



Legislative Update and Outlook: The Impact to the Child Welfare System

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Presentation Overview

- History of recent reforms affecting CPS system
- How children are moving through the CPS system
- Overview of budget and significant legislative changes from 2011 Session
- What's next

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Recent CPS Reform Efforts

- 2004 – several high profile deaths of children involved with CPS prompting comptroller's "Forgotten Children" report
- Jan 2005 – Governor creates special division within CPS for investigations

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Recent CPS Reform Efforts

- 2005 Legislative Session – Start comprehensive reform of CPS
 - Focus on improving investigations, including funding for new investigators to reduce caseloads
 - Financial support for relative caregivers
 - Funding for day care and small upfront payment and reimbursement of expenses
 - Set schedule to privatize all post-investigative CPS services

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Recent CPS Reform Efforts

- 2005-2006 Legislative Interim – CPS
 - Creates functional units where caseworker, supervisor and administrative staff all focus on particular aspect of case
 - Investigations, FBSS, Conservatorship
 - Reduces number of caseworkers each supervisor has to manage

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Recent CPS Reform Efforts

- 2007 Legislative Session – Focus on keeping children safe at home
 - Privatization scaled back to small pilot that is never funded
 - Funding for additional FBSS and conservatorship staff to reduce caseloads
 - More children at home from the outset
 - Removal rates drop from 29% in 2007 to 24% in 2008

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Recent CPS Reform Efforts

- 2009 Legislative Session – Continue focus on improving outcomes
 - Increase funding for FBSS caseworkers, family support services and foster care
 - Create Permanency Care Assistance program to provide financial support to relatives who become permanent managing conservator
 - Improve permanency planning process
 - Better prepare youth who will age out to successfully live on their own

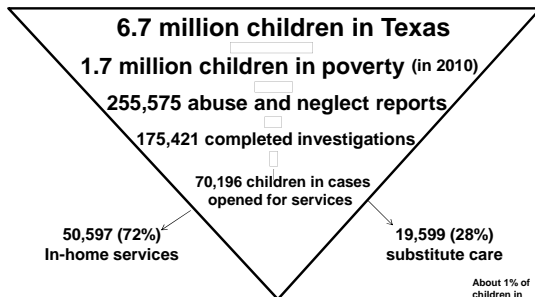
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Recent CPS Reform Efforts

- 2009-2010 Legislative Interim - CPS
 - Starts foster care redesign process to change way it contracts for foster care services to get children placed closer to home and with siblings and to permanency faster
 - Creates Public Private Partnership consisting of private foster care providers, judges, child advocates and others involved with CPS to advise on redesign

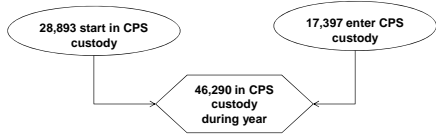
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Children Coming into CPS in 2011



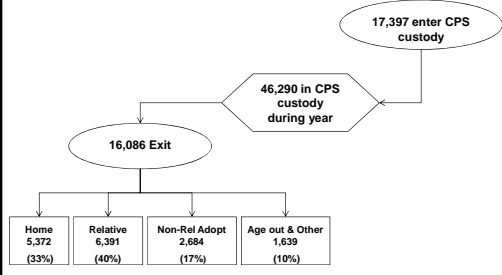
Source: DFPS 2011 Databook and Texas KIDS Court

Children in CPS Legal Custody, 2011



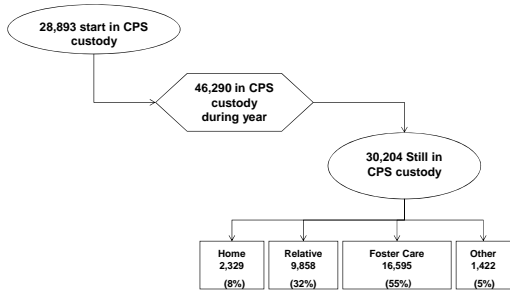
Source: DFPS 2010 databook and DFPS data. Does not include children in foster care over age 18.

Children in CPS Legal Custody, 2011



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Children in CPS Legal Custody, 2011



Source: DFPS 2010 databook and DFPS data. Does not include children in foster care over age 18.

