all child placement decisions. While additional feedback is often helpful in making such critical decisions, requiring caseworkers to consult multiple parties beforehand limits needed agility and undermines the agency’s authority in a complex situation.</p>	<p>Repeal current subsection and replace with language that requires DFPS, in a non-emergency placement change, to give notice of the placement discharge or change to the child’s AAL, GAL and CASA as far in advance of the change as possible. Provide that the AAL, GAL and CASA are entitled to provide feedback regarding placement preferences to DFPS within 3 days of DFPS giving notice of the placement discharge. Provide that DFPS, in its discretion, may consult the AAL, GAL and CASA for additional feedback regarding the placement.</p>
<p>TFC § 264.107(g). Authorizes DFPS employees to provide temporary care for a child in foster care outside the employee’s residence; requires DFPS to notify the court not later than the next business day after such temporary care.</p>	<p>Limits Agency Flexibility. DFPS makes every effort to find immediate and safe placement for a child. Rarely, but on occasion, staff may wait to take the child to the placement, keeping the child in an office setting. However, the same notice requirements apply regardless of length of temporary arrangement.</p>	<p>Limit the requirement of notice to situations where the child lacks placement for “one or more nights” (so that notice of an isolated portion of one night does not have to be given to the court).</p>
<p>TFC § 264.117(a). Requires DFPS to notify a child’s attorney ad litem “about each event involving the child that the department reports in the child’s case file.”</p>	<p>Impedes Case Work. This provision is prescriptive and extremely burdensome, while also being fundamentally impossible for an overworked caseworker to fully accomplish. As such, it seemingly creates a disincentive for good documentation. See recommendations for consolidated notification statute.</p>	<p>Repeal, but not that notification to the AAL would be covered in general notification statute.</p>

<p>TFC § 264.124 (version added by SB 430, 83rd R.S.). Requires DFPS to undergo a day care verification process for each foster parent seeking monetary assistance.</p>	<p>Impedes Case Work. This form adds to casework requirements, but does not add a meaningful benefit to child safety. As a potential cost saving measure, the provision may not have the intended outcome desired.</p>	<p>Repeal.</p>
<p>TFC § 264.755(d). Requires DFPS to undergo a day care verification process for each relative and designated caregiver seeking monetary assistance.</p>	<p>See above.</p>	<p>Repeal.</p>
<p>TFC § 266.004(c). Requires DFPS to file with the court and each party the name of the individual who will exercise the responsibility of providing consent on behalf of the department within five days of a court authorizing DFPS. File notice of any changes within five days of the change.</p>	<p>Impedes Case Work. The five-day requirement is arbitrary, while notice could easily be provided to the court at the next hearing when the summary of medical care is provided.</p>	<p>Eliminate the requirement to file the name of the medical consentor with the court and parties within five days; information regarding medical consentor can be provided to court and parties at each hearing where medical care is discussed.</p>

<p>TFC § 266.004(i). Requires the medical consentor to participate in each medical care appointment of the child.</p>	<p>Impedes Case Work. DFPS can and will continue to make improvements on informed consent and psychotropic medication usage in the absence of the participation requirement. Currently, however, this requirement is a significant drain on caseworker time that could be spent with children or families, without a corresponding value-add. If the child is in a home, the live-in caregiver will in nearly every situation take the child to the appointment; if the child is in a staffed facility and the caseworker is the consentor, not only must the caseworker find time for the appointment (or face the risk of violating policy and law) but in reality the caseworker must rely on the information provided by the staff of the facility most familiar with the child.</p>	<p>Repeal provision in favor of a general requirement that medical consent follow DFPS protocols or similar language. See discussion under 266.004(a) and (b).</p> <p>Specificity about who attends what kind of appointments is not needed in statute.</p>
<p>TFC § 266.007. Requires the court to review specific information regarding the child’s medical care at each placement review hearing, including specific items related to psychotropic medications.</p>	<p>Impedes Case Work. While staff does report some definite benefit to compiling key medical information in preparation for a hearing, the question of how much of the information the worker should simply know versus how much must be captured in the current, time consuming, burdensome court report is not clear at this point.</p>	<p>Eliminate prescriptive requirements in subsections (a) and (b) regarding what must be included in a report to the court, but retain some of the accountability in the current system: ensure that whatever regular report is recommended under Chapter 263 includes key information about significant medical events. In addition, retain language directing the court to review the child’s medical care.</p>

<p>TFC § 266.011. Requires the medical consentor to ensure a foster child prescribed a psychotropic medication sees the child’s provider at least every 90 days to allow the provider monitor the medication.</p>	<p>Limits Agency Flexibility. Children and youth on psychotropic medications vary in their need for an office visit to monitor medication. Some may need to go more frequently, especially when medications are new. DFPS already requires visits every 90 days by contract and policy.</p>	<p>Repeal. Not required by federal law. Already required by contract and policy.</p>
--	--	--

REMOVE PRESCRIPTIVE STATUTORY PROVISIONS

Statutory Provision	Summary of Problem	Proposed Change
<p>TFC § 161.1031. Requires the case worker to obtain the medical history of the child’s family at the time the parent executes an affidavit of relinquishment.</p>	<p>Impedes Case Work. There has been significant caseworker feedback about the overabundance of forms. The parent should be asked this information earlier in the process, not when the emotions are so raw. The decision on when to obtain medical history should be based on department (or in the case of a private adoption, CPA) policy and decisions at the field level based on the needs of the child and the availability of the parent.</p>	<p>Repeal.</p>

<p>TFC § 261.004. Requires DFPS to compile an annual report with required data elements and submit the report to the Legislature and general public not later than February 1, annually.</p>	<p>Limits Agency Flexibility. DFPS is subject to extensive data reporting at the federal level on statistics that are similar to the data elements required for public dissemination under this section, but that differ in some respects. It adds to the complexity of DFPS reports to be required to report different measures in specific ways, which may or may not mirror other review or reporting measures, and it is not clear that this level of granularity and prescriptiveness adds to either child safety or greater transparency.</p>	<p>Repeal the statute in its entirety and replace it with a general directive for DFPS to identify and issue an annual and publicly available report on key data measures concerning the Child Protective Services program, ideally in DFPS’ enabling legislation in Chapter 40 HRC.</p>
<p>TFC § 261.203(d). Requires DFPS to provide a copy of a request for information to the attorney ad litem (AAL) for the deceased child, if any.</p>	<p>Unnecessary Provision. In many cases, a request for child fatality information is made by the media well after the death of the child; however, an appointment does not generally survive the death. While it is possible for an attorney to be appointed to represent the estate of a child, it is not clear that such an attorney is within the meaning of this subsection, that DFPS would have knowledge of such appointment, or that it makes sense to use DFPS resources to attempt to find or maintain contact with an AAL who is appointed after death.</p>	<p>Repeal subsection.</p>

<p>TFC § 261.301(g). Provides that law enforcement’s inability or unwillingness to conduct a joint investigation does not constitute grounds to prevent or prohibit DFPS from performing its duties. Requires DFPS to document any instance in which law enforcement is unable or unwilling to conduct a joint investigation.</p>	<p>Limits Agency Flexibility. There is no need to prescribe such a requirement in statute as staff or management are able to and <i>do</i> document any concerns regarding law enforcement’s lack of cooperation in the narrative of the case.</p>	<p>Repeal the requirement for DFPS to document any instance in which law enforcement is unable or unwilling to conduct a joint investigation.</p>
<p>TFC § 261.3012. Requires that a caseworker responding to the highest priority report, to the extent reasonable, identify and solicit family assistance in completing any paperwork but remain ultimately responsible for the appropriate completion of the paperwork.</p>	<p>Impedes Case Work. This provision is overly prescriptive and appears to focus more on paperwork than child safety. While CPS has developed a family information form (Form 2626), this form is designed to gather information to better care for a child coming into care, not necessarily to have the family assist the caseworker in completing paperwork the worker is otherwise required to complete. As such, this provision and its purpose could be better served through policy or practice.</p>	<p>Repeal and replace with policy, as necessary.</p>

<p>TFC § 261.302(e). Requires DFPS to audiotape or videotape all child interviews during the investigation stage.</p>	<p>Impedes Case Work. There are instances when the child does not want to or refuses to be interviewed, the parent or perpetrator otherwise objects, the equipment malfunctions, or the staff utilized are not in a role in which they have necessary equipment set up.</p> <p>Also, there may be multiple interactions between the caseworker and a child during the investigation that are not “interviews” in the sense of a forensic process designed to ask questions and glean information pertinent to the conclusion in question. Downloading interviews and making CDs is also extremely time consuming and burdensome. Thus, it is overly burdensome and time consuming to require that every one of these interactions be recorded, even if no substantial information is being sought, merely because the interaction occurs during the investigation.</p>	<p>Amend statute to grant the department the same good cause exception to the general mandate to audiotaping or videotaping a child’s interview as is allowed by this subsection for an investigating agency other than the department.</p> <p>Also, clarify that the department is only required to audiotape or videotape an interview in which the allegations of the current case are discussed.</p>
<p>TFC § 261.310. Requires DFPS to develop and adopt by rules certain standards, including annual professional training, for persons who investigate child abuse and neglect. Mandates specific criteria for the standards and professional training curriculum.</p>	<p>Limits Agency Flexibility. Current statute focuses largely on forensic interviewing techniques. As the child welfare system has evolved and many states have moved to a less forensic model for investigating less serious cases, such as cases involving neglect, a family’s need for service, or cases handled through a differential response, it is more practical to allow the agency to structure its training requirements and standards to be agile and reflect current best practice to the greatest extent feasible. This would allow the agency to quickly respond to the evolving best practice in child welfare as it evolves.</p>	<p>Repeal entire section other than general directive to develop standards that encourage professionalism and consistency for persons who investigate child abuse or neglect.</p>

<p>TFC § 261.3101. Requires DFPS, subject to the availability of funds, to employ or contract with medical and law enforcement professionals to assist with investigation assessment decisions and intervention activities; to employ or contract with subject matter experts to serve as consultants to DFPS; and designate liaisons within DFPS to develop relationships with local law enforcement agencies and courts.</p>	<p>Limits Agency Flexibility. The entire section legislates decisions that could be left to the managerial discretion of the Department. Repealing the statute would allow DFPS greater discretion to use experts and consultants and establish liaisons in the community as needed.</p>	<p>Repeal.</p>
<p>TFC § 261.3125. Requires DFPS to employ child safety specialists in every region and mandates the responsibilities and duties of the specialist.</p>	<p>Unnecessary Provision. It is unnecessary to specify in statute the title and duties of specific positions required to carry out this function. DFPS should have the ability to adapt functions and positions over time and develop experienced staff without a legislative mandate. Further, DFPS is best able to determine where to allocate resources and how to meet growing child safety needs.</p>	<p>Repeal.</p>

<p>TFC § 262.010. Requires removal of child under the age of 11 if the child has a sexually transmitted disease UNLESS DFPS takes certain actions to rule out the possibility of abuse or neglect.</p>	<p>Impedes Case Work. By mandating removal unless certain actions are taken, the statute causes some confusion because DFPS may remove a child prior to the actions and may also pursue removal even if the actions do not result in a determination that the child was abused or neglected if DFPS determines there are grounds for a non-emergency removal.</p>	<p>Repeal and replace with policy.</p>
<p>TFC § 262.104. Authorizes a removal if the child has been on premises used for the manufacture of methamphetamine under certain circumstances.</p>	<p>Unnecessary Provision. Subsection (b) is unnecessary. Removal is already authorized if a child is discovered in a situation of immediate danger to the child’s physical health or safety, which subsumes the concept of discovering a child on the premises of a meth lab.</p>	<p>Repeal subsection (b). Update language regarding “temporary restraining order or attachment” as explained under TFC § 262.102. Replace “juvenile probation officer” with “officer of Texas Juvenile Justice Department.”</p>
<p>TFC § 262.105(b). Requires DFPS to file a petition for termination 45 days after taking possession of child without court order.</p>	<p>Archaic Language. DFPS should file its petition on the day of or the first working day after taking possession of child without court order. While there may be limited exceptions, DFPS nearly always files in the alternative and includes termination. Accordingly, provision is in direct tension with TFC § 262.106 and at odds with best practice, which might indicate modifying an initial pleading to include termination at a later date.</p>	<p>Repeal.</p>
<p>TFC § 263.005. Requires DFPS to designate existing personnel to ensure that the parties to a family service plan comply.</p>	<p>Limits Agency Flexibility. DFPS can exercise good business discretion to designate personnel for various functions. Moreover, it is impossible to ensure a parent’s performance so is not an enforceable or reasonable duty.</p>	<p>Repeal.</p>

<p>TFC § 263.009. Mandates that DFPS hold a permanency planning meeting within 45 days and again within five months of being appointed temporary managing conservator of the child.</p>	<p>Limits Agency Flexibility. This bill was a codification of existing agency policy, down to the list of required participants (with minor tweaks). It is critically important that CPS conduct meetings to focus on the child’s permanency plan and how to achieve it, but the level of detail in the current statute would prevent CPS from deploying resources to conduct the meetings on a different schedule, or with a different set of participants, if the agency determined, or wished to determine whether, a different approach could result in better permanency outcomes for children in care. Moreover, it is unnecessary to codify practice that had been in place for years prior to the statute’s enactment.</p>	<p>Repeal and rely on agency policy.</p>
<p>TFC § 264.107(a). Requires DFPS to use a system for foster care placements that conforms to the “levels of care” adopted and maintained by HHSC.</p>	<p>Archaic Language. The substance of this provision dates back to the Sunset bill for the then-DHS in 1987. Senate Bill 298 § 3.03 (70 (R)). While the name of the agency has been updated to HHSC, the substance has not been adjusted for the fact that the former six-level “Levels of Care” system has been replaced with a service level system that promotes placement of children in the least restrictive setting. In addition, the current language does not afford requisite flexibility to account for a redesigned foster care system that does not use a service level system.</p>	<p>Repeal subsection.</p>

<p>TFC § 264.107(c). Requires DFPS to use real-time technology to screen and match children with qualified placements that have vacancies.</p>	<p>Limits Agency Flexibility. As originally enacted, this provision applied to an independent administrator of outsourced services. Senate Bill 6 § 1.48. In response to amendments made by SB 758 (80 (R)), which imposed the duty directly on DFPS, the agency developed its Child Placement Vacancy database (CPV), which is basically a manual tool providers are required to use by contract. However, utilizing technology to assist in placement decisions is simply the baseline of good business judgment in the 21st century, nor does DFPS need a statute to exercise good business judgment; moreover, depending on technological enhancements and the roll-out of Foster Care Redesign, the need for the CPV as such may be obviated.</p>	<p>Repeal subsection.</p>
<p>TFC § 264.107(d). Requires DFPS to ensure placement decisions are reliable and made in a consistent manner.</p>	<p>Duplicative of Federal Law. Federal law and monitoring are already focused on safety, well-being, and permanency in a child’s placement, so there is no need to restate federal goals in state law. Moreover, doing any action consistently and reliably does not equate to doing the action well.</p>	<p>Repeal subsection.</p>
<p>TFC § 264.1071. Directs DFPS, in making placement decisions, to ensure stability for children in care under the age of two.</p>	<p>Limits Agency Flexibility. This statutory language legislates decisions that could be left to agency management, without adding any benefit to child safety. There are varied and complex reasons why placements fail or change. Moreover, it is an unduly narrow focus on one age group.</p>	<p>Repeal.</p>

