

85TH LEGISLATIVE SESSION

Wrap-Up

Budget

strategies funded below exceptional item requests

- adoption purchased services
- CPS program support
- other CPS purchased services
- post-adoption/post-permanency
- PAL purchased services
- substance abuse purchased services
- at-risk prevention program support
- STAR, CYD and other at-risk
- statewide intake

those that saw an increase:

- adoption/PCA payments
- CPS direct delivery staff
- foster care payments, relative caregiver payments
- TWC contracted day care
- home visiting.

Riders

- \$3.8m GR (general revenue) in each fiscal year for **relinquishment prevention**
- appropriations in Medicaid Client Services include 110 additional **HCBS slots** for children aging out of foster care
- \$2.2m GR (general revenue) and \$2.7 AF (all funds) in '18 to expand **community based foster care** into a new region (on top of 3b and 2c) and \$4.5m GR and \$5.5 AF in '19 to expand into 2 new regions
- '18 and '19 funds contingent upon LBB approval after LBB review of finalized contract and DFPS meeting all reporting requirements
- 3 FTEs to office of the **foster care ombudsman** (total of 4 staff)
- DFPS shall submit a plan to ensure foster children are placed in the most appropriate level of care including:
 - *steps the department will take to avoid increased costs of foster care from children moving to more expensive levels when they become available or from higher than anticipated utilization of new levels including intense plus and treatment foster family rates;*
 - *reducing utilization of child-specific contracts when additional options for placement become available;*
 - *DFPS shall submit the plan to the Legislative Budget Board no later than December 1, 2017.*

SYSTEM CHANGE

- **HB 5** effectively makes DFPS a separate entity from HHSC and removes oversight such as reporting on children in substitute care and setting foster care payments; the commissioner of DFPS is appointed by the governor for a two year term
 - less accountability? or better control and direction?
- **HB 249** requires investigations of maltreatment in foster care to remain with DFPS and for definitions of maltreatment for those in foster care to be the same as those children in the general population;
 - Licensing and investigations separated
 - CPS takes over all investigations

SYSTEM CHANGE

- **SB 213** moves the ombudsman (Office of Consumer Affairs) out from DFPS and makes it independent, administratively attaching it to HHSC
 - The foster care ombudsman becomes a division, but remains separate in important ways such as outreach to children in care
- **HB 1542** defines cottage homes as a least restrictive environment except for those 6 and under without good cause; if Title IV-E funding affected then no implementation of law
 - More appropriate placement options vs. increase in use of congregate care

OMNIBUS BILLS

SB 11

- Community Based Foster Care
 - No later than 12/31/19 DFPS must ID not more than 8 catchment areas
 - DFPS must begin accepting applications by 9/1/17
 - Case management should be transferred to 3b
 - Readiness review after contract is awarded
 - SSCC must assume statutory responsibilities of DFPS

***3 areas were funded (total=5)**

***CM funded but...**

HB 7

- Requires converting group homes to agency foster homes (not more than 6 children) or to close those homes by 8/31/17
- Requires GAL to have access to child's placement
- If court declines to follow recommendation of health professional then finding needs to be made as to why

OMNIBUS BILLS

SB 11

- 24hrs after change in placement MCO must be notified and they shall give notice to PCP before end of 2nd business day
- Initial medical evaluation:
 - Children who are in conservatorship for more than 3 days;
 - were removed for SXAB, PNEG;
 - Have obvious physical injury , chronic medical condition or diagnosed mental illness;
 - No vaccines

HB 7

- Admission of child in foster care to inpatient mental health facility:
 - Pursuant to application for court ordered mental health services/emergency detention/protective order;
 - If DFPS requests admission and physician states opinions and reasons for it;
 - Must have a mental illness or demonstrate symptoms of SED and present risk of serious harm to self/others;
 - Removes condition of consent as first step before court order

KINSHIP

KIDS IN INVOLUNTARY ARRANGEMENTS (250k)

- An avenue for a court order for temporary authorization for care of a child is created by **HB 1043**.

KIDS IN FOSTER CARE (12,000)

- **SB 203** – removes sunset provision for the Permanency Care Assistance Program
- **SB 879** requires establishing a regional appeals process for low-risk criminal offenses (non-violent that doesn't impact child's well-being or stability of placement).
- A monthly payment (approximately \$400) to families at or below 300% of the FPL (\$72,000 family of 4) is established by **HB 4**. The legislation sets 1yr time limit with possible 6 month extension. Penalties for fraud (levels of misdemeanor depend on length of time fraudulently received payment).

failed to pass...