2011 Legislative Session

- Budget overshadowed everything
 - Started with a \$25 billion revenue shortfall
 - 25% less than what was needed to maintain 2010-11 service levels
 - Legislature took a largely cuts only approach
 - Did not spend any of the Rainy Day Fund to support programs in 2012-13
 - CPS fared better than most, although still got 12% less than what it needed

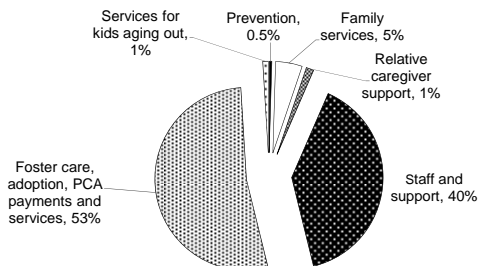
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The 2012-13 CPS Budget

- Child abuse and neglect prevention slashed
 - Annual budget of about \$4.2 million to serve less than 5,000 children
- Caseload growth for family support services and relative caregiver support not funded
- Adoption services, such as those to recruit and train adoptive homes, cut by almost 30%

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Overall Allocation of 2012 CPS Budget



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2012-13 CPS Budget: The Bottom Line for Courts

- May see an increase in removals
 - Budget crunch hit CPS in 2011 and removals increased
- May be more difficult to find willing and able relative caregivers
 - Foster care may be an option

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2012-13 CPS Budget: The Bottom Line for Courts

- May be fewer reunification services for parents
 - Need to be sure service plan tailored to family circumstances and requires only those programs necessary for child's safety
- Adoption process may be slower
 - But do have contracts for adoption services in place for 2012

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Legislation Affecting Courts

- TRO to remove a perp (TFC §262.1015)
 - CPS can, as an alternative, pursue a protective order
 - For TRO, must now find that remaining parent is likely to report to CPS if perp tries to return to home
 - New training for CPS caseworkers on pursuing protective orders

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Legislation Affecting Courts

- Service plan (TFC §263.101 et seq)
 - CPS must jointly develop the service plan, or any subsequent amendment, with parents
 - If the parents don't sign the original service plan, it only takes effect when ordered by the court
 - Amended service plan still takes effect when CPS files it even if parent doesn't sign it
 - Parent can file a motion to request to review or change a service plan if it is modified

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Legislation Affecting Courts

- Status hearing (TFC §263.202)
 - Review CPS' efforts to find alleged father
 - Determine whether service plan is reasonably tailored to family's circumstances and give parents an opportunity to comment on plan
 - Incorporate service plan provisions into court orders
 - Review CPS' efforts to find and provide notice to relatives
 - CPS must file report with court
 - Tell parties about right to counsel and appoint counsel if party is eligible and appointment is required under Chapter 107

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Legislation Affecting Courts

- Provisions regarding extension of jurisdiction over youth who turn 18 modified and requires court hearings for such youth every 6 months (TFC §263.601 et seq)
 - Necessary to ensure that CPS can continue to access federal foster care funds for the youth
- CPS must now report to the court, child's AAL and GAL and parent when child is missing and when they return (TFC §264.113)

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Legislation Affecting Attorneys

- Child's attorney (TFC §107.004)
 - Must meet with child before hearing and in private setting
 - If child is not in court, attorney must file a statement about meeting the child
- Once court orders child's AAL or GAL to have access to records, custodians of children's medical records must release them to the child's AAL or GAL (TFC §107.006)

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Legislation Affecting Attorneys

- Parent's attorney
 - New powers and duties (TFC §107.0131-33)
 - Parent's indigence is presumed to continue unless motion to reconsider is filed (TFC §107.013)
 - Attorney for parent continues until (1) suit is dismissed; (2) appeals are exhausted; or (3) attorney is relieved or replaced for good cause (TFC §107.016)

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Legislation Affecting CPS Appeals