<p>TFC § 264.1075. Directs DFPS to utilize assessment services to determine the most appropriate placement for a child in substitute care; requires DFPS to assess whether a child has developmental disability or mental retardation and authorizes the assessment to be conducted by certain individuals and entities.</p>	<p>Limits Agency Flexibility. Children should be adequately assessed upon entry into care, which is measured by the CFSR and is a basic obligation of the system. There is no need to codify it for emphasis, to specify the precise contours of the assessment, or to focus on one particular type of issue, i.e. developmental disability or mental retardation.</p>	<p>Repeal and rely on agency practice.</p>
<p>TFC § 264.110. Among other things, requires DFPS to establish a registry of people who will accept foster care placements of a child, possibly pending termination and with no ability to be compensated, and mandates that DFPS make a “reasonable effort to place a child with the first available qualified person on the list” if the child cannot be placed with a family member.</p>	<p>Archaic Language. This is arcane and overly prescriptive language (harkening back to pre-automation days) that does not reflect the way adoptive placement decisions or foster care maintenance payments are made today. In addition, and in contravention of current best practice, the focus is more on the rights of a person to get preferential treatment on a first-come-first-served basis for an adoptive child, instead of focusing on the adoptive placement that would be in the best interests of the individual child.</p>	<p>Repeal.</p>

<p>TFC § 264.111. Requires DFPS to maintain and make available a lengthy and detailed list of data elements related to substitute care and adoption.</p>	<p>Limits Agency Flexibility. Not only is it difficult for a statute at this level of granularity to keep pace with terminology, the focus ends up being out of sync with current practice, e.g. this statute focuses entirely on adoption and substitute care, to the exclusion of reunification and other permanency outcomes. DFPS can still produce the required data if needed, but repealing this statute will permit maximum flexibility for developing and reporting to the public on key measures of the agency’s performance and the functioning of the system on the whole.</p>	<p>Repeal.</p> <p>Note: at a minimum recommend terminology updates to change references to “level of care” to “service level.”</p>
<p>TFC § 264.122. Requires DFPS to obtain court approval for a child in foster care to travel outside the country.</p>	<p>Unnecessary Provision. The consensus feedback from both staff and attorneys was that this provision is onerous without serving any child safety purpose. Travel is largely a best interest decision for the agency, so the primary goal of any approval process would be to ensure the State Department allows travel, that it is a good idea for the child, that there will be no problems with the child’s return, etc., which is the role of CPS as the conservator. In addition, staff and attorneys indicated courts are generally satisfied with or prefer a letter about the travel, which can be done as a matter of best practice without a statute.</p>	<p>Repeal.</p>

<p>TFC § 264.123. Directs specific actions, including specific notifications, when a child runs away from or returns to foster care.</p>	<p>Limits Agency Flexibility. This entire section is overly prescriptive and would be better addressed in policy. In fact, the author of HB 943, which was enacted in 2011, essentially took existing DFPS policy on this topic and codified it almost verbatim into statute. Moreover, recently enacted federal law, HR 4980, addresses the same purpose but with less prescriptiveness. All agree that timely notification of law enforcement is critical when a child runs away from care but the development of protocols to best address situations in which a child runs away from care can and likely should occur outside the bounds of codified law to permit maximum flexibility.</p>	<p>Rewrite the section to direct DFPS to adopt policies and protocols concerning the actions that must be taken and the persons who must be notified in the event that a child is missing from or returns to foster care. Include language that mandates collaboration with law enforcement, National Center for Missing and Exploited Children, the OAG Human Trafficking Task Force, and other appropriate entities in the development of effective protocols. Also, include language directing DFPS to exhaust all appropriate options in attempting to locate a child who is missing from foster care. This would remove some of the prescriptive detail from current statute but retain the basic mandate.</p>
---	--	---

<p>TFC § 264.207. Requires DFPS to adopt policies to improve services, including policies to “provide for conducting a home study within four months <i>after</i> the date an applicant is approved.” Delineates multiple, highly specific requirements for DFPS policies adopted pursuant to the subsection, including working with private child-placing agencies, “establish[ing] goals and performance measures in the permanent placement of children”, etc.</p>	<p>Unnecessary Provision. First, it is impossible and unsafe to approve a home and then conduct a home study after approval. To ensure child safety, the home study must be done before approval. Second, a statute like this locks DFPS into a time frame that does not recognize how much of the process depends on an applicant. Finally, there is much of the statute that seems to merely restate basic ideas, such as to improve services and be consistent across the state. These are laudable principles, but they can be carried out in the absence of statute and none of them get at the current, safety-driven efforts the agency is undertaking to improve the home assessment process.</p>	<p>Repeal.</p>
<p>TFC § 264.208. Directs DFPS to create a division for locating persons and relatives and to use contractors and volunteer resources to the extent feasible.</p>	<p>Unnecessary Provision. As a statewide agency with a need to repeatedly locate parties and other key persons in child welfare cases, and to prove up the efforts to the court, DFPS does not need a statute to legislate its internal structure in this regard.</p>	<p>Repeal.</p>

<p>TFC § 264.303. Authorizes DFPS or any contractor for DFPS to commence a civil action to request any district or county court, other than a juvenile court, to determine that a child is an at-risk child. Provides the requirements for notice of an action and directs that a written answer may be filed.</p>	<p>Archaic Language. This is an unnecessarily burdensome and confusing provision that is not needed or used to authorize services for at-risk youth. DFPS legal staff and Prevention and Early Intervention (PEI) staff both confirmed that this court procedure is not used and the necessary services can be authorized and provided to a child without first requiring that a court declare that the child is “at-risk.” Having this prescriptive statute in the Texas Family Code is misleading and confusing for CPS staff and courts.</p>	<p>Repeal.</p>
<p>TFC § 264.304. Requires the court to set a hearing date for the determination of an at-risk child not later than 30 days after the date the civil action is filed. Provides the criteria the court must follow to determine that a child is an at-risk child.</p>	<p>Archaic Language. Because this statute derives from an action taken pursuant § 264.303, it is also a burdensome and unnecessary provision. See TFC § 264.303.</p>	<p>Repeal.</p>

<p>TFC § 264.305. Authorizes the court to order that an at-risk child (as determined by a hearing) and the at-risk child’s parent, managing conservator, guardian, or any other member of the at-risk child’s household to participate in services provided by DFPS. Such services may include emergency short-term residential care if the court finds that the child engaged in qualifying conduct.</p>	<p>Archaic Language. Because this statute derives from an action taken pursuant § 264.303, it is also a burdensome and unnecessary provision. See TFC § 264.303.</p>	<p>Repeal.</p>
<p>TFC § 264.306. Provides the sanctions that shall or may be given to a child or the child’s parent, managing conservatorship, guardian, or other member of the child’s household for failure to participate in the services ordered by the court.</p>	<p>Archaic Language. Because this statute derives from an action taken pursuant § 264.303, it is also a burdensome and unnecessary provision. See TFC § 264.303.</p>	<p>Repeal.</p>

<p>TFC § 264.752(b). Requires DFPS to use federal funds available, to the extent permitted by federal law, under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), and to seek a federal waiver to administer the Relative and Other Designated Caregiver Placement program.</p>	<p>Unnecessary Provision. This provision is unnecessary, as there are no IV-E funds available for this program, and this provision duplicates other FFP-maximization directives.</p>	<p>Repeal.</p>
--	---	----------------

<p>TFC § 264.7541. Requires DFPS to distribute certain information and conduct a pre-placement visit before placing a child with a proposed relative or other designated caregiver.</p>	<p>Limits Agency Flexibility. DFPS is in agreement that caregivers, related or not, need certain basic information regarding the child in order to properly provide care for the child. However, the level of prescriptiveness regarding the required contents of the form is unnecessarily burdensome. Rather, DFPS should be given the leeway to determine the most critical information to disseminate at the time of the child’s placement.</p>	<p>Retain the provision but modify to eliminate unnecessary detail regarding the required contents so that the agency has the flexibility to determine the most critical information early in the interaction with the proposed placement:</p> <p style="padding-left: 40px;">(a) Except as provided by Subsection (b), before placing a child with a proposed relative or other designated caregiver, the department must:</p> <p style="padding-left: 80px;">(1) arrange a visit between the child and the proposed caregiver; and</p> <p style="padding-left: 80px;">(2) provide the proposed caregiver with a form, which may be the same form the department provides to nonrelative caregivers, containing information, to the extent it is available, about the child that would enhance continuity of care for the child], including:</p> <p style="padding-left: 120px;">(A) the child’s school information and educational needs;</p> <p style="padding-left: 120px;">(B) the child’s medical, dental, and mental health care information;</p> <p style="padding-left: 120px;">(C) the child’s social and family information; and</p> <p style="padding-left: 120px;">(D) any other information about the child the department determines will assist the proposed caregiver in meeting the child’s needs].</p> <p style="padding-left: 40px;">(b) [no change].</p>
--	--	--

<p>TFC § 264.902. Provides the requirements that must be included in the terms and format for a parental child safety placement agreement.</p>	<p>Limits Agency Flexibility. The entire subchapter does not afford the agency its ability to make agile decisions that incorporates best practice.</p>	<p>Consolidate Subchapter L (Parental Child Safety Placements) into a general directive to CPS to:</p> <ul style="list-style-type: none"> • Limit the use and duration of PCSPs to the greatest extent possible; • Develop policies and procedures to evaluate PCSP caregivers and equip them with appropriate information, including necessary information regarding a/n • Not utilize case closure agreements inappropriately (see corresponding language in recommendations in Ch. 261; if that section is repealed could simply direct CPS to close cases in accordance with department protocol designed to protect children).
<p>TFC § 264.903. Directs DFPS to develop policies and procedures for evaluating a potential caregiver’s qualifications to care for a child.</p>	<p>Limits Agency Flexibility. See § 264.902.</p>	<p>Repeal.</p>
<p>TFC § 264.904. Provides the procedures that DFPS must follow before closing a case regarding a parental child safety placement.</p>	<p>Limits Agency Flexibility. See § 264.902.</p>	<p>Repeal.</p>

<p>TFC § 264.906. Provides that DFPS must give priority to placing the child with the parental child safety placement caregiver, as long as the placement is safe and available, if DFPS files suit under Ch. 262 seeking managing conservatorship of the child while a parental child safety placement agreement is in effect.</p>	<p>Limits Agency Flexibility. See § 264.902.</p>	<p>Repeal.</p>
--	---	----------------

<p>TFC §266.004 (a) and (b). Provides that medical care may not be provided to a child in foster care unless the person authorized as the medical consenter has provided consent. Outlines who may be authorized as medical consenter.</p>	<p>Limits Agency Flexibility. DFPS is committed to improving health outcomes for children in foster care, including outcomes related to informed consent and the administration of psychotropic medication. DFPS intends to adopt rules, with stakeholder input, in order to continue systems improvement while affording flexibility for changing best practice, new developments, training based on the child’s caregiver (e.g. general residential operation v. kinship), etc. DFPS can continue to harness its community and retain effective practices that are in the current statute, in the absence of statute.</p> <p>As to this provision in particular, healthcare providers have a duty to obtain consent from a patient or personal representative before providing medical care, so this statute merely states proper medical practice. However, it is important to retain a general directive and to codify the non-codified agreement with advocates that an employee of a staffed residential facility should not be the person agreeing to the administration of psychotropic medication because of the possibility for conflict of interest in decision making; at a minimum DFPS should be consulted.</p>	<p>Replace the current statutory scheme with a general provision in TFC Chapter 264, such as the following:</p> <p><u>Medical care or treatment may not be provided to a child in DFPS conservatorship unless the person consenting to the treatment is, in accordance with rules adopted by the department:</u></p> <ol style="list-style-type: none"> 1. <u>adequately prepared in accordance with department protocols;</u> 2. <u>authorized by the department to consent to the care or treatment; and</u> 3. <u>consenting voluntarily and without undue influence.</u> <p><u>Notwithstanding any other provision in law, if the child is placed in a residential child-care facility in which employees work as shift staff to cover the 24-hour day, psychotropic medication for behavioral or mental health treatment may not be initially administered nor may the administration thereof be modified without the concurrence of the department.</u></p>
---	--	--

<p>TFC § 266.004(d)-(g). Outlines specific provisions regarding the process of medical consent and decision-making; authorizes a health care provider to rely on a representation of authority to consent; authorizes specific parties to petition the court for any order related to medical care for a foster child; authorizes a physician to file a letter with the court regarding concerns; authorizes the court to issue any order related to the medical care of a foster child that the court determines is in the best interest of the child.</p>	<p>Limits Agency Flexibility. Even if DFPS scales back the reporting requirements for the regularly scheduled statutory hearings under chapter 263, the court will get regular updates about significant medical events or treatments involving the child. All of the parties who can petition the court for relief, with the possible and extraordinarily rare exception of a medical consentor who is not the child’s caregiver or a DFPS caseworker, are present and entitled to present evidence at those hearings. See TFC §§ 263.301 and 263.501. There is no need for separate authority for a medical professional to write a letter to the court, nor is there a need to authorize the court to issue orders in the best interest of the child, which is inherent in the court’s authority.</p>	<p>Repeal.</p>
---	---	----------------

<p>TFC § 266.004(h). Prohibits a person, other than a biological parent, from providing medical consent unless the person has completed a DFPS-approved training program related to informed consent and the provision of medical care.</p>	<p>Limits Agency Flexibility. Although the training likely does add some value in the quality of a medical consenters’s decision-making ability, requiring DFPS to make the training mandatory for all medical consenters is burdensome and unnecessary. Training as currently implemented by policy can be several hours long and may not be realistic, particularly for kinship caregivers who did not voluntarily seek out the foster care system, may not be able to read at the grade level required for the training (though efforts were made to make the training as readable as possible), and may not have access to the Internet.</p>	<p>Repeal provision entirely to allow CPS flexibility to design and require training as needed.</p> <p>CPS should still impose mandatory training by policy, but removing the provision from statute and allowing the agency to decide in rule or policy which type of caregiver/medical consenters needs what level and length of training, if any, will more appropriately meet the needs of the different types of caregivers.</p>
<p>TFC § 266.004(h-1). Specifies that the required medical consent training must include training related to informed consent for the administration of psychotropic medication and the appropriate use of psychosocial therapies, behavior strategies, and other non-pharmacological interventions that should be considered before or concurrently with the administration of psychotropic medications.</p>	<p>Limits Agency Flexibility. As discussed under TFC § 266.004(h), training as currently implemented by policy can be several hours long. May not immediately add to caregiver’s decision-making capability if the child is not being considered for psychotropic medications at the time of the training.</p> <p>The link between enhanced training and any decrease in psychotropic medications usage is not entirely clear, as revised training only recently rolled out.</p>	<p>Recommend eliminating provision entirely to allow DFPS flexibility to design any training as needed.</p>