- **HB 132 (SB 212)** – opens one-time grandparent grant to aunts/uncles, siblings
- **HB 3936** – allows child care for foster parents and kinship caregivers regardless of hours worked

FAITH BASED

- **HB 871** – opens up Chapter 34 agreements to any adult caregiver the parent authorizes to care for his/her child
- **HB 3859** – debate re: discrimination? Or expanding placement capacity?
 - Prohibits an adverse action against a provider if provider declined or will decline to provide facilitate or refer a person for a child welfare service that conflicts with his/her sincerely held religious belief
 - Governmental entity must ensure there are secondary providers in that area or an adjacent one
 - Does not allow a provider to decline services based on race, ethnicity, national or national origin
 - Does not allow a provider to deprive a minor of rights contained within the Foster Care Bill of Rights

failed to pass...

- **HB 4124** – adds to bill of rights gender identity and sexual orientation as well as ability to choose religion or attend religious services/activities (including choice not to practice)
 - These specific protections were removed from the Foster Care Bill of Rights
- **SB 1721** – removes “of the opposite sex” from the Romeo and Juliet law (affirmative defense if actor is not more than 3yrs. older than other actor)

FOSTER PARENTS

- **HB 88** – considered unlawful employment practice if leave policy does not treat a foster child the same as a biological/adopted child
- **HB 1410** – closes loophole to ensure the only way foster parents can intervene in a pending suit is if they've had substantial past contact with a child for the past year

HUMAN TRAFFICKING / SEXUAL ASSAULT

- **HB 29 (strengthening use of criminal justice system)**

- Requires CDL training to include recognition and reporting of human trafficking
- Sex offender registration must include make, model and VIN # of all cards owned if the offense is related to trafficking
- Removes not knowing the age of the child as an affirmative defense
- Raises penalty for promotion of prostitution from Class A to state jail felony and felony in 3rd degree if there is a previous conviction

- **SB 966 (lessening fear of criminal penalties)**

- does not apply offense of consumption or possession of alcohol to a minor who was a alleged victim of or reporter of sexual assault

JUVENILE JUSTICE

- **HB 674**

- originally filed as prohibition against student younger than 6 being placed in OSS unless that student engaged in an offense related to weapons, violent behavior or guns
- Passed as permission for schools to develop and implement a disciplinary alternative to students below 3rd grade unless they engage in the same set of offenses

- **HB 1204**

- if child is younger than 12 and there is probable cause to believe he/she engaged in delinquent conduct or is a Child In Need of Supervision
- Case doesn't require referral to prosecuting attorney because of weapons or felony charge
- Child is eligible for deferred prosecution and child/family not receiving services
- CRCG or other provider shall evaluate and make recommendations to JPD and PO shall create a service plan
- Case held open for 3 months and may refer to prosecuting attorney if child fails to comply

JUVENILE JUSTICE

- **HB 932** requires TJJD to record at admission if a child has ever been in foster care and the number of times they were placed there – requires reporting
- **HB 1521** is another information sharing bill that requires DFPS to provide requested information to TJJD within 14 days. The information can be on a range of youth including those who were reported as alleged victims and those who were in foster care
- **SB 179**
 - Requires reporting of bullying/cyberbullying by 3rd business day and includes procedures for students to anonymously report;
 - Principal or designee may make report to school district police or policy department after an investigation and there is reason to believe student has engaged in behavior
 - Allows recipient of cyberbullying or parent to seek injunctive relief or court may order temporary restraining order or permanent injunction against offending child and his/her parents

