



TEXAS
Department of Family
and Protective Services

Senate Bill 1889 Legislative Report

**The Status and Outcomes of Children Who Enter DFPS
Conservatorship Due to Mental Health Needs**

October 2018

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Introduction

Nationally, one in five children suffers from mental illness¹. Parents of children with the most severe mental illness are sometimes in the difficult position of asking child protection agencies to take custody of their children solely to access mental health services that are unaffordable or unavailable to the families. The most appropriate treatment is often too expensive for families, due to the children's need for either residential treatment center placements or intensive outpatient programs. Some parents have insufficient insurance coverage, while others lack insurance altogether, making it difficult to afford needed and costly mental health services. In Texas, Senate Bill 1889, 84th Legislative Regular Session, required the Department of Family and Protective Services (DFPS of "the Department") to monitor its efforts to address the needs of families with children who experience severe emotional disturbance and for whom adequate care cannot be accessed by the families.

Specifically, DFPS shall report the following no later than November 1 of each even-numbered year to the Texas Legislature:

- the number of children for whom the Department has been appointed managing conservator;
- the number of children for whom the Department has been appointed joint managing conservator;
- the number of children who were diverted to community or residential mental health services through another agency; and
- the number of persons whose names were entered into the central registry of cases of child abuse and neglect only because the Department was named managing conservator of a child who has a severe emotional disturbance and the child's family was unable to obtain mental health services for the child.

DFPS charged the Child Protective Services Mental Health Specialist with coordinating the implementation of the legislation and reporting on the progress.

Number of Children in DFPS Conservatorship

Senate Bill 1889 clarified language included in Senate Bill 44, passed during the 83rd Legislature, by requiring DFPS to discuss the option of seeking a court order for Temporary Joint Managing Conservatorship with all parents who request that the agency take custody of their children with severe emotional disturbances solely to obtain mental health services, unless it is not in the best interest of the children.

¹ National Institute on Mental Health. (2010). *Any disorder among children* [Data file]. Retrieved from: <http://www.nimh.nih.gov/health/statistics/prevalence/any-disorder-among-children.shtml>

Fiscal Year 2017 Statistics

- At any given point in time during Fiscal Year 2017, approximately 31,000 children were in substitute care.
- At the end of August 2017, there were 31,777 children in substitute care.
- Number of children who entered foster care solely due to lack of mental health services during Fiscal Year 2017: 189 children, or approximately 0.6% of the total substitute care population.
- Number of children of whom DFPS has Temporary Joint Managing Conservatorship with the child's parents due to the lack of mental health services: 67 children, or 0.21% of the total substitute care population.

Fiscal Year 2018 (Quarters 1, 2, and 3) Statistics

- At any given point in time during Fiscal Year 2018, approximately 32,500 children were in substitute care.
- At the end of May 2018, there were 32,737 children in substitute care.
- Number of children who entered foster care solely due to lack of mental health services during Quarters 1, 2, and 3: 206 children, or approximately .63% of the total substitute care population.
- Number of children of whom DFPS has Temporary Joint Managing Conservatorship with the child's parents due to the lack of mental health services during Quarters 1, 2, and 3: 67 children, or 0.21% of the total substitute care population.
- Quarter 4 data is still being collected at the time this report was written.

Number of Children Diverted from DFPS Conservatorship

In an effort to serve children and youth whose parents cannot access residential treatment center services, the 83rd Legislature allocated \$2.1 million to the Department of State Health Services (DSHS) in order to fund 10 beds in private residential treatment centers. Funding increases in subsequent years increased the total number of beds to 40. Funding is now allocated to HHSC. These funds were to be used for children and youth with serious emotional disturbances who were referred to DFPS and at risk of their parents requesting the agency to take custody due to a lack of mental health services. The Health and Human Services Commission (HHSC) now receives funding for this initiative.

From September 2016 to August 2018, 142 children have been referred to the HHSC initiative. Of these children, 61 were placed in a residential treatment center and 24 were diverted from both residential treatment center placement and entering foster care with referrals to needed mental health services either through local mental health authorities, community resources or private psychiatric services.