<p>TFC § 266.004(h-2). Each person required to complete required training must submit a written, detailed acknowledgment.</p>	<p>Limits Agency Flexibility. Additional paper documentation requirements with little value added to caregiver’s decision-making capability.</p>	<p>Repeal if training requirement is eliminated.</p>
<p>TFC § 266.0041. DFPS cannot allow a child to be enrolled in drug research program unless certain, specific, unless procedural requirements are met.</p>	<p>Unnecessary Provision. In the nine years this statute has been in effect there has only been one instance of a child in care participating in a drug research program. DFPS is well aware of the potential risks in any experimental research and would not consent to participation in any situation other than one in which the child’s prognosis was extremely grim and a trial is the option offered by the doctor. As a precautionary measure DFPS may still involve the judge in the case, but the appointment of an independent advocate and the extensiveness of the protocol, particularly if the child’s treating professionals are recommending participation in the program for the child’s health, are far beyond what is necessary.</p>	<p>Repeal.</p>
<p>TFC § 266.0042. Outlines a protocol for a health care provider and a medical consentor to follow before psychotropic medications can be consented to.</p>	<p>Unnecessary Provision. All healthcare providers have a pre-existing scope of practice duty to ensure their patients or their patients’ parent/guardian make informed consent decisions for any health care provided.</p>	<p>Retain general directive that consent should be given voluntarily and without undue influence; eliminate form by practice; combine general directive into requirement that individuals providing medical consent follow certain requirements; repeal specific requirements about information provided by medical professional which restate the professional’s pre-existing duty to inform a person providing consent. See discussion under 266.004(a) and (b).</p>

<p>TFC § 266.005. Requires DFPS to notify the biological parents regarding certain medical conditions of the child within specified timeframes, including specific notifications regarding psychotropic medications.</p> <p>Some biological parents exempted.</p> <p>Defines “significant medical condition.”</p>	<p>Impedes Case Work. Notice requirement can in some contexts be unnecessary and burdensome. While in many cases it may be appropriate to notify the biological parents of a significant medical decision within 24 hours, in other cases (e.g. in cases where the medical condition is not of an urgent nature) more time could be allowed and the agency could be required to give notice “as soon as possible,” rather than within 24 hours. Current requirements regarding notice of psychotropic medication prescriptions in effect require immediate notice, as it can be unknown when the next visit with the family will occur.</p>	<p>Repeal; add key provisions to general and consolidated statute that requires DFPS to give notice <i>as soon as possible</i> to listed parties of significant events involving the child. See discussion of consolidated notification statute. Statute could contain a non-exhaustive list of significant events, including initial prescription of each psychotropic medication and major medical procedures or conditions.</p>
<p>HRC § 40.0305. Directs DFPS to implement specific technology projects.</p>	<p>Unnecessary Provision. The statutory mandate is unnecessary in that subsections (a) and (d) restate basic business principles, and subsection (e) is unduly prescriptive laying out specific projects.</p>	<p>Repeal.</p>

<p>HRC § 40.031(b) and (e). Directs the executive commissioner to establish an investigations division to oversee and direct the investigation functions of the child protective services program; provides that reports of alleged child abuse or neglect investigated under Section 261.401 or 261.404, Family Code, are not subject to investigation by the investigations division.</p>	<p>Limits Agency Flexibility. Directions regarding specific divisions or staff are unnecessary to codify in law. The agency should have the ability to make nimble decisions about its programs and the staff best suited to perform an investigation.</p> <p>The investigations specified in subsection (e) are handled by the state agency responsible for the facility in question or the APS services division of the department, and TFC § 261.401 and .404 adequately codify their authority to continue conducting investigations.</p>	<p>Repeal subsections (b) and (e).</p>
<p>HRC § 40.031(c). Directs the commissioner to designate a person with law enforcement experience as the director of the investigations division.</p>	<p>Limits Agency Flexibility. This provision limits DFPS' ability to recruit and hire candidates.</p>	<p>Repeal mandate of subsection (c) and give the Commissioner full authority to exercise professional judgment in the selection of key personnel.</p>
<p>HRC § 40.031(d). Requires investigation division, as appropriate, to refer children and families in need of services to other department divisions or entities with whom the department contracts.</p>	<p>Unnecessary Provision. This prescription is unnecessary, as referral for services is already an internal management decision and common practice, without the necessity of a statutory requirement.</p>	<p>Repeal subsection.</p>

<p>HRC §40.052. Prescribes duties related to quality service delivery for DFPS.</p>	<p>Archaic Language. These provisions are outdated, having been around since at least 1991 when DPRS was created, and are also unnecessary, prescribing a general directive to promote quality in service delivery. In addition, subsection (3) is codified elsewhere.</p>	<p>Repeal.</p>
<p>HRC § 40.0521(a), (c). Requires DFPS to adopt and implement rules that require an investigating employee to document indications of domestic violence; Requires DFPS to include in its annual report statistical compilations of the information about the indications of domestic violence.</p>	<p>Archaic Language. This provision was enacted by SB 131 in 1995 and codified the agency’s then practice of documenting in the risk assessment indications of domestic violence. This is still the information used to report on the measure in the data book. Data Book 2013 at 37. To the extent the risk assessment evolves, this measure may not be available, nor is it particularly useful because it gives no indication of how recently any of the family members may have been involved in domestic violence. In addition, CPS workers may not yet have the requisite training to accurately identify indications of violence so the measure is likely unreliable.</p>	<p>Repeal subsections in their entirety. DFPS can report on domestic violence in accordance with current tools and training in the absence of statute.</p>
<p>HRC § 40.0522. Requires DFPS to assure the availability of community education programs on child abuse and neglect; and assure that training on child abuse and neglect is available to professionals who are required by law to report, investigate, or litigate those cases.</p>	<p>Unnecessary Provision. This provision appears unnecessary. Moreover, there is no specific implementation for the provision, and it has been in place for so many years (since 1997) that any particular legislative intent has been largely diluted. Finally, DFPS can educate and collaborate in the absence of statute.</p>	<p>Repeal.</p>

<p>HRC § 40.0524(d). Requires DFPS to establish a process by which a multidisciplinary team is involved in the development and implementation of procedures related to the department’s child abuse and neglect services with services provided by other agencies.</p>	<p>Archaic Language. While it is important for DFPS to work closely with multidisciplinary teams, this provision seems unnecessarily prescriptive and implies a level of involvement beyond ordinary cooperation and beyond what occurs in practice today.</p>	<p>Repeal.</p>
<p>HRC § 40.0525. Requires DFPS to separate the performance of investigations personnel from the delivery of services to clients and to develop policies for exchanging information between investigations employees and employees who are responsible for the delivery of services to clients; provides that DFPS is not required to establish separate departments for investigations and service delivery.</p>	<p>Limits Agency Flexibility. This provision mandates administrative structure at a level of detail that inhibits the agency’s ability to make agile decisions in light of current best practice and business need. Moreover, the legislative intent is no longer aligned with current legislative thought, which emphasizes the importance of combing and aligning investigations with Family-based Safety Services.</p>	<p>Repeal.</p>

<p>HRC § 40.0526. Requires DFPS to develop a statewide strategy to build local alliances supporting the detection, treatment, and service delivery of child abuse and neglect; requires the strategy to include specific program goals and specifies local staff who may be employed for the efforts; and (d) provides that an agreement made in accordance with this section for the joint location of department personnel with other local officials or organizations is not subject to Chapter 2167, Government Code.</p>	<p>Unnecessary Provision. While it is important for DFPS to engage communities and the positive effects of DFPS' efforts to do so are being examined, this provision is unnecessarily prescriptive.</p>	<p>Repeal except subsection (d), the exemption from Texas Facilities Commission leasing requirements under Chapter 2167, Government Code, for DFPS facilities designed for colocation with community partners. Alternatively, recommend adding an explicit exception in Chapter 2167 for co-located DFPS offices.</p>
<p>HRC § 40.0566. Requires DFPS to develop and implement a statewide outreach program to inform counties about federal funding; requires the designation of specific personnel and directs DFPS to maintain a record of funding amounts.</p>	<p>Unnecessary Provision. This provision is unnecessary because DFPS does not need to mandate outreach to counties. If it does mandate county outreach, it should be a general mandate and not specify such requirements as a database of local county personnel.</p>	<p>Repeal.</p>

<p>HRC § 40.069. Prescribes a detailed (two-page) affidavit that is required for applicants for temporary or permanent employment with DFPS whose job “involves direct interactions with or the opportunity to interact and associate with children”.</p>	<p>Unnecessary Provision. This provision is unnecessary given criminal and CPS background checks. Moreover, the questions are extremely broad and ask an applicant to explain any mental health conditions, which seems unnecessarily intrusive.</p>	<p>Repeal.</p>
<p>HRC § 40.070. If a child in conservatorship of the state is placed into a grandparent’s home, requires DFPS to refer the grandparent to support services; inform the grandparent of financial assistance; and maintain records and statistics of the number of children placed in a grandparent’s home.</p>	<p>Unnecessary Provision. This provision is unnecessary because DFPS can refer and inform grandparents and maintain records and statistics without a statutory mandate. In addition, eligibility rules already require grandparents to seek grandparent grant under TANF.</p>	<p>Repeal.</p>

<p>HRC §40.072. Requires law enforcement to report to DFPS the discovery of a child where methamphetamine is produced; and requires DFPS to keep a record of the reports and the actions taken to ensure the child's safety.</p>	<p>Unnecessary Provision. This provision is unnecessary because this type of information would invariably be captured by CPS without the mandate. In addition, the record requirement, including actions taken to ensure the child's safety, merely restates the essence of any documentation DFPS undertakes in a case.</p>	<p>Repeal.</p>
---	---	----------------

ELIMINATE STATE LAW THAT DUPLICATES OR DEVIATES FROM FEDERAL LAW

Statutory Provision	Summary of Problem	Proposed Change
---------------------	--------------------	-----------------

<p>TEC § 29.015. Outlines requirements regarding when a school should appoint a foster parent as a “surrogate parent” for a child in conservatorship who is or may be eligible for special education services.</p>	<p>Unclear Statutory Authority. This provision deviates from the requirements in federal special education law regarding surrogate decision making for children who are “wards of the state” in such a way as to cause great confusion among judges, schools, workers and caregivers.</p> <p>This provision of the Education Code was originally added to law in the mid ‘90s. However, it causes confusion and could negatively impact school stability and child welfare as it prohibits a foster parent from being appointed as a surrogate for the first 60 days the child is placed with the foster parent. Judges, schools, workers, and caregivers are unclear who has authority to make special education decisions during those 60 days; having someone with even less relationship to the child named just for those 60 days, and then switching the authority to the foster parent after 60 days, goes against the best interest of the child. (The worker can never be named as the surrogate under federal law.)</p> <p>Under federal law, a foster parent does not need to be appointed as a “surrogate parent” to make special education decisions regarding a child. A foster parent for a child in DFPS conservatorship meets the federal definition of a “parent” who can make those decisions.</p> <p>In addition, provisions regarding appointment of a surrogate are scattered in different places in the Family Code (§§ 107.031 and 263.0025) and should be consolidated.</p>	<p>Suggest eliminating all language that implies a foster parent must be “appointed” as a surrogate to exercise the right to make decisions regarding special education, while keeping the other minimum criteria.</p> <p>These changes will have no impact on a school’s authority under federal law or TEC 29.001 (10) to appoint any qualified individual as a surrogate parent if for some reason the foster parent is not appropriate, including a CASA appointed as a surrogate under TFC §107.031.</p> <p>Amend as follows:</p> <p>Tex Ed Code §29.015 <u>CHILDREN IN DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES CONSERVATORSHIP</u> [FOSTER PARENTS. (a) The school district shall give preferential consideration to a foster parent of a child with a disability when assigning a surrogate parent for the child.(b)]</p> <p>(a) A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. Section <u>1401(23)</u>[Definition of “Parent” that includes “foster parent” 1415(b) and its subsequent amendments], if:</p> <p>(1) the Department of <u>Family and Protective</u> [Protective and Regulatory] Services is appointed as the temporary or permanent managing conservator of the child;</p> <p>[(2) the child has been placed with the foster parent for at least 60 days;]</p> <p>(2)[(3)] the foster parent agrees to</p>
	<p>96</p>	<p>(A) participate in making educational decisions on the child’s behalf; and</p> <p>(B) complete a training program for surrogate parents that complies with minimum standards</p>

<p>TFC § 107.031. Provides for appointment of a CASA.</p>	<p>Unclear Statutory Authority. See TEC § 29.015.</p>	<p>Recommend repealing subsection (c), the substance of which will be addressed in the proposed changes to TEC § 29.015.</p>
<p>TFC § 161.001(1)(L). Directs that the court may order termination of the parent-child relationship if the court finds by clear and convincing evidence that the parent has been convicted of or adjudicated for one of the crimes listed pursuant the Texas Penal Code.</p>	<p>Conflicts With Federal Law. CAPTA, 42 U.S.C. § 5106a(b)(2)(B)(xvii) requires that a state include as grounds for termination a conviction for certain crimes. Texas’s current law refers only to a conviction under the Texas Penal Code. However, as written, CAPTA refers only to the convictions generally and not limited to a conviction under a particular state’s laws. Nothing about conforming state law to federal law <i>compels</i> any action by a court, which must still determine that the termination ground has been proven (which would include any necessary inquiry into the circumstances of the conviction) <i>and</i> that termination is in the child’s best interest.</p>	<p>Amend subsection as follows: (L) been convicted or has been placed on community supervision, for being criminal responsible for the death or serious injury to a child under the following sections of the Penal Code, <u>or under a law of another jurisdiction that contains elements that are substantially similar to the offense under the following Penal Code sections</u>, or adjudicated under Title 3 for conduct . . .[no additional changes].</p>
<p>TFC § 162.015. Court cannot delay or deny adoption or otherwise discriminate based on race or ethnicity of child or prospective adoptive parent, in making best interest determination with exception for proceeding subject to Indian Child Welfare Act.</p>	<p>Duplicative of Federal Law. This provision is unnecessary, as it is a similar but not exact duplication of federal law.</p>	<p>Repeal.</p>