SB 1304

- a person referred to a JPD for delinquent conduct to have all records related to the juvenile matters sealed without applying to the juvenile court if the person is 19, has not been adjudicated as having engaged in delinquent conduct or if adjudicated it was not for a felony and they have no pending matters, has not been transferred to criminal court for prosecution, has not been an adult convicted of a felony or misdemeanor punishable by confinement in jail and has no pending adult charges;
- if at least 25 then can have records sealed if adjudicated for delinquent conduct grade felony, did not receive a determinate sentence for engaging in conduct that violated a penal law for which a person is eligible for a determinate sentence or in habitual felony conduct, has not been required to register as a sex offender, does not have pending conduct transferred to criminal court and has not been an adult convicted of a felony or misdemeanor jail and has no pending charges like this;
- Department of Public Safety (DPS) must certify to JPD that records have been submitted that seem to meet qualifications - the JPD shall provide notice of receipt of this certification no later than 60 days after the date they receive certification. Must indicate notice that they don't qualify no later than 15 days after receipt;
- juvenile court must issue an order sealing all records no later than 60 days after the court initially receives notice from the JPD;
- person referred to juvenile court for CINS can have records sealed without applying to a juvenile court if at least 18, has not been referred to JPD for delinquent conduct, has not as adult been convicted of a felony and does not have pending adult felony or misdemeanor jail charges;

SB 1304

- court can't charge fee for filing application for sealing of records; authorizes juvenile court to order sealing of records of all matters for which the person was referred to the JPD if person at least 18 or younger than 18 and at least 2 years have elapsed after the date of final discharge in each matter and there are no pending delinquent conduct charges, they haven't been transferred to criminal court, and as an adult hasn't been convicted of a felony and no pending felony or misdemeanor jail charges;
- person can't have records sealed if person received a determinate sentence or engaged in habitual felony conduct, has to register as a sex offender, or was committed to TJJD or post-adjudication secure correctional facility unless the person had been discharged from the agency to which the person was committed;
- if sealed and get request for records must say they don't exist;
- person subject of the records can deny their existence and not face penalties

SB 1304

- person referred to juvenile court for CINS can have records sealed without applying to a juvenile court if at least 18, has not been referred to JPD for delinquent conduct, has not as adult been convicted of a felony and does not have pending adult felony or misdemeanor jail charges;
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failed to pass...

- **HB 122, 676 and SB 941** – raise the age
- **HB 1274** – parole considerations that apply to youth when committed offense before 18 (i.e. growth and maturity)
- **HB 3519** – hardship of deferred prosecution fee
- **SB 424** – child under 14 may not under any circumstances be committed to TJJD; may only be placed in a post-adjudication secure correctional facility if child has significant needs (determined by validated needs and risk assessment) that cannot be met outside a residential setting and no other reasonable placement is available

ADOPTION

- **HB 834 (“rehoming”)**
 - cannot transfer permanent physical custody of a child to any person who is not an adult with a significant long-standing relationship unless
 - a petition is filed with the court and the court approves
 - the child is placed with a licensed child placing agency or DFPS
 - the placement is temporary and parent plans on returning
 - Child placing agencies shall provide prospective adoptive parents with information regarding community services and other resources available to support the parent if they are unable to care for the child
 - 3rd degree felony unless done for purposes of trafficking and then 2nd degree

PREPARATION FOR ADULT LIVING

- **HB 3338** – DPS in cooperation with volunteer advocates from charitable organizations and DFPS shall develop procedures to ensure that a foster child obtains a driver's license or personal ID card before they leave foster care
 - Based on work with DPS and DFPS: the former will take a letter from the latter as proof of secondary ID (still need birth certificate because required by feds)
 - Work on MOU between DPS, DFPS and DSHS so if a youth comes in with a copy of their birth certificate, DPS can access DSHS records to verify original
- **SB 1758**
 - Requires the court to verify that DFPS has provided necessary documentation to youth before they age out of foster care
 - Requires a life skills assessment be conducted when youth are 14 and at 15 and for results to be discussed and updated as part of the youth's service plan
 - Calls for a revamp of the PAL curriculum

MISC. LEGISLATION THAT FAILED TO
GET THROUGH THE PROCESS

- DEBATES OVER CASELOADS

- *HB 634 (SB 429)* – DFPS caseworker must have a *bachelor* degree
 - *HB 694* – PI from 24hrs. to 48hrs. and P2 from 72hrs. to 5 days

- **HB 775 (SB 268)** – TANF drug testing

- **HB 862** – waiver of driver's license fees for homeless youth

- BETTER HEALTH CARE

- *HB 1160* – court must verify a health professional working in scope of practice has recommended the proposed care
 - *HB 4083* – consent to psychotropic meds valid only if based on diagnosed mental health disorder and not a traumatic event or temporary relief of symptoms related to that event

- HB 1620 – fostels

- HB 2225 – DFPS licensing family detention centers in the same way as an GRO