Central Registry Case Review

Senate Bill 1889 amended the definition of child "neglect" to clarify that it does not include the refusal by a parent to allow a child to return to or remain in the home if the refusal is based solely on the parent's inability to obtain mental health services for the child after having exhausted all avenues to get the care. It also prohibited DFPS from including a parent or guardian's name in the Child Abuse/Neglect Central Registry if the parent or guardian relinquishes custodial rights only because he or she has tried and been unable to obtain mental health services for a child who has a severe emotional disturbance. DFPS adopted rules and policy incorporating the new definition of neglect and developed procedures to assist staff when dealing with cases where parents wish to have the Department take custody of their children solely to obtain needed mental health services.

DFPS monitors case files through quarterly case reads to ensure that regional staff has adopted the new procedures appropriately. Since the implementation of Senate Bill 1889, one designated staff member from DFPS has read 3,774 cases in an effort to ensure the procedures are being adhered to for the safety and well-being of the children for whom the procedures were designed to support. No automated method to ascertain this data is currently available.

Number of Persons Entered into the Central Registry

Senate Bill 1889 also required DFPS to retroactively remove the names of parents and guardians who meet the bill's criteria from the Child Abuse/Neglect Central Registry and overturn previous affirmative findings of Refusal to Accept Parental Responsibility (RAPR). In order to fulfill the requirement, DFPS requested data on removals that had only a Reason to Believe (RTB) disposition for a RAPR or Abandonment (ABAN), with no other types of confirmed allegations present.

In September 2013, DFPS hired its Child Protective Services Mental Health Specialist. With the addition of this staff member, the department had the capacity to begin reading cases dating back to September 1, 2011 that may have been inaccurately assigned a disposition in order to gain a sense of the magnitude of the issue. The Mental Health Specialist is now part of Child Protective Investigations. This case reading continues to date to ensure allegations are not validated when the sole reason for the family's involvement with DFPS is to obtain appropriate mental health services for the child.

Upon the enactment of Senate Bill 1889, DFPS ran a data report from September 1, 2001 to August 31, 2010 with the following criteria:

1. RTB for RAPR where RAPR is the only validated allegation;
2. RTB for ABAN where ABAN is the only validated allegation; and
3. Cases under #1 & #2 that resulted in the child's removal where DFPS was named managing conservator.

Data of this nature is unavailable for cases investigated prior to 2001. Approximately 1,474 cases were identified for the timeframe of 2001 to 2010, and, after a preliminary review, 888 of them required a more thorough review. From October to December 2015, each of the 888 selected cases were reviewed by the Child Protective Services Mental Health Specialist, a Hogg Foundation Graduate Research Assistant, and the 13 Department of Family and Protective Services Resolution Specialists. Out of these cases, 73 RTB allegations were overturned where DFPS took conservatorship of the children solely to obtain mental health services. Case reviews from 2011 through 2016 overturned an additional 125 allegations.

Among the cases that the Child Protective Investigations Mental Health Specialist read from Fiscal Year 2017 and the first three quarters of Fiscal Year 2018, 27 RTB allegations were overturned, bringing the total number of persons whose names were on the Central Registry and dispositions overturned to 152.

Letters have been mailed to the last known address of each caregiver for the 152 identified persons, advising them of the action taken by DFPS to overturn their dispositions. These caregivers are not reported on the Child Abuse/Neglect Central Registry. Review of the cases from the fourth quarter of Fiscal Year 2018 is currently in progress.

Summary

To support families in these challenging situations, DFPS developed new Investigation Policy, Procedures, and a Resource Guide that will assist regional staff in identifying these types of cases to ensure that the correct disposition is given and the parents' names are not added to the registry. The Department has made efforts to educate regional staff, local mental health authorities, and representatives of the legal system, including local judges and attorneys, through regional presentations, conference calls, and online trainings.

The Department has made a paradigm shift in the manner in which it approaches these cases and works with children with severe emotional disturbances and has developed a strong working relationship with HHSC to better meet their needs. Great strides are being made to educate regional staff regarding mental health in order to better serve these children and their families. For example, Mental Health First Aid, a nationally recognized course that teaches how to identify and respond to signs of mental illness, is being offered to all regional staff. The Child Protective Investigations Mental Health Specialist is available to consult with regional staff, attend specialized staff meetings, and assist with crisis intervention. The Department understands that mental health is an important factor in order for children to develop into healthy productive adults and will continue to support the work mandated by Senate Bill 1889.