<p>TFC § 264.108(d). Recruitment of minority families cannot be a reason to delay placement of child with an available family of different race/ethnicity.</p>	<p>Duplicative of Federal Law. This duplication of federal law is unnecessary.</p>	<p>Repeal.</p>
<p>TFC § 263.0025. Authorizes court appointment of educational surrogate decision maker for eligible child, mandates order of preference for such appointment and specifies prohibited appointments, including DFPS.</p>	<p>Unclear Statutory Authority. Incorporated into revisions proposed for TEC § 29.015.</p>	<p>Repeal section and move retained language into TEC §29.015, above, where provisions are all combined.</p>
<p>TFC § 264.016. Requires DFPS to ensure that youth in conservatorship receive their credit report and information on interpreting the report and correcting inaccuracies.</p>	<p>Duplicative of Federal Law. 42 U.S.C. § 675 (5)(I) requires that each child in foster care age 16 and above receive a copy of any consumer report pertaining to the child, at no cost, each year and receives assistance (<i>including when feasible from any court appointed advocate</i>) in interpreting and resolving any inaccuracies in the report. The state law predated the corresponding federal provision, which is broader.</p>	<p>Repeal section as duplicative of, but slightly narrower than, federal law 42 U.S.C. § 675 (5)(I).</p>
<p>TFC § 264.1072. Requires DFPS to develop a plan for the educational stability of a child in accordance with 42 U.S.C. § 675.</p>	<p>Duplicative of Federal Law. An educational stability plan is already required by federal law (42 U.S.C. § 675(5)(1)(G)), and there is no need to duplicate the mandate in state law.</p>	<p>Repeal.</p>

<p>TFC § 264.108. Proscribes certain considerations of race or ethnicity in making placement decisions.</p>	<p>Duplicative of Federal Law. See TFC § 162.308.</p>	<p>Repeal.</p>
<p>TFC § 264.118. Requires DFPS to follow federal law mandating a National Youth in Transition Database (NYTD); provides that the identity of a foster youth participating in the survey is confidential.</p>	<p>Unnecessary Provision. The requirement to follow federal law is superfluous.</p>	<p>Repeal subsection (a) and provide, either here or in a general confidentiality statute for Chapter 264, something similar to the following:</p> <p>The identity of each child participating in a department survey as required by 42 U.S.C. Section 677(f) and 45 C.F.R. Section 1356.80 et seq. is confidential and not subject to public disclosure under Chapter 552, Government Code. The department shall adopt procedures to ensure that the identity of each child participating in a department survey remains confidential.</p>
<p>TFC §266.008(c). Requires DFPS to make the Education Passport available to anyone who is authorized to make educational decisions for the child.</p>	<p>Duplicative of Federal Law. DFPS is already allowed under federal (and state) law to share education information with a caregiver or party who is caring for a child, which would include an education decision-maker.</p> <p>Note: CPS refers to this document as the “Education Portfolio” rather than “Passport.”</p>	<p>Repeal.</p>

<p>TFC § 266.003. General requirement for state’s healthcare system for children in DFPS care.</p>	<p>Unnecessary Provisions. Federal law already imposes fairly substantial health care related requirements on the child welfare agency. See 42 U.S.C. §§ 622(b)(15), 675(1)(C) and -(5)(D). Unlike other instances in which federal law is unnecessarily duplicated in state law, however, most of the requirements in 266.003 generally serve to ensure that the state continues the STAR Health (or similar) program and that children in foster care continue to have the benefit of a system for the Health Passport.</p>	<p>Repeal subsections (7)-(9), assuming associated provisions are repealed or modified as described under 266.004 and 266.007.</p> <p>Retain remaining provisions, although note that they may need to move to Chapter 264 depending on other recommendations.</p>
<p>HRC §40.001. Definitions.</p>	<p>Duplicative of Federal Law. The definition of family preservation in subsection (5) partially but not completely restates a defined term in federal law. See 42 U.S.C. § 629a. Moreover, the definition is strangely limited to family preservation, although DFPS is designated by Chapter 40 to provide family preservation <i>and</i> family support services, both of which are defined terms in law.</p> <p>The definitions in § 40.001 apply to “this subtitle,” which is Subtitle D, Department of Protective and Regulatory Services: Child Welfare and Protective Services and includes Chapters 40-49, but not Chapters 51-54, which also pertain in part to DFPS.</p>	<p>Repeal subsection (5).</p> <p>Also recommend general clean-up to move any definitions to a title-wide definitions section and to renumber accordingly.</p> <p>Recommend repealing Chapter 54 or moving to the DFPS subtitle.</p>

STREAMLINE TEXAS LAW TO SUPPORT CASEWORKER BEST PRACTICES FOR SAFETY, PERMANENCY, AND WELL-BEING

Statutory Provision	Summary of Problem	Proposed Change
---------------------	--------------------	-----------------

<p>TFC § 107.003(a)(3)(F). Allows the child’s attorney ad litem and amicus attorney to attend case staffings concerning the child.</p>	<p>Streamlining Roles and Responsibilities. While at some points in history, some counties may have operated as “authorized agencies” for purposes of child protection, at this point DFPS is the single state agency authorized to care for children and the single state agency authorized to approve, license, or certify individuals and entities seeking to care for or place children for foster care or adoption.</p> <p>Additionally, a staffing, in its current form, includes all types of formal and informal consultation on a case, including consultation between CPS staff and their legal representative. Without this clarification, the GAL is allowed, and is sometimes ordered by the court, to participate in any discussion regarding the child even when it involves attorney-client privilege or internal case staffings.</p>	<p>Delete reference to “authorized agency” in subsection (a)(3)(F).</p> <p>Amend subsection (a)(3)(F) to clarify the scope of the attorney ad litem’s entitlement to attend case staffings in the same manner as the Legislature did in TFC § 107.154.302(a)(2)(F).</p>
<p>TFC § 161.005(b). Allows parent to sue to have DFPS named the managing conservator of the child.</p>	<p>Impedes Case Work. Creates method for placing child in foster care without method to pay for that care.</p>	<p>Repeal.</p>
<p>TFC §162.005(c). The report (HSEGH) shall include a history of physical, sexual, or emotional abuse suffered by the child, if any.</p>	<p>Unclear Statutory Authority. Mandated contents of HSEGH report should be consolidated in a single statute.</p>	<p>Recommend moving subsection (c) to 162.007, which lays out the required content of HSEGH reports.</p>

<p>TFC §162.006(a) and (a-1). Requires DFPS, licensed child-placing agencies and any other entity placing a child to inform prospective adoptive parents of their right to examine the records and information relating to the history of the child; edit records to protect the identity of certain parties; and to include any investigation records in which child alleged or confirmed as sexual abuse victim in foster home or residential child-care facility.</p>	<p>Unclear Statutory Authority. Need to clarify statute by separating two functions: producing entire case records versus compiling report of child history data. Restructuring and revising for maximum clarity, flexibility, timeliness to permanency, and efficient use of staff time.</p>	<p>Move subsections (b)-(e) of this section into TFC § 162.007 or into a new section (see below). Recommend consolidating contents of TFC § 162.018, which also concerns the provision of an entire case record, into TFC §162.006.</p>
<p>TFC §162.006(b)-(e). DFPS and listed entities must compile health, social educational and genetic history of child and must provide copy on proof of identity and entitlement after payment of reasonable costs; report to be retained 99 years from date of adoption.</p>	<p>Unclear Statutory Authority. While these subsections relate to the compilation of a report (aka a “HSEGH”) about a child, they are interspersed with provisions that relate to the production of an entire case record.</p>	<p>Consolidate subsections (b)-(e) which pertain to the required contents of the HSEGH, into TFC § 162.007 or into, a new section.</p>

<p>TFC §162.018. Requires DFPS, licensed CPAs and others to provide copies of the records and other information relating to the history of an adopted child to the adoptive parents and an adult adopted child. If applicable, the information must be edited to protect the identity of the biological parents and anyone else whose identity is confidential.</p>	<p>Unclear Statutory Authority. This relates to the same content that is covered in TFC § 162.006.</p>	<p>Consolidate §162.018 with §162.006(a) and (a-1). Could be consolidated into TFC § 162.006 or a new section.</p>
<p>TFC §162.302. DFPS must promote adoption with information, support, and adoption assistance; legislative intent to reduce costs of foster care by providing stability and permanency; licensed CPA's and counties to perform these duties; DFPS to keep records; legislative intent to place siblings together where possible.</p>	<p>Archaic Language. Provision reflects outdated concepts (counties and CPA's do not handle adoption assistance and do not incur foster care expenses), legislative intent that is now duplicated by subsequently enacted federal law (goal of sibling placements), and effectively add no value to the Code.</p>	<p>Repeal, but retain the general directive to DFPS to operate the adoption assistance program. Recommend moving general directive into § 162.304 (added below), which details the financial and medical assistance provided by this program.</p>

<p>TFC §162.303. DFPS, counties and CPAs must disseminate information about adoption assistance, with special focus on low income families.</p>	<p>Archaic Language. Reference to counties is a hold-over from county-based system and no longer accurate, and federal law separately requires that DFPS publicize the adoption assistance program. 45 C.F.R. 1356.40(f). Emphasis on low income families does not directly conflict with prohibition on means testing for this program but is certainly in tension.</p>	<p>Repeal.</p>
<p>TFC § 162.304 (a). DFPS shall enter into Title IV- E adoption assistance agreements with adoptive parents.</p>	<p>Unclear Statutory Authority. Insert directive to DFPS to operate the adoption assistance program <i>(if § 162.302 is repealed, essentially insert language currently in §162.302 (a).</i></p>	<p>Add a general directive regarding operation of program so the subsection reads something similar to the following: “The department shall operate a program to provide adoption assistance for eligible children and shall enter into adoption assistance agreements with the adoptive parents of a child as authorized by Part E of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 673).”</p>
<p>TFC §162.304 (b-1), (b-2). DFPS to pay \$150 for health benefits for child adopted from DFPS meeting eligibility requirements, including ineligibility for Ch. 32 medical assistance.</p>	<p>Unnecessary Provision. Program creates confusion for public because it has not been funded since 2012 and payments only continue as to previously qualified children.</p>	<p>Add a provision to make payment of the stipend explicitly “Subject to the availability of funding...”</p>
<p>TFC § 162.304 (c). Authorizes DFPS to subsidize medical care for child.</p>	<p>Archaic Language. This legacy language, which pre-dates the creation of DHS, creates confusion because adopted children receive Medicaid or an equivalent benefit, and neither DFPS nor another agency is funded to subsidize in any way other than the provision of Medicaid or comparable benefit.</p>	<p>Repeal subsection.</p>

<p>TFC § 162.304 (d). The county may pay an adoption or medical subsidy for foster children in county responsibility.</p>	<p>Archaic Language. Outdated reference; originates from a system in which counties were responsible for the foster care payments for certain children.</p>	<p>Repeal subsection.</p>
<p>TFC § 162.304 (e). Authorizes payment of adoption assistance for child receiving SSI benefits, regardless of whether DFPS is conservator.</p>	<p>Duplicative of Federal Law. Federal law makes this child population eligible, making state authority unnecessary. 42 U.S.C. § 673(c).</p>	<p>Repeal subsection.</p>
<p>TFC §162.3041 (a)-(d). Subject to appropriations, DFPS to offer adoption assistance until age 18 (if adoption assistance began after 16th birthday and child meets academic/training/work criteria) or up to age 21 (child with mental or physical disability).</p>	<p>Duplicative of Federal Law. This authority, which already exists in federal law, has never been funded in Texas. Without funding, the prospect of extended adoption assistance for this population, as opposed to the group of individuals who can and do qualify for extended adoption assistance pursuant to TFC § 162.3041(a-1), creates confusion for adoptive parents and unnecessarily populates the Code with authority that already exists in federal law. 42 U.S.C. § 673(a)(4)(A)(ii).</p>	<p>Repeal.</p>
<p>TFC § 162.308(a). No presumption that same race or ethnicity is in child's best interest permitted in adoption placement by DFPS or CPA.</p>	<p>Duplicative of Federal Law. State law barring a presumption that race or ethnicity matching in placement is in child's best interest does not contradict but invites confusion because the federal law prohibits delay or denial of adoption based on race, color or national origin.</p>	<p>Repeal.</p>

<p>TFC § 162.308(b). DFPS or a CPA placing a child must have an independent psychological evaluation showing detriment to the child to be placed with a family of particular race or ethnicity, in order to deny, delay or prohibit an adoption because of the family's race or ethnicity.</p>	<p>Duplicative of Federal Law. State statute mandates a single option for determining when race or ethnicity can be used in selecting an adoption placement when federal law (MEPA-IEP) applies strict scrutiny to placement decisions based on race, ethnicity or national origin but leaves open how that is implemented.</p>	<p>Repeal.</p>
<p>TFC § 162.308(c). Recruitment of minority families may not be reason to delay placement with an available family of different race or ethnicity.</p>	<p>Duplicative of Federal Law. Unnecessary repetition of federal law (MEPA-IEP).</p>	<p>Repeal.</p>
<p>TFC § 162.308(e). Injunctive relief for violation of state law regarding use of race or ethnicity in adoptive placement.</p>	<p>Duplicative of Federal Law. Unnecessary remedy because federal law provides injunctive relief and financial penalties, as well as full panoply of remedies through the Office of Civil Rights.</p>	<p>Repeal. Note: The parallel provision for foster placement is TFC §264.108(g) and the recommendation is the same as here.</p>

<p>TFC § 261.105(d). Requires DFPS to refer reports that it determines do not involve a person responsible to a law enforcement agency for further investigation. Also requires DFPS to orally notify the superintendent of a school district if the allegation involves an employee of a public school.</p>	<p>Duplicative of Federal Law. The first sentence of subsection (d) lays out a redundant notification process to law enforcement since ALL reports received by DFPS alleging abuse or neglect of a child are immediately to be reported to law enforcement under subsection (b).</p>	<p>Repeal first sentence of subsection (d).</p>
<p>TFC § 261.1055(b). Requires DFPS, on receipt of a report of suspected abuse or neglect, to immediately notify and forward a copy of the report to district attorney on request, if the district attorney makes the notification under the statute.</p>	<p>Archaic Language. DFPS would provide its records, including the report, if requested, so there is effectively no purpose served by the subsection other than laying out a burdensome system that is not used in practice.</p>	<p>Repeal subsection (b). If subsection (b) is not repealed, delete phrase “or designated agency” from subsections (a) and (b) for the reasons stated under TFC § 261.103(a).</p>

<p>TFC § 261.301(h). Requires DFPS to conduct an investigation jointly with law enforcement if the report alleges a child has been or may be the victim of a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child. Requires DFPS to notify the appropriate law enforcement agency of the report, immediately upon receipt.</p>	<p>Unnecessary Provision. The last sentence in subsection (h) is unnecessary and redundant of TFC § 261.105(b) which already requires DFPS to immediately refer ALL reports of abuse or neglect to law enforcement.</p>	<p>Delete final sentence of subsection (h).</p>
<p>TFC § 261.3013. Prohibits DFPS from entering into a written agreement with the parents or other adult that requires that person to take certain actions after case closure to ensure the child’s safety, unless specific exceptions are met. Requires DFPS to develop policy in the development of case closure agreements permitted by statute.</p>	<p>Limits Agency Flexibility. It is best practice that DFPS not use a virtually unenforceable agreement with no legal effect to ensure a child’s safety or create a document that has the effect of a long-term custody agreement. However, clarifying this in statute has resulted in an extremely nuanced and complicated directive for which there are sufficient legitimate exceptions that the statute does little more than confuse. Moreover, other efforts undertaken by DFPS, in particular the use of a risk tool and clinical judgment practice models, will refine case closure methods, eliminating the need for this mandate in statute. The purpose of the statute can and will be served through policy and practice.</p>	<p>Repeal.</p>