- Repeal most of the provisions governing an appeal of a final order in a CPS case (TFC §263.405) for those issued on or after Sept. 1, 2011, and require Supreme Court to adopt rules regarding appeals of termination orders by March 1, 2012
 - Until new rules adopted:
 - Accelerated appeal procedures in Texas Rules of App Proc (TRAP) should apply (TRAP 26.1(b) and 28.1)
 - Instead of statement of points, follow TRAP 33.1 and Rule 324 of Texas Rules of Civil Procedure

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Other CPS Legislation You Might Want to Know About

- Each school district must appoint a liaison to help get kids in CPS custody into school (EC §51.976)
- HHSC to set up system to review psychotropic drug use for kids in CPS custody (GC §533.0161)
- Foster kids bill of rights (TFC §263.007)

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Other CPS Legislation You Might Want to Know About

- Blue Ribbon Task Force to develop strategic plan to combat child abuse continued
- New task force to examine intersection of domestic violence and child abuse
- New Disproportionality Interagency Council to address disproportionality in CPS, juvenile justice, education and mental health

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Foster Care Redesign

- General structure:
 - Single agency contract to provide foster care and other purchased services in designated geographic area
 - Contractor has flexibility as to type of placement for child and financial incentive to work with families to get children out of foster care faster, BUT
 - CPS retains control over decisions about service and permanency plan and recommendations to the court

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Foster Care Redesign

- General structure:
 - Contractor is paid a single rate for providing care with no eject, no reject policy
 - Contractor will eventually provide services to family as well as child
 - Contract has performance measures and remedies CPS can pursue if contractor doesn't meet standards
 - Roll out over time to different areas of state

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Foster Care Redesign

- Status:
 - CPS received responses to it's RFP and is hoping to award contracts in late Spring 2012
 - Geographic areas covered by contract
 - Region 7 (Central Texas) or Region 11 (South Texas)
 - And
 - Region 1 (Panhandle) or Region 2 and 9 together (North and Northwest Texas)

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Foster Care Redesign

- More detail in report on CPS issues over the interim available on CPPP website
- Information about redesign available on CPS website at:
http://www.dfps.state.tx.us/Child_Protection/Foster_Care/redesign.asp

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Relatives Getting Verified as Foster Parents

- More relatives trying to get verified
 - CPS required to notice relatives about foster care option
 - Permanency Care Assistance program requirement that a relative be licensed for at least 6 months before becoming a PMC
- Current process primarily geared toward non-relative caregivers
- Need to facilitate verification process for relatives but still ensure child has safe home

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Children's Rights Lawsuit

- New York organization that has been involved in class actions in several other states for children in child welfare system
 - Pending class actions in Massachusetts, Rhode Island and Texas
 - Class action settlements in Connecticut, Georgia, Kansas, Kentucky, Michigan, Mississippi, Missouri, New Jersey, New Mexico, New York City, Oklahoma, Philadelphia, Tennessee, Washington and Wisconsin

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Children's Rights Lawsuit

- Essentially claims that CPS not doing enough for children in permanent managing conservatorship
 - Not enough staff
 - Children being harmed in foster care
 - Child care licensing not doing enough to supervise CPAs and foster homes

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Children's Rights Lawsuit

- Seeking a permanent injunction to, among other things:
 - Require staffing so caseloads meet CWLA and Council on Accreditation standards
 - Require that all relative caregivers be verified foster parents
 - Require CPS to retain experts to review cases
 - Require that contracts with CPAs contain caseload, services, and outcomes standards
 - Appoint a monitor to oversee injunction

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Children's Rights Lawsuit

- Status:
 - Class has been certified and includes all children in PMC, including those with and without TPR
 - CPS has appealed class certification and is awaiting 5th Circuit decision
- To date, no case in any state has gone to trial

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**Looking Ahead to 2013
Legislative Session**

- Budget picture may not be much better
 - Need an additional \$17 billion just to cover basic Medicaid costs
 - May be cuts to federal CPS funds
- How to deal with domestic violence
- Court ordered services cases

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Contact and Resources

- burstain@cphp.org; 512-320-0222 x119
- All reports available on website: cphp.org
 - 2012 CPS budget
 - 2011 session budget, legislation and interim
 - Adapting foster care licensing process for relatives and primer of foster care licensing process
 - Federal legislation affecting CPS
 - Guide to the Texas CPS system

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