



Community-Based Foster Care

Testimony before the House Human Services Committee

by Brandon Logan, J.D., CWLS

Chairman Raymond, Vice-Chairman Frank, and Members of the Committee:

My name is Brandon Logan and I am the director of the Center for Families and Children at the Texas Public Policy Foundation, a non-profit, non-partisan think tank based here in Austin. I would like to thank the committee for this opportunity to testify in support of House Bill 6, in general, and in support of community-based foster care, specifically.

Prior to my current position, I was an attorney ad litem for children under the care of the Texas Department of Family and Protective Services (DFPS) for over a dozen years. I am certified as a Child Welfare Law Specialist by the National Association of Counsel for Children. As a children's attorney, my job was to determine the expressed desires of my client in a developmentally appropriate way and to advocate for those in court.

I also frequently served in the dual role of guardian ad litem to foster children as well. My role as guardian ad litem was to determine the best among the often-conflicting interests of children in foster care.

Experiences of Children in Foster Care

During my career as a legal advocate, I represented hundreds of children throughout Texas but most often in West and Northwest Texas, including parts of Regions 1, 2, and 9. Almost without exception, my clients wanted to go home. To them, home was less an address than a feeling—knowing that they were loved and feeling like they belong.

Getting out of state-run foster care as soon as possible was most often in their best interests as well because, as Judge Janis Jack concluded in [M.D. v Abbott](#), children “uniformly leave State custody more damaged than when they entered” (254).

The experiences of my clients while in the care of Texas Child Protective Services (CPS) were eerily similar to those described by Judge Janis Jack in horrifying detail in her December 2015 Memorandum Order in [M.D. v. Abbott](#). The dramatic failures of CPS are the stories that make the news and come to the Legislature’s attention—like the teenage girl I represented from West Texas whose single father reached out to the Department for help in parenting her but who ended up running away from an RTC in Houston and being trafficked.

However, what I found no less tragic were the everyday challenges of children separated from their parents and communities and cast adrift by the system designed to protect them. I remember the children who had never been out of Lubbock County but who were placed by CPS in Dallas, Houston, San Antonio, and Beaumont. On more than one occasion, I had to show these clients a map of Texas to orient them to their homes and explain why they were not seeing their parents as frequently as other foster kids.

I specifically recall a little girl who gave me a handwritten note to her best friend from school and made me swear to deliver it. CPS had taken her from school without an opportunity to say goodbye and she was concerned her friend would be worried. I am here today especially for these kids, who the system fails in less dramatic but not less significant ways.

Community-Based Foster Care

My clients desperately needed the outcomes that are currently being demonstrated by redesigned foster care in Region 3b. Those outcomes include more children in home-like settings than under the legacy system and fewer in congregate care. Children in foster care in Region 3b are less likely to experience more than two different placements than before redesign,

continued

which correlated with better short- and long-term outcomes for foster kids.

Over half of my clients were placed outside their home county and over 15 percent were placed out of their home region. Even where my clients were placed within the region, this placement could be over 250 miles from home.

By contrast, over 80 percent of children entering foster care in Region 3b live within 50 miles of their family home. Why? Because we have made placement proximity one of our priorities in a redesigned system and pay our providers accordingly. On each of the priority outcomes around which the public-private partnership redesigned foster care, children in Region 3b fare better than their counterparts in the state-run legacy system.

The motives of all who work in child welfare are the best interests of children. Redesigned foster care does not change those motives but directs those efforts toward measureable results, something we have not demanded in the legacy system. Although the GAA set forth outcomes for the agency, CPS funding appears unaffected by the repeated failure of the agency to meet those outcomes.

Community-Based Decision-Making

CPS seems incapable of achieving objectives, despite complete decision-making authority over all cases in the legacy system. On the other hand, the community provider ([OCOK](#)) responsible for the redesigned foster care pilot has met its objectives despite limited case management discretion. HB 6 would provide the community provider with responsibility for case management.

For too long our system has operated under the mistaken belief that it could address the best interests of children without addressing the interests and needs of their parents and their families. CPS cannot offer what children need: family. No matter how well a bureaucracy functions, it cannot be a family. Instead of micromanaging, Texas should promote the interests of families and children by transferring case management to community providers and encouraging results-based innovation.