<p>TFC § 261.308(b),(c). Requires DFPS or designated agency to make a complete written report of the investigation and submit the report with recommendations to the court, district attorney, and appropriate law enforcement agency if sufficient grounds for filing a suit exist. Authorizes the court to direct DFPS or designated agency to file a petition requesting appropriate relief.</p>	<p>Archaic Language. This is legacy hold-over language, first introduced in much the same substance, in 1975, by Acts 1975, 64th Leg., Ch 1052, §6.08, during part of a major codification of what was then Title 2 of the Family Code. This was during the time when centralized responsibility for child protection was not vested in a state agency (DFPS) with authority to determine when it is appropriate to file suit for the protection of the child as provided under Chapter 262, TFC. This subsection creates a burdensome duty that no longer advances child safety. CPS is already obliged under other law to cooperate in a joint investigation or a prosecution arising from an investigation, and a court can order submission of a report at any time it believes such evidence relevant to a court proceeding, which usually occurs only during the discovery phase of a suit, but the court should not direct DFPS to file a petition at any time.</p>	<p>Repeal.</p>
--	--	----------------

<p>TFC § 261.309(d). Requires DFPS to conduct an administrative review of findings as soon as possible but not later than 45 days after receipt of request.</p>	<p>Limits Agency Flexibility. The 45-day time frame is not realistic in every case. In 1995 when this provision was enacted, it is likely that records redaction was performed in a decentralized manner, making the 45-day time frame more realistic. However, this also meant that production and redaction were inconsistent. Since that time, the function has been centralized, and the volume of the work has increased such that 45 days is not a sufficient time frame for producing redacted records to an alleged perpetrator who would need them in order to properly speak about his or her case. Allowing a good cause exception preserves the integrity of the statute but takes into account that there may be circumstances that require DFPS to exceed the statutorily specified time frame despite best efforts.</p>	<p>Amend subsection (d) as follows:</p> <p>Unless a civil or criminal court proceeding or an ongoing criminal investigation relating to the alleged abuse or neglect investigated by the department is pending, the department employee shall conduct the review prescribed by Subsection (c) as soon as possible but not later than the 45th day after the date the department receives the request, <u>unless good cause is shown to extend the time frame</u>. If a civil or criminal court proceeding or an ongoing criminal investigation is pending, the department may postpone the review until the court proceeding is completed.</p>
--	---	--

<p>TFC § 261.311. Sets a 24-hour time frame for DFPS to notify each parent and any legal guardian of the allegations, the fact that child was interviewed or examined, and of an administrative closure, unless doing so will endanger the child’s or another person’s safety.</p>	<p>Limits Agency Flexibility. Notifying a parent that a child was interviewed or examined is appropriate, but requiring that the notice must be given within 24 hours strains caseworker resources for something that may be less directly related to child safety than other tasks—particularly when considering notification to an individual who is not the child’s primary caregiver and may be difficult to locate. As such, this time frame does not further the safety of any child, and could have the unintended consequence of requiring a caseworker to postpone another duty that does impact child safety in order to attend to this statutory time frame for notification.</p> <p>Also, the requirement to notify parents of an administratively closed investigation serves to implement the CAPTA state plan assurance to notify parents of an investigation. However, not only does the time frame fail to promote child safety or well-being, but could be used to penalize or delay a caseworker from focusing attention on a safety focused task in the name of paperwork.</p>	<p>Amend statute as follows:</p> <ol style="list-style-type: none"> 1. Amend subsection (a) and instead require the agency to make reasonable efforts to give the child’s “primary caregiver” notice of an interview within 24 hours and exercise due diligence to notify any parent not already notified of an interview within a reasonable time after the interview. 2. Amend subsection (b) to repeal the 24 hour time frame requirement for notifying parents of an administrative closure and instead require that the parent be notified within a reasonable amount of time after the investigation is closed. 3. Delete “or designated agency” and “or agency” throughout the statute. See TFC § 261.103(a).
---	---	---

<p>TFC § 261.406(b). Requires DFPS to send a copy of its completed investigation report to the Texas Education Agency, the State Board for Educator Certification, the local school board or the school’s governing body, the superintendent of the school district, and the school principal or director. Requires DFPS, upon request, to provide a copy of the report to the parent, managing conservator, legal guardian, or person alleged to have committed the abuse or neglect.</p>	<p>Impedes Case Work. It is unnecessarily burdensome to require DFPS to provide a copy of the investigative report to five different entities. It is more efficient to require DFPS to provide the report to the Texas Education Agency and make it available to the specified entities upon request. In addition TFC § 261.308(d) already contains more appropriate reporting provisions to ensure proper steps are taken to notify any entity within the school hierarchy as necessary to protect a child from potential harm.</p>	<p>Delete requirement in subsection (b) that DFPS provide a copy of the report to five separate entities and instead require DFPS to provide a copy to the Texas Education Agency and make the report available to specified entities <i>upon request</i>.</p>
<p>TFC § 262.1041. Allows law enforcement to bypass CPS and take child directly to child-placing agency.</p>	<p>Unnecessary Provision. There is no basis to pay for foster care under this system and this provision is reportedly never used. DFPS can accomplish the purpose of the statute without the statute by constructively taking possession of a child and having the child delivered to a child-placing agency.</p>	<p>Repeal.</p>

<p>TFC § 262.1095. Obligates the department to give information on the case to certain individuals.</p>	<p>Unclear Statutory Authority. Subsection (a)(1)(A) requires the department to give information to adult relatives of the most likely alleged father. Early in the case the caseworker may have little information to determine who is the “most likely” alleged father. This concept is unclear and in need of precision that reflects the reality of day-to-day casework where there may be multiple alleged fathers for multiple children in a single case. DFPS believes in the importance of involving fathers and their relatives but in some instances early in the case, it may not be immediately possible.</p> <p>There is a drafting error, inasmuch as the individuals listed in subsections (1)(A) and (B) are separate groups of people. There may be some crossover but many will be simply in one group or the other.</p> <p>Furthermore, recent changes to federal law now includes additional parties who must be notified under this provision.</p>	<p>Add precision to the concept of notifying relatives of alleged fathers early in a CPS case, and correct a drafting error, by revising subsection (a)(1)(A) as follows:</p> <p style="padding-left: 40px;">(a) When the Department of Family and Protective Services or another agency takes possession of a child under this chapter, the department:</p> <p style="padding-left: 80px;">(1) shall provide information as prescribed by this section to each adult the department is able to identify and locate who:</p> <p style="padding-left: 120px;">(A) is related to the child within the third degree by consanguinity as determined under Chapter 573, Government Code, or is an adult relative of the alleged father of the child [who] <u>if the department [determines is most likely to be] has a reasonable basis to believe the alleged father is the child’s biological father; [and]</u></p> <p style="padding-left: 120px;"><u>or</u></p> <p style="padding-left: 120px;">(B) is identified as a potential relative or designated caregiver, as defined by Section 264.751, on the proposed child placement resources form provided under Section 261.307.</p>
--	--	--

<p>TFC § 262.114(a). Speeds up evaluations of certain relative and other designated (aka “kinship”) caregivers; requires DFPS to evaluate proposed caregivers and complete a study on the “most appropriate substitute caregiver for the child”; requires DFPS to explore caregiver options “until” a relative or other kinship caregiver is identified.</p>	<p>Unclear Statutory Authority. While there may be instances where it is important for courts to order the home study of more than one individual designated by the parents, for example where the maternal and paternal side each have a caregiver who appears qualified, there are reports of courts ordering studies on each caregiver listed on the form, despite the language conveying that DFPS is only obligated to complete a study on the individual determined “most appropriate.” This can use substantial DFPS and caseworker resources.</p> <p>Also, at some point in the case it may no longer be in the child’s best interest to continue a search for relative of kinship caregivers, e.g. significant bonding over multiple years with a non-kinship caregiver.</p>	<p>Amend section to add a provision to clarify something similar to the following:</p> <p><u>Nothing in this section shall be construed to require the department to study each person listed on a proposed child placement resources form or to complete a home study on a caregiver that the department determines, through other means, is not an appropriate caregiver at that time.</u></p> <p>Also, repeal “Until the department identifies a relative or other designated individual qualified to be a substitute caregiver, the department must continue to explore substitute caregiver options.”</p>
---	--	--

<p>TFC § 262.2015. Defines “aggravated circumstances” under which the department does not have to make reasonable efforts to reunify with parents.</p>	<p>Conflicts with Federal Law. CAPTA and title IV-E both require that a state have policies and procedures in effect to not <i>require</i> reunification following a removal with a parent 1) who has subjected a child to aggravated circumstances as defined in state law 2) if a court of competent jurisdiction determines that a parent has committed certain offenses or acts, or is required to register as a sex offender or 3) has had parental rights to a sibling involuntarily terminated. 42 U.S.C. § 5106a(b)(2)(xvi); 42 U.S.C. § 671(a)(15)(B) and (D). Texas law does not fully track all of federal law, and as this statute is the place where the legislature has heretofore memorialized compliance with the requirements in question, the provision should be updated.</p>	<p>Recommend amending section as follows:</p> <p>(b) The court may find under Subsection (a) that a parent has subjected the child to aggravated circumstances if:</p> <p style="padding-left: 40px;">(1) the parent abandoned the child without identification or a means for identifying the child;</p> <p style="padding-left: 40px;">(2) the child <u>or another child of the parent</u> is a victim of serious bodily injury or sexual abuse inflicted by the parent or by another person with the parent’s consent;</p> <p style="padding-left: 40px;">(3) the parent has engaged in conduct against the child <u>or another child of the parent</u> that would constitute an offense under the following provisions of the Penal Code:</p> <p style="padding-left: 80px;">[no change to subsections (A) through (O)].</p> <p style="padding-left: 40px;">(4)-(5) [no change]</p> <p style="padding-left: 40px;">(6) the parent has been convicted for:</p> <p style="padding-left: 80px;">(A) the murder of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1111(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;</p> <p style="padding-left: 80px;">(B) the voluntary manslaughter of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1112(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;</p> <p style="padding-left: 80px;">(C) aiding or abetting,</p> <p style="padding-left: 40px;">attempting, conspiring, or soliciting an offense under Subdivision (A) or (B); or</p> <p style="padding-left: 80px;">(D) the felony assault of</p>
	<p>115</p>	

<p>TFC § 263.1015. No service plan required for child abandoned without identification whose identity cannot be determined.</p>	<p>Unnecessary Provision. TFC § 262.2015 already permits the court to dispense with the requirement of a service plan and to make reasonable efforts to reunify if “the parent abandoned the child without identification or a means for identifying the child.” TFC § 262.2015(a)(1).</p>	<p>Repeal this statute and retain 262.2015(a)(1).</p>
<p>TFC § 263.102. Requirements for parents’ service plan.</p>	<p>Archaic Language. Subsection (a)(5) does not align with the permanency goals permitted under state and federal law. See 42 U.S.C. § 675(5)(C); Tex. Fam. Code § 263.3026.</p> <p>Subsection (c) merely restates reasonable professional judgment. Subsections (f) and (g) codify best practice, but only for a specific subset of the foster care population (children under 2). There does not appear to be a compelling reason to single out one segment of the child population in statute, nor is there a need to codify best practice.</p>	<p>Revise (a)(5) to repeal current content and replace with a requirement that the plan “specify the primary and concurrent permanency goal”.</p> <p>Repeal (c).</p> <p>Repeal (f) and (g).</p>
<p>TFC § 263.3025. Requires DFPS to develop, and as necessary modify, a “permanency plan” for each child in care, which contains all the required content of a permanency progress report; and to give a copy of the plan to necessary parties; and include a primary and concurrent permanency goal.</p>	<p>Unnecessary Provision. The section is almost entirely covered in other provisions. TFC § 263.303(b)(1)(E) already requires the permanency progress report to describe the permanency plan for the child. The requirement to modify the plan as needed merely restates good practice. Subsection (d) does add a mandate that is similar to, but not identical to, federal law authorizing certain concurrent planning, and should be retained. See 42 U.S.C. § 675(5)(E).</p>	<p>Eliminate redundancy with one of the following two options:</p> <ol style="list-style-type: none"> 1. Repeal subsections 263.3025 and 263.3026 and amend 263.306 to clarify that the court must evaluate the permanency plan for the child, including a primary and concurrent goal identified in accordance with DFPS rules. 2. Repeal 263.3025 and add clarification to 263.3026(a) that the permanency plan must describe a primary and concurrent goal in accordance with DFPS rules.

<p>TFC § 263.306. Procedure for permanency hearings.</p>	<p>Unclear Statutory Authority. The list of required findings in a permanency review hearing has grown to be so lengthy that one commentator has remarked that simply reading the list of findings takes longer than the time allotted for the hearings themselves. While there is non-substantive clean-up that should be made to the section to account for the three separate provisions that amended this section last session, the fact that there are three separate amendments reflects that for each new issue, the list of required findings for judges grows. Yet many of the findings address the same basic concepts in different ways.</p> <p>Note while Texas law is being streamlines, Congress recently enacted HR 4980 (sec. 112) additional specificity about permanency hearings for children and youth whose permanency goal is Another Planned Permanent Living Arrangement. In order to consistently capture federal law and provide clarity to the public and courts, DFPS recommends adding the corresponding federal provision to the requirements for the court’s findings (see 263.306 and 263.503.)</p>	<p>Condense the current provisions, into a streamlined section similar to the following:</p> <p>Sec. 263.306. PERMANENCY HEARINGS: PROCEDURE. <u>(a) At each permanency hearing the court shall review the service plan, visitation plan, permanency progress report, and other information submitted to:</u></p> <p><u>(b) determine:</u></p> <p><u>(1) the safety of the child;</u></p> <p><u>(2) the continuing necessity and appropriateness of the placement, including with respect to a child who has been placed outside of the state, whether that placement continues to be in the best interest of the child;</u></p> <p><u>(3) the extent of the parties’ compliance with temporary orders and the service plan;</u></p> <p><u>(4) the extent of progress that has been made toward alleviating or mitigating the causes necessitating the placement of the child in foster care;</u></p> <p><u>(5) the appropriateness of the primary and concurrent goal for the child developed in accordance with department rule and whether the department has made reasonable efforts to finalize the permanency plan that is in effect for the child;</u></p> <p><u>(6) whether the child’s needs, including educational, medical or any special needs, are being adequately addressed and, if the child is 16 years of age or older, determine services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;</u></p> <p><u>(c) return the child to the parent or parents if the child’s parent or parents are willing and able to provide the child with a safe environment and the return of the child is in the child’s best interest;</u></p> <p><u>(d) for a child whose permanency goal is</u></p>
---	--	---

<p>TFC § 263.307. Creates presumption that placing a child in a safe environment is in child’s best interest; lays out factors for determining whether a child should be reunified; and lays out factors for considering the permanency plan for a youth over the age of 16.</p>	<p>Archaic Language. Subsection (c) relating to permanency planning for youth age 16 and up, was originally enacted in 1993 by HB 957, and is now redundant. Even in a streamlined version of the permanency hearing, the court would still examine whether a child’s service plan were adequate to support a transition from foster care. Moreover, federal law already requires DFPS to have a compelling reason to select the permanency goal, so the court must already examine best interest in this regard. See 42 U.S.C. 675(5)(C); Tex.Fam. Code § 263.3026</p>	<p>Repeal subsection (c).</p>
<p>TFC § 263.404. Standard for court in determining whether to appoint DFPS as a child’s managing conservator without terminating parental rights.</p>	<p>Archaic Language. Subsection (b) does not align with current best practice in the realm of permanency. CPS has been working to achieve “positive permanency” even for older youth, so the notion that age alone would be a reason to dispense with the effort to terminate or find a relative simply because of a child’s age (or “adoptability” because of special needs) is not in line with current practice or child best interest.</p> <p>The needs and desires of the child, including strong desires against adoption or termination, should be taken into consideration regardless of permanency goal.</p>	<p>Repeal subsection (b).</p>

<p>TFC § 263.503. Conduct of placement review hearing.</p>	<p>Unclear Statutory Authority. See TFC §263.306.</p>	<p>Recommend condensing and amending as follows:</p> <p>Sec. 263.503. [PLACEMENT—REVIEW] <u>PERMANENCY HEARINGS FOLLOWING FINAL ORDER; PROCEDURE.</u> (a) <u>At each permanency hearing following rendition of a final order, the court shall review the service plan, permanency progress report, and other information submitted to:</u></p> <p>_____ (b) <u>determine:</u></p> <p>_____ (1) <u>the safety of the child;</u></p> <p>_____ (2) <u>the continuing necessity and appropriateness of the placement, including with respect to a child who has been placed outside of the state, whether that placement continues to be in the best interest of the child;</u></p> <p>_____ (3) <u>the appropriateness of the primary and concurrent goal for the child developed in accordance with department rule and whether the department has made reasonable efforts to finalize the permanency plan that is in effect for the child, including whether:</u></p> <p>_____ (A) <u>the department has exercised due diligence in attempting to place the child for adoption if parental rights to the child have been terminated and the child is eligible for adoption; or</u></p> <p>_____ (B) <u>another permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;</u></p> <p>_____ (4) <u>whether the child’s needs, including educational, medical or any special needs, are being adequately addressed and, if the child is 16 years of age or older, determine services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;</u></p> <p>_____ (c) <u>project a likely date by which the child may be returned to and safely maintained in the</u></p>
	<p>119</p>	

<p>TFC § 264.002. Lists requirements for DFPS concerning the enforcement of child protection laws and the involvement in all matters involving the interests of children where adequate provision has not already been made.</p>	<p>Archaic Language. The language in § 264.002 has its origins in law enacted by Acts 1931, 42nd Leg., Ch. 194 (SB 375), which created the “Division of Child Welfare” in the “Board of Control”. Over the 80 years since SB 375 was enacted the state’s child welfare system has undergone fundamental change, gradually evolving from a largely county-based system that was inextricably intertwined with the juvenile justice system and that had very minimal state involvement, to a largely centralized state-wide system with separate enabling authority (HRC 40) and managed by a single state agency that is independent of the juvenile justice system. The language in § 264.002 has not kept pace with this evolution, and no longer accurately reflects the respective roles and responsibilities of the state vis-à-vis the counties and other public and private entities with respect to child welfare.</p>	<p>Repeal every provision in this section other than (e), which provides that the department may not spend funds to accomplish the purposes of this chapter unless the funds have been specifically appropriated for those purposes.</p> <p>Note: Subsection (e) could be moved or combined into a subtitle wide provision to the effect of “The department may not spend funds to accomplish the purposes of this subtitle unless the funds have been specifically appropriated for those purposes.”</p>
---	---	---

<p>TFC § 264.012. Mandates that DFPS ask the parents of a child (or certain but not all young adults) who die in foster care or extended foster care to contribute to funeral expenses for the child.</p>	<p>Limits Agency Flexibility. Originally enacted by HB 1826 in the 75(R), the provision is currently inflexible and mandates that caseworkers go through a largely meaningless exercise that can appear jarring and officious at such a difficult and painful juncture. Moreover, while very rare, many would find it objectionable to ask biological parents to pay for the burials costs of a child who is removed from those parents and dies in foster care due to abuse and neglect of a foster caregiver.</p> <p>At a minimum, there is a gap in the authority to pay expenses for young adults, as only those in extended foster care on some, but not all, bases are listed.</p>	<p>Repeal and replace with a streamlined version, which might look like the following:</p> <p>Sec. 264.012. (a) From funds appropriated to the department for the child protective services program, the department may pay the reasonable and necessary burial expenses of a child or young adult who dies while:</p> <p style="padding-left: 40px;">(1) in the conservatorship of the department; or</p> <p style="padding-left: 40px;">(2) receiving extended foster care services as provided under Section 264.101.</p> <p style="padding-left: 40px;">(b) The department may request assistance from a child’s or young adult’s parents with payment of the reasonable and necessary burial expenses, as appropriate.</p>
--	---	---

<p>TFC § 264.014 and § 264.121(e).</p>	<p>Limits Agency Flexibility. The current system is inflexible. DFPS is directed to obtain certified copies of a youth’s birth certificate, a social security card, and an identification certificate by the time of a youth’s 16th birthday. At the time of discharge at the age of 18 or older, DFPS is directed to provide a birth certificate (not necessarily certified), the social security card as well as a personal identification certificate. Depending on the situation the youth may need a certified copy or original. Other times the youth may need only a copy. In addition, DFPS is working with Appleseed on a tool to potentially provide the youth electronic access to their key documents. The statutory scheme should permit maximum flexibility to accommodate varying needs.</p>	<p>Consolidate with 264.121(e). Direct DFPS to ensure that by the age of 16, youth in care receive or are given a copy of (according to the preference of the youth) a certified copy of the youth’s birth certificate, a social security card or replacement social security card, as appropriate, and a personal identification certificate under Chapter 521, Transportation Code.</p> <p>Direct DFPS to provide the following to a young adult who leaves care on or after the age of 18, if the young adult does not already have it:</p> <ul style="list-style-type: none"> (1) the young adult’s birth certificate; (2) the young adult’s immunization records; (3) the information contained in the young adult’s health passport; (4) a personal identification certificate under Chapter 521, Transportation Code; (5) a social security card or a replacement social security card, if appropriate; and (6) proof of enrollment in Medicaid, if appropriate. <p>Again specify that the document provided may be an original, or a copy, depending on the preference of the youth.</p>
---	---	--

<p>TFC § 264.101. Sets forth authority for and limitations on DFPS' expenditure of foster care maintenance dollars.</p>	<p>Unclear Statutory Authority. The current provision does not support the current reality faced by caseworkers. First, the language refers only to children for whom DFPS has initiated a suit and not necessarily children of whom DFPS has lawfully taken possession pursuant to other law, e.g. in Chapter 262 TFC. Caseworkers and other staff have historically scrambled to find money to pay for an otherwise lawful placement, by asking the Child Welfare Board for the funds. Second, caseworkers may properly need to place a child into a facility that does not meet the definitions in Chapter 42 of the Human Resources Code (e.g. older youth or young adult in an HCS home awaiting a waiver slot). More recently, caseworkers have struggled with the issue of human trafficking victims, some of whom may in limited circumstances need a secure facility to receive treatment.</p>	<p>To balance the competing needs of flexibility while remaining fiscally restrained, recommend:</p> <p>(a) The department may pay the cost of foster care for a child <u>only if</u>:</p> <p>(1) [for whom the department has initiated a suit and has been named managing conservator under an order rendered under this title, who is a resident of the state, and who] <u>the child has been placed by the department in: [(A)] a foster home or other residential child-care facility [child-care institution], as defined by Chapter 42, Human Resources Code, or in a comparable residential facility in another state; and</u></p> <p>(2) the department:</p> <p>(A) has initiated suit and been named conservator; or</p> <p>(B) has the duty of care, control, and custody after taking possession of the child in an emergency without a prior court order as authorized under this Code ...[no revisions proposed for the remaining subsections].</p> <p>Note: recommend language updates for current licensing terminology even if other changes not adopted.</p>
--	--	--

<p>TFC § 264.117(b). Requires DFPS to give a child’s attorney ad litem (AAL) at least 48 hours notice of a non-emergency placement change.</p>	<p>Impedes Case Work. There are multiple, different notification statutes that have been added to the Code over the years. They do not cover the same entities or provide consistent directives.</p>	<p>Add “placement changes” as a significant event about which the caseworker must notify certain listed parties, including the AAL, to a consolidated notification statute. Recommend exempting the caseworker from the notification requirement if such notice has been provided as part of any required consultation regarding the placement.</p>
<p>TFC § 264.119. Requires DFPS to give a child’s residential child-care provider or child-placing agency at least 48 hours notice of a non-emergency placement change</p>	<p>Impedes Case Work. This was already required by DFPS’s contract with providers and therefore did not add to DFPS’s administrative burdens, but it does add to the length of the Code and represent another provision that partially addresses required notifications. See TFC § 264.117(b).</p>	<p>Same recommendation as in § 264.117(b). Also note that “child-placing agency” is subsumed within the term “residential child-care”. See HRC § 42.002. Whether the provision is streamlined as recommended or left intact, the reference to “child-placing agency” can be repealed.</p>
<p>TFC § 264.121(e).</p>	<p>N/A.</p>	<p>Consolidate and streamline provision as described under TFC § 264.014.</p>
<p>TFC § 264.124 (version enacted by Senate Bill 769 83 (R). Pilot program.</p>	<p>Unnecessary Provision. If DFPS ever determined such a program were important, a statute would not be necessary to pursue it.</p>	<p>Repeal.</p>

<p>TFC § 264.204. Requires DFPS to administer and implement a grant program to provide funding to community organizations to respond to low-priority, less serious cases of child abuse and neglect.</p>	<p>Unclear Statutory Authority. DFPS PEI staff confirmed it would be more effective and efficient to abolish any individual provisions mandating specific grant programs and/or contracts, and instead have one general provision in TFC Chapter 265 that would allow PEI the flexibility to engage in the areas deemed most important at any given time.</p>	<p>Repeal. (Necessary language is retained and merged into the general provision of the recommended amendment described under TFC § 265.003.)</p>
<p>TFC § 264.301. Requires DFPS to operate a program to provide services for at-risk youth.</p>	<p>Unclear Statutory Authority. See TFC § 264.204. See also TFC § 265.003.</p>	<p>Repeal. (Necessary language is retained and merged into the general provision of the recommended amendment described under TFC § 265.003.)</p>
<p>TFC § 264.302. Requires DFPS to operate a program to provide early youth intervention services for children in at-risk situations and for the families of those children.</p>	<p>Unclear Statutory Authority. See TFC § 264.204. See also TFC § 265.003.</p>	<p>Repeal. (Necessary language is retained and merged into the general provision of the recommended amendment described under TFC § 265.003.)</p>

<p>TFC § 265.001. Definitions related to prevention and early intervention services.</p>	<p>Unclear Statutory Authority. DFPS’s PEI Program provides a variety of services that help prevent abuse, neglect, delinquency, and truancy of Texas children. The phrases “child abuse” and “child abuse and/or neglect” are often used interchangeably, without recognizing that the terms “abuse” and “neglect” have separate statutory definitions and are not, in fact, synonymous. Thus, the term “neglect” should be added to the definition of “prevention and early intervention services” because such services are designed to prevent <i>both</i> child abuse and neglect.</p> <p>Additionally, PEI develops programs aimed to prevent negative outcomes related to a child’s education. Being unprepared for school includes the same risk factors and necessitates the same types of support as truancy or dropping out of school. Thus, “being unprepared to start school” should be included in the definition of “prevention and early intervention services” in order to recognize it as another significant negative outcome that PEI is dedicated to prevent.</p> <p>Finally, given the language used in the Juvenile Justice Code (Title 3 of the Texas Family Code), the term “juvenile” should precede “delinquency” for consistency and clarification purposes.</p>	<p>Amend TFC § 265.001(3) to read as follows:</p> <p>(3) “Prevention and early intervention services” means programs intended to provide early intervention or prevent at-risk behaviors that lead to child abuse <u>or neglect, as well as to other negative outcomes for children such as being unprepared to start school, juvenile delinquency, running away, truancy, and dropping out of school.</u></p>
---	---	--

<p>TFC § 265.003. Directs DFPS to consolidate into the PEI division various programs that have the goal of providing early intervention or prevention of at-risk behavior that leads to child abuse, delinquency, running away, truancy, and dropping out of school. Further authorizes the PEI division to provide additional prevention and early intervention services in accordance with the operation of the PEI division.</p>	<p>Unclear Statutory Authority. DFPS PEI staff confirmed it would be more effective and efficient to abolish any individual provisions mandating specific grant programs and/or contracts, and instead have one general provision in TFC Chapter 265 that would allow PEI the flexibility to engage in the areas deemed most important at any given time. PEI can best serve families with the flexibility to offer a continuum of services and to choose between competitive grants or procurement.</p> <p>The current language is also under-inclusive in that PEI addresses not only abuse, but also neglect and other negative outcomes.</p>	<p>Repeal TFC §§ 264.204, 264.301, and 264.302, HRC § 40.0561, and amend § 265.003 to read as follows:</p> <p>(a) In order to implement the duties provided in Section 265.002, the department shall consolidate into the division programs with the goal of providing early intervention or prevention of at-risk behavior that leads to child abuse <u>or neglect, as well as to other negative outcomes for children such as being unprepared to start school, juvenile delinquency, running away, truancy, and dropping out of school. These programs may include:</u></p> <ul style="list-style-type: none"> <u>(1) crisis family intervention;</u> <u>(2) emergency short-term residential care for children 10 years of age or older;</u> <u>(3) family counseling;</u> <u>(4) parenting skills training;</u> <u>(5) youth coping skills training;</u> <u>(6) advocacy training;</u> <u>(7) mentoring;</u> <u>(8) home-visitation; and</u> <u>(9) community education programs designed to improve participation of the general public in preventing, identifying, and treating cases of child abuse or neglect, including parent education programs.</u> <p>(b) The division may provide <u>alternative or</u> additional prevention and early intervention services in accordance with Section 265.002</p>
---	---	--