Crucial front-line workers engaged in the fortification of families and of children need flexibility to effectively connect families with community resources. Unfortunately, community-based agencies are currently charged with producing the results that CPS seems incapable of, without the authority to make the case management decisions necessary to do so. Cases cannot be managed out of Austin but require the local resources and know-how of community partners and a system that rewards excellence.

Most often CPS case plans are not specific to the unique circumstances of each family and child. Services are not matched to the specific need of parents or the reasons children came into care. Services are not sequenced to ensure successful completion. Rather the cookie-cutter plan of service from Austin is used for all parents, who are simultaneously assigned and expected to complete all services before reunification. CPS court testimony focuses not on building family capacity or child safety but on parent compliance.

Unlike CPS, communities have an interest in getting local child welfare services right. If reunification is in the child's best interest, communities want parents connected to services that will last after children go home. If parents are unable or unwilling to care for children, communities want children in the next best alternative. The motivation for these decisions is not financial but stems from the fact that the families and children served also live in the community. They are neighbors, peers, and coworkers.

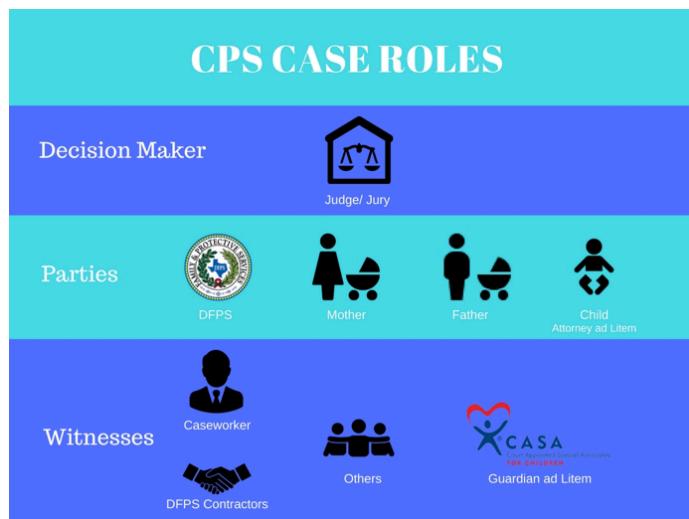
Court Process and Procedure

Concerns have been raised about the ability of community providers to discharge court responsibilities currently provided by CPS and of the courts to force them to. Community agency caseworkers currently engage in case planning and service coordination for children placed in homes they oversee. Those case plans are universally more comprehensive than the forms prepared by CPS. HB 6 would only broaden the child plans already being developed by community providers to encompass child and family outcomes.

Community agency caseworkers are already the most knowledgeable professionals in the system. HB 6 would bring the professional who knows the most about a child and her family circumstances to court. Currently, many CPS caseworkers know less about the children on their caseload than community members who volunteer as guardians ad litem through the CASA program.

HB 6 alters neither the legal parties to a CPS case nor the power of the ultimate decision-maker, the court. **Figure 1** shows the parties and roles of parties to a current CPS case. Under community-based foster care, only the affiliation of the caseworker changes—from a state employee to an employee of the community-based agency. DFPS remains the legal conservator of foster children. Parents remain parties with their own legal representation. Children continue to be represented by both attorneys and guardians ad litem. Legal protections for children and parents are unchanged by HB 6.

Figure 1: Roles in a CPS Case



The community-based foster care contractor in Region 3b already engages extensively in the court process including by attending court, sending notice, ensuring appearance of the child, completing certain sections of court reports and providing information to CPS to complete remaining sections ([Foster Care Redesign Region 3b Operations Manual](#), 41-42).

Figure 2 (next page) shows the contact points in the legal process that should change in community-based foster care. The court-related responsibilities of CPS are in gray. Note that, in each case, the decisions of CPS require or are subject to court review and approval. In community-based foster care, the court remains the final arbiter of decisions affecting children in state custody.