<p>PEI Budgetary Riders.</p>	<p>Unclear Statutory Authority. See TFC § 265.003.</p> <p>Revisions to budgetary riders and budget allocation would be necessary if the recommendations for TFC § 265.003 receive final approval.</p> <p>Rider 24 can be deleted, as it is duplicative of the more detailed Rider 30. Currently, Rider 30 requires only competitive procurement and does not allow PEI the flexibility it needs to best serve families. Some of PEI’s programs would be better suited for a competitive grant award. Additionally, the field of applicants who might otherwise be eligible to compete for grants or contracts is potentially restricted by the current language requiring the use of “established statewide networks.” Eliminating that restriction would open the field of competition and also make the budgetary rider more consistent with TFC § 265.004, which permits, but does not require, evidence-based programs to be offered by child welfare boards, local governments, or children’s advocacy centers.</p>	<p>Remove Rider 24 and amend Rider 30 as follows:</p> <p>[24. At-Risk Prevention Programs. The Department of Family and Protective Services may only use funds appropriated above in Strategy C.1.5, Other At-Risk Prevention Programs, for at-risk prevention services that are competitively procured.]</p> <p>30. At-Risk Prevention Programs and Services. From the amounts appropriated above in Strategy C.1.5, Other At-Risk Prevention Programs, the Department of Family and Protective Services shall allocate for the state fiscal biennium beginning September 1, [2013] 2015, not less than \$3,050,000 for <u>the purpose of competitive procurements</u> [one or more competitively procured established statewide networks] of community-based prevention programs, <u>or the award of competitive grants to organizations offering community-based prevention programs</u>, that provide evidence-based programs delivered by trained full-time staff, and address conditions resulting in negative outcomes for children and youth. Any vendor selected to deliver these services must provide dollar-for-dollar matching funds. All other funding appropriated in Strategy C.1.5, Other At-Risk Prevention Programs, shall be used for child abuse and neglect prevention programs in accordance with a comprehensive plan developed by the department. [no additional changes].</p> <p>Note: PEI’s budgetary sub-strategies would need to be combined if the recommendations for TFC § 265.003 receive final approval.</p>
-------------------------------------	---	--

<p>TFC § 266.001. Definitions related to the medical care and educational services for children in foster care.</p>	<p>Unclear Statutory Authority. Because the statute defines medical care for which treatment can be given by reference to the “health care and related services provided” by Medicaid, the agency has at times been in a position whereby a service or treatment not covered by Medicaid is recommended or ordered for a child in DFPS conservatorship, yet DFPS does not have the authority to provide (or refuse) consent. In some instances the biological parents, in addition to the judge, should be involved, but decision-making authority is unclear. For example: in a child’s circumcision. Conversely, there are procedures not covered by Medicaid, such as withdrawal of life sustaining treatment or organ donation, but for which DFPS would still need authority over as conservator, with input of parents and judge if necessary.</p>	<p>Amend statute to make clear that for purposes of medical consent, the definition of “medical care” includes any medical care ordered or prescribed by a qualified health care practitioner, regardless of whether the treatment is provided under Medicaid, so that the agency can appropriately tailor the protocols to the seriousness and type of treatment.</p> <p>If provisions related to drug research program are eliminated, corresponding definitions in (2-a) and (4-a) should be eliminated as well.</p> <p>Suggest title or subtitle-wide definitions for Title V so that Commission, Commissioner, Department, do not need to be redefined. Foster child or foster care probably also needs title-wide definition.</p>
<p>HRC § 40.0522. Requires DFPS to engage in community education and training relating to child abuse or neglect.</p>	<p>Unnecessary Provision. A statute directing DFPS to educate the public and train professionals required by law to report, investigate, or litigate child abuse or neglect cases is unnecessary. This provision is outdated (added in 1997) and DFPS implements community education and training as needed and as updated with best practices.</p>	<p>Repeal.</p>

<p>HRC § 40.0523. Requires DFPS and the Children’s Trust Fund of Texas Council to develop and implement a statewide education program designed to prevent infant mortality.</p>	<p>Unclear Statutory Authority. DFPS PEI program staff confirmed that an “infant mortality prevention education program” can be characterized as one type of child abuse and neglect primary prevention program, rendering it unnecessary to have a specific statute for an infant mortality prevention education program. Later enacted provisions (HRC §§ 40.101-107) direct DFPS to carry out child abuse and neglect primary prevention programs. This specific provision, therefore, thwarts DFPS’s ability to flexibly expend limited funding on the types of primary prevention programs that are most needed at any given time. Additionally, this provision is outdated, as the Children’s Trust Fund of Texas Council was abolished and incorporated into DFPS’ PEI program in 2001.</p>	<p>Repeal.</p>
<p>HRC § 40.0561. Requires DFPS to, subject to available funding, award community youth development grants to areas of the state with high incidences of juvenile crime.</p>	<p>Unclear Statutory Authority. DFPS PEI staff confirmed it would be more effective and efficient, and allow the division to better serve families with a continuum of programs, to abolish any individual provisions mandating specific grant programs and/or contracts, and instead have one general provision in TFC Chapter 265 that would allow PEI the flexibility to engage in the areas deemed most important at any given time.</p>	<p>Repeal. (Necessary language is retained and merged into the general provision of the recommended amendment described under TFC § 265.003.)</p>

<p>HRC § 40.101. Definitions related to child abuse and neglect primary prevention programs.</p>	<p>Unclear Statutory Authority. These definitions are pertinent to PEI’s responsibility for developing, funding, and implementing primary prevention and early intervention programs. The purposes of these definitions would be better served positioned within Texas Family Code Chapter 265 (Prevention and Early Intervention Services). Caseworkers could more easily reference and utilize PEI-related material if all of the applicable provisions were streamlined into one comprehensive Chapter.</p> <p>Additionally, expanding the definition of “primary prevention” to include an infant mortality prevention education program would provide DFPS with the maximum flexibility to use limited funds for the primary prevention purposes that appear to be the highest priority at any point in the future. This expansion would eliminate the need for a specific statute for an infant mortality prevention education program while maintaining its significance as one type of primary prevention program (See HRC § 40.0523).</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) and consolidate into TFC § 265.001 (Definitions) for clarity and organizational purposes.</p> <p>Language update: replace “Department of Protective and Regulatory Services” to “Department of Family and Protective Services”. Repeal definition of “state agency” which is not used in the provisions.</p> <p>Amend HRC § 40.101(2) to read as follows:</p> <p>(2) “Primary prevention” means services and activities available to the community at large or to families to prevent abuse and neglect before it occurs, <u>and may include an infant mortality prevention education program.</u></p>
<p>HRC § 40.102. Requires DFPS to operate the children’s trust fund to develop and carry out child abuse and neglect primary prevention programs.</p>	<p>Unclear Statutory Authority. This statute falls under PEI’s responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p>

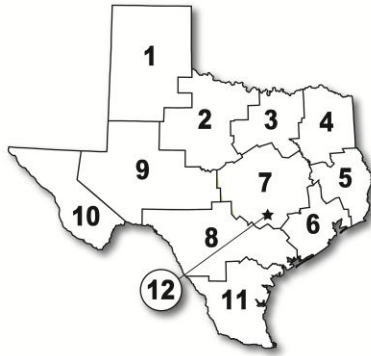
<p>HRC § 40.104. Describes the requirements DFPS must follow in regards to administrative costs and other funds expended relating to child abuse and neglect primary prevention programs.</p>	<p>Unclear Statutory Authority. This statute falls under PEI’s responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p>
<p>HRC § 40.105. Authorizes and describes the child abuse and neglect prevention trust fund account.</p>	<p>Unclear Statutory Authority. This statute falls under PEI’s responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p> <p>Additionally, this statute contains inconsistent language, in that money is dedicated for “abuse prevention programs” when “abuse” and “neglect” have separate statutory definitions and are not, in fact, synonymous. Given the title of HRC § 40 Subchapter D, the titles of § 40.102 and § 40.105, and the language used within § 40.105, the inconsistent terminology within this statute seems to be inadvertent.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p> <p>Amend HRC § 40.105(a) and (e) to clean-up of inconsistent terminology, as follows:</p> <p>(a) The child abuse and neglect prevention trust fund account is an account in the general revenue fund. Money in the trust fund is dedicated to child abuse <u>and neglect primary</u> prevention programs.</p> <p>(e) All marriage license fees and other fees collected for and deposited in the trust fund and interest earned on the trust fund balance shall be appropriated each biennium only to the operating fund for [primary] child abuse <u>and neglect primary</u> prevention programs.</p>

<p>HRC § 40.106. Authorizes and describes the child abuse and neglect prevention operating fund account.</p>	<p>Unclear Statutory Authority. This statute falls under PEI's responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p> <p>Language update: replace "Department of Protective and Regulatory Services" to "Department of Family and Protective Services".</p>
<p>HRC § 40.107. Authorizes DFPS to solicit contributions from any appropriate source and provides stipulations and limitations concerning contributions for child abuse and neglect primary prevention programs.</p>	<p>Unclear Statutory Authority. This statute falls under PEI's responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p>

<p>HRC § 54.001. Requires DFPS to develop rules for filing protective orders on behalf of a family member.</p>	<p>Archaic Language. This chapter, originally enacted in 1995 by HB 418 (and recodified in the clean-up bill SB 797 from the 76th, which sought to address the fact that “the Texas Family Code is under criticism based on its overcrowded and disorganized condition”) appears to be unnecessary. DFPS has full access to an array of protective remedies for domestic/family violence. TEX. FAM. CODE § 82.002(c)(2). However, the purpose of any rulemaking requirement seems to date back to a time when the legislature sought to ensure that protective orders were filed and heard on victims’ behalf. As the body of research and best practice regarding family and intimate partner violence has evolved, it has become clear that the circumstances under which DFPS would seek an order on a victim’s behalf would realistically only be if the victim requested it. While DFPS could adopt rules to that effect, they would serve little purpose other than to restate good case practice, which DFPS has not undertaken to do in rule with respect to other orders in CPS cases.</p>	<p>Repeal. If chapter retained, recommend non-substantive revision to update DFPS name.</p>
<p>HRC § 54.002. Requires DFPS provide prior notice to a non-abusive parent or adult member of a household of the department’s intent to file for a P.O. and to exercise reasonable caution in providing such notice.</p>	<p>Archaic Language. This provision is at odds with current best practice and parent/child safety. The most volatile and lethal time for a victim of family violence is often when the victim attempts to take measures to protect herself and separate from her batterer. DFPS should not seek a protective order without the involvement and readiness of the victim, so there should not be a case where DFPS is letting the victim know its plans but the victim has not been closely involved in the planning.</p>	<p>Repeal.</p>

<p>Tex. Gov't Code § 411.114. Describes and directs DFPS's access to criminal history record information.</p>	<p>Unclear Statutory Authority. This provision originated decades ago and has been steadily added to, in a manner that does not necessarily reflect current terminology ever since. The numbering is off and many subsections do not reflect current business reality.</p>	<p>Consolidate the current provisions, primarily by adding catch-all authority to run checks on anyone when deemed necessary to the protection of a vulnerable child, elderly person, or person with a disability. While this is arguably a substantive change, over the years the legislature has added provisions to enable DFPS to obtain criminal history record information whenever needed for the protection of vulnerable citizens so the change is also clean-up to streamline the patchwork that has evolved over time and is confusing to the public, stakeholders, and the agency.</p> <p>For an example of such broad authority:</p> <p>Sec. 411.091. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS ALCOHOLIC BEVERAGE COMMISSION.</p> <p>(a) The Texas Alcoholic Beverage Commission is entitled to obtain from the department criminal history record information maintained by the department that the commission believes is necessary for the enforcement or administration of the Alcoholic Beverage Code.</p> <p>(b) Criminal history record information obtained by the commission under Subsection (a) may be used only for the enforcement and administration of the Alcoholic Beverage Code.</p> <p>If broad authority not sought, recommend codification of information sharing practices with respect to certain court appointed advocates as well as individuals in a case who may not be providing child care but who are regularly and frequently present.</p>
--	---	--

Appendix B: Transformation-Related Initiatives by Region



DFPS Regions 1 through 12

NOTE: YES = Transformation-related initiative has occurred

Initiative	1	2	3	4	5	6	7	8	9	10	11	12
Mentor Pilot	YES		YES	YES	YES			YES				
Specialty Pilot							YES					
Continuous Learning Pilot								YES				
Management Training						YES	YES	YES				
Recognition Pilot		YES										
SDM Early Adopters	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Practice Model Early Adopters	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
INV/FBSS Pilots	YES		YES			YES	YES	YES	YES	YES	YES	
Reunification Permanency Pilots		YES	YES	YES	YES	YES		YES			YES	
Harris County Permanency						YES						
Foster Care Redesign			YES									

Appendix C: Calendar of Key Transformation Dates in Fiscal Year 2015

September	October	November	December	January	February
<ul style="list-style-type: none"> • Reorganize CPS State Office, Prevention and Early Intervention, and establish Office of Child Safety • Launch mentoring pilot • Launch Strengths-Based Supervision (SBS) in Harris County • Implement INV/FBSS and Reunification and Permanency (RAP) team immediate solutions and launch pilots • Begin geographic case assignment in Harris County Investigations 	<ul style="list-style-type: none"> • Eliminate non-safety-related approvals • Complete short-term effort to contact all employees in 6- to 24-month tenure range • Launch SBS for managers statewide • Test market 360-degree performance evaluation idea • Launch one-time employee recognition pilot in Region 2 • Begin development of IV-E demonstration waiver 	<ul style="list-style-type: none"> • Launch Specialty Training Pilot in Region 7 • Publish Practice Model Framework • Launch pilot of caseworker support center • Launch DFPS Stars statewide staff recognition program • Rollout other regional employee recognition and incentive programs 	<ul style="list-style-type: none"> • Implement plan for collaboration with colleges and universities • Implement approved screening and hiring strategies • Launch SBS in Region 8 • Train-the-trainer for select program directors for SBS • Expand INV/FBSS and RAP pilots • Complete move of 600 children to permanency in Harris County • Complete streamlining of INV/FBSS policy and practice 	<ul style="list-style-type: none"> • Launch combined core, specialty, and mentoring pilot in Region 8 • Test new performance evaluation tools in one area • Structured Decision Making (SDM) early adopters begin use of Safety Assessment • Early adopter training on practice model 	<ul style="list-style-type: none"> • Launch 360 degree performance evaluation pilot • Publish long-range foster care redesign implementation plan

March	April	May	June	July	August
<ul style="list-style-type: none"> • Complete SBS statewide rollout • Begin statewide rollout of 360-degree performance evaluation • Statewide deployment of SDM Safety Assessment 	<ul style="list-style-type: none"> • First region to adopt practice model for INV/FBSS workers 	<ul style="list-style-type: none"> • Begin statewide expansion of core, specialty, and mentoring program • Rollout new performance evaluation tools statewide • Begin SDM Risk Assessment Early Adopters 			<ul style="list-style-type: none"> • Statewide deployment of SDM Risk Assessment

Appendix D: Transformation Outcome Metrics

CPS Performance Measures

Turnover Rate	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014
Combined	26%	26%	25%
Investigators	34%	32%	34%
Family-Based Safety Service Workers	25%	26%	23%
Conservatorship Caseworkers	24%	23%	23%

CPS Performance Measures

Averages	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014
Average Days to Investigation Stage Closure (INV)	65.8	58.8	52.9
Average Months to Permanency (CVS)	18.5	18.9	19
Average Number of Placements Per Child (CVS)	3.4	3.3	3.2

CPS Performance Measures

Recidivism Rate of Children into the CPS System within 12 months	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014
After an investigation is closed without services	7%	7%	8%
After the termination of Family-Based Safety Services	8%	7%	8%
After exiting state custody to reunification	11%	12%	12%

Appendix E: Recommendations Crosswalk

This crosswalk aligns recommendations from the CPS operational review conducted by The Stephen Group, Sunset Commission recommendations, and Casey Family program recommendations to CPS transformation priority initiatives. The crosswalk does not contain all recommendations being addressed by the agency, only those that align to transformation initiatives and are currently or will be addressed in the next year.

Transformation Initiative

Priority A: A Professional and Stable Workforce

Recruitment and Hiring (p. 4)

Report	#	Recommendation
Op Rev	12	Talk to every worker in the 18 – 30 month experience range
Op Rev	17	Work actively with Texas higher education schools of social work to promote CPS as an employer of choice
Op Rev	18	Develop a strategic marketing and recruitment plan
Op Rev	19	Revalidate the job expectations for the CPS positions
Op Rev	20	Improve the job preview process
Op Rev	21	Revalidate and broaden candidate profiles
Op Rev	22	Source hiring process management to Vendor
Op Rev	23	Improve interviewer preparation
Op Rev	24	Develop and manage to a standardized and expanded interviewing process

Op Rev	25	Refine selection process
Op Rev	26	Improve tracking and management of recruitment
Casey - Harris County	C5	Take steps to attract and retain well qualified caseworkers and address job conditions contributing to turnover
Sunset Report	1.1	Direct DFPS to consolidate its existing workforce management functions under one operational unit and add additional critical functions to better support employees and systemically identify root causes of turnover

Priority A: A Professional and Stable Workforce

Core and Specialty Training (pgs. 6, 8)

Report	#	Recommendation
Op Rev	27	Create a learning organization
Op Rev	28	Improve the sequential structuring and extend BSD training to a more practical experience
Op Rev	29	Update BSD learning methods (online courses)
Op Rev	30	Deliver BSD through mixed methods (visual vs active, participants vs audio learners)
Op Rev	31	Redesign curriculum including competency-based learning
Op Rev	32	Validate competencies and topic areas of BSD training

Op Rev	33	Review existing OJT activities for relevance and identify the most appropriate topics for “field structured days” of experiential learning
Op Rev	34	Introduce “real” cases early in the BSD training academy to trainees that will have direct oversight from a CPS mentor
Op Rev	35	Develop a mentoring guide and progress tracking tool that provides real time feedback to CPS trainees and updates to the unit supervisor
Op Rev	36	Assign BSD trainers to units so that they can stay close to the field work and keep their perspective fresh
Op Rev	37	Involve CPS unit supervisors in BSD training process of their new workers

Priority A: A Professional and Stable Workforce

Mentoring (p. 9)

Report	#	Recommendation
Op Rev	10	Ease new employees into the job through mentoring
Op Rev	11	Create performance pairs with new workers
Sunset Report	1.2	Direct DFPS to dedicate certain existing caseworker positions to create a mentoring program to better support new CPS caseworkers

Priority A: A Professional and Stable Workforce

Management Training (p. 10)

Report	#	Recommendation
Op Rev	38	Create leadership development programs for high performing CPS staff that desire to move into supervisory and management roles
Op Rev	39	Review and validate topics included in Beginner Manager Training
Op Rev	40	Offer ongoing professional development and not just the DFPS Beginning Manager course
Op Rev	41	Promote informal opportunities and forums for supervisors to share innovative methods, practices, and brainstorm new ideas
Op Rev	43	Identify up and coming leaders, and prepare them for promotion through ranks
Op Rev	46	Encourage formal and informal opportunities and forums for senior leaders
Sunset Report	2.10	Direct DFPS to develop a succession planning strategy, to prepare for impending retirements and provide opportunities for advancement to lower-level staff.

Priority A: A Professional and Stable Workforce

Performance Evaluation and Recognition (p. 11)

Report	#	Recommendation
Op Rev	14	Announce a 360 feedback program within the next 30 days and conduct it within 60 days
Op Rev	15	Launch a performance recognition program
Op Rev	42	Conduct a regular 360 degree program to help managers of all levels learn to lead better
Sunset Report	1.5	CPS should revise its system for evaluating caseworker performance by better measuring casework quality and ensuring performance expectations are reasonable
Sunset Report	1.6	DFPS should provide guidance to managers on awarding merit pay to ensure transparency and consistent criteria for merit pay awards to foster increased morale and retention

Priority B: Child Safety, Permanency, and Well-being

Structured Decision Making (p. 13)

Report	#	Recommendation
Op Rev	3	Implement a Structured Decision Model solution: Safety (24 hours initial contact) and Risk Assessment
Op Rev	4	Review and update as needed the current definitions of

		"safety", "immediate", and "impending/emergent danger"
Op Rev	5	Develop a family services instrument
Op Rev	7	Conduct on-going evaluation and study of the effectiveness of instruments and SDM
Op Rev	8	Push decision-making to the field level to empower the CPS workforce
Op Rev	9	Revise the supervision and coaching method that guides decision-making
Op Rev	48	Revise case process based on SDM

Priority B: Child Safety, Permanency, and Well-being

Practice Model (p. 15)

Report	#	Recommendation
Op Rev	2	Develop and implement a Practice Model

Priority B: Child Safety, Permanency, and Well-being

Investigation and FBSS and Reunification and Permanency Teams (pgs. 16, 18)

Report	#	Recommendation
Op Rev	47	Create case guides that will be used to develop case work plans
Op Rev	53	Encourage teamwork within a unit

Op Rev	56	Find and eliminate any form of rework when cases are handed off to the next stage: for example duplicated forms or documentation, or home studies
Op Rev	58	Support IMPACT Modernization
Op Rev	59	Reduce documentation required for each case with the courts. Eliminate paper.
Op Rev	60	Create a method for assigning cases based on the difficulty of the case and worker capabilities. This would include worker experience level, skills such as language, and special abilities
Op Rev	64	Eliminate rework at initial FBSS transfer visit
Op Rev	65	Eliminate "extra staffings" recently added into practice
Op Rev	68	Improve the ease of use of IMPACT in support of the caseworker's daily activities
Op Rev	74	Improve Outlook training, and email and text distribution lists
Op Rev	76	Adapt scheduling support software to assign by workload
Op Rev	157	Supervisors assign cases based on judgment of the match between case and worker
Op Rev	158	Encourage reassignment of cases if the facts suggest it
Op Rev	159	Conduct on-going study into the relationship between worker

		capabilities and case requirements
Sunset Report	1.9	DFPS should develop a standardized and objective method for fairly and efficiently distributing cases
Sunset Report	2.9	Direct DFPS to ensure its planning efforts for IMPACT modernization support improvement and align with possible CPS operational changes

Priority B: Child Safety, Permanency, and Well-being

Harris County (p. 20)

Report	#	Recommendation
Casey - Harris County	C1	Move 600 children to permanency by 12/31/14
Casey - Harris County	C1b	Increase staffing resources to ensure goal is achieved
Casey - Harris County	C1c	Conduct case-level reviews to identify barriers to permanency for each child in this group of cases. Have decision makers address policy, practice or funding issues that arise
Casey - Harris County	C2	Make clear to all CPS division staff that timely movement of children to safe, permanent homes is Job #1 for everybody at DFPS, every day
Casey - Harris County	C3	Define Harris County DFPS Operations geographically
Casey - Harris County	C4	Work with Harris County DFPS management to instill an

		effective structure leadership approach to increase capacity for organizational change
Casey - Harris County	C9	Expand the new supervisor training program to Harris County as part of a broader supervisor development initiative
Sunset Report	1.9	DFPS should develop a standardized and objective method for fairly and efficiently distributing cases

Priority B: Child Safety, Permanency, and Well-being

Purchased Family Preservation and Reunification Services (p. 22)

Report	#	Recommendation
Op Rev	69	Improve requests for purchased family-based services
Op Rev	126	Work with providers to attract attention to pockets of the state that are underserved by providers
Sunset Report	3.3	DFPS should develop a consistent approach to measuring and monitoring provider quality and identifying risk indicators in both the legacy and redesigned systems
Sunset Report	5.4	The agency should develop a clear and consistent policy for referring families to services
Sunset Report	5.5	DFPS should develop more specific outcome measures for Family-Based Safety Services

Priority B: Child Safety, Permanency, and Well-being

Foster Care (p. 23)

Report	#	Recommendation
Sunset Report	3.1	Require DFPS to develop and maintain a long-range foster care redesign implementation plan to guide the agency's transition efforts
Sunset Report	3.2	DFPS should thoroughly evaluate system data and cost before pursuing broad implementation of foster care redesign
Sunset Report	3.3	DFPS should develop a consistent approach to measuring and monitoring provider quality and identifying risk indicators in both the legacy and redesigned systems

Priority B: Child Safety, Permanency, and Well-being

Office of Child Safety (p. 25)

Report	#	Recommendation
Op Rev	153	Add the child fatality review process logic model to the Protocol Guidebook
Op Rev	154	Enhance the child fatality review process embedded in Form 2071 by using guided checklists
Op Rev	155	Track, respond to and document all communications between and among Fatality Review

		Committees/Teams
Op Rev	156	Incorporate Child Fatality Review findings and prevention strategies in the CPS communications plan
Sunset Report	5.3	DFPS should broaden its child fatality investigation review to include a sample of all fatality investigations

Priority B: Child Safety, Permanency, and Well-being

Prevention and Early Intervention (p. 26)

Report	#	Recommendation
Sunset Report	6.1	Require DFPS to develop a comprehensive strategic plan for its prevention and early intervention programs
Sunset Report	6.5	Direct DFPS to develop a strategy to use existing data to better focus its prevention efforts and report the outcomes of its programs.

Priority B: Child Safety, Permanency, and Well-being

Faith-based Programs (p. 27)

Report	#	Recommendation
Op Rev	129	CPS should continue to expand its connection to the Faith Based community to fill in gaps in lack of availability of services
Sunset Report	3.5	Direct DFPS to expand its connection to the faith-based community beyond its existing

		efforts to address gaps in service availability in all areas of CPS
Sunset Report	8.4	Direct DFPS to establish in rule the Advisory Committee on Promoting Adoption of Minority Children

Priority C: Effective Organization and Operations

Organization and Operations (p. 29)

Report	#	Recommendation
Op Rev	1	Immediately implement Sunset Advisory Commission Timeout Advice
Op Rev	54	Revise all form letters so they communicate more clearly with families
Op Rev	58	Support IMPACT Modernization
Op Rev	66	Eliminate duplicate approvals on most situations thus freeing up program administrator and program director time
Op Rev	62	Change the travel approval process from three people to one person
Op Rev	84	Improve the flexibility regional directors have to deploy personnel as needed based on current workload
Op Rev	86	Continue to make use of master and special investigators
Op Rev	87	Review other specialist positions for numbers and usage

Op Rev	120	Empower regional directors to operate without individual Action Memos
Sunset Report	2.1	Direct CPS to implement an annual business planning process

Priority C: Effective Organization and Operations

Policy Strategy (p. 31)

Report	#	Recommendation
Op Rev	55	Develop a practice manual
Op Rev	81	Keep forms in sync with practice
Op Rev	90	Develop a new policy strategy
Op Rev	91	Eliminate PSAs as a method for developing and distributing policy
Op Rev	92	Create one statewide policy unit
Op Rev	93	Refresh the entire policy handbook and create a practice handbook
Op Rev	94	Sunset Policy every 5 years and completely review policy to update as needed
Op Rev	95	Accompany policy with an assessment of practice and staffing impact
Op Rev	96	Implement a collaborative writing tool and process
Op Rev	97	Manage to a policy calendar and timetable

Op Rev	98	Distribute policy directly rather than cascade it
Op Rev	101	Release training material along with new policy
Op Rev	103	Develop a formal process of policy support
Op Rev	104	Evaluate policy distribution effectiveness
Sunset Report	2.4	Direct DFPS to comprehensively review and update the CPS policy and procedures handbook
Sunset Report	2.5	Direct CPS to develop a systematic approach to its policymaking process to ensure clear, updated policies and procedures that mitigate risk of noncompliance and staff confusion
Sunset Report	2.6	Direct DFPS to require CPS regions to fully document their protocols and practices, report these, and update them on a regular basis

Priority C: Effective Organization and Operations

Using Data to Improve Outcomes (p. 32)

Report	#	Recommendation
Op Rev	6	Continue to collaborate on research into predictive analytics
Op Review	13	Put turnover on the critical metrics list for regional directors
Op Rev	49	Conduct on-going study of the link between family situations,

		interventions at all case stages, and family outcomes
Op Rev	80	Time with Families Tracking Tool
Op Rev	105	Integrate Quality Assurance efforts into a single organizational unit, managed centrally and staffed regionally
Op Rev	108	Adopt a quality management approach to CPS
Op Rev	109	Establish regional and state-wide QM projects to review performance data, develop process improvement initiatives and create performance improvement plans
Op Rev	110	Adapt data sourcing so that CPS can collect and report data suitable for quality management
Op Rev	111	Develop an executive dashboard that will inform CPS leadership about areas of immediate need, broken down by category and region, and associated with the key transformation goals
Op Rev	112	Implement management reporting based on Balanced Score Card
Op Rev	113	Implement the tools needed for reporting management metrics
Op Rev	114	Create a small project group to develop the management reporting capability over the next 12 months

Op Rev	115	Develop tolerance levels for each concurrent and lagging metric
Op Rev	116	Recommendation of example management metrics
Sunset Report	1.4	DFPS should develop a systematic way of using turnover, when appropriate, as a tool for judging performance of CPS regional management
Sunset Report	2.7	Direct CPS to develop a systematic, comprehensive approach to evaluating and monitoring regional performance, including a monitoring process to verify implementation
Sunset Report	5.1	DFPS should add an additional measure of recidivism linked to the alleged perpetrator
Sunset Report	5.2	The agency should clarify and standardize the use of unsure case findings

Priority C: Effective Organization and Operations

Review of Statutory Barriers (p. 33)

Report	#	Recommendation
Op Rev	67	Review Family Law sections for recommendations on streamlining