Increased Accountability

HB 6 creates additional accountability for the community provider beyond the court. The state agency gains additional oversight over quality and outcomes through the creation of a new division of vendor quality in DFPS. Additional local accountability is provided by community engagement oversight groups in each region. At a minimum, those groups should include:

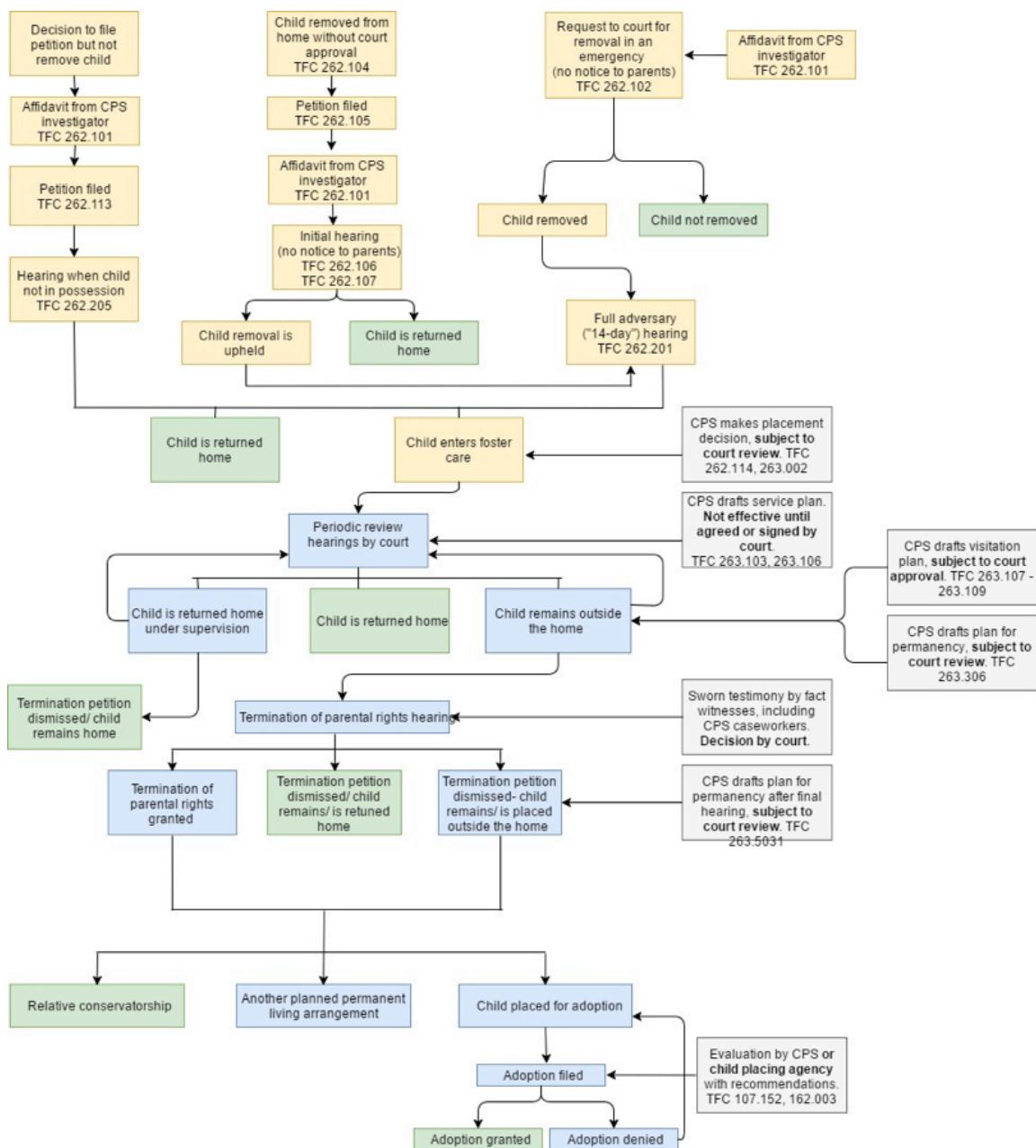
- Community faith-based entities;
- The judiciary;
- Court-appointed special advocates;
- Attorneys ad litem for parents and children;
- Child advocacy centers;
- Services providers; and
- Foster families.

These groups would provide a focal point for interest in the welfare of children and families affected by the child protection system. Because many children enter the child welfare system because their families lack emotional and instrumental support, these groups could serve as a catalyst for community engagement with fragile families.

Conclusion

HB 6 recognizes what we intuitively know: Decision-making cannot be separated from service delivery. Case management and service delivery should be coordinated by community-based agencies and provided through local resource networks so support outlives the legal case. Decisions affecting families and children are best made as close as possible to the communities where they live.

Figure 2: Anatomy of a CPS Case



HB 6 takes advantage of existing networks, increases quality and accountability, and streamlines delivery by returning the care of children to their own communities.

Thank you for your time and thoughtful consideration. I look forward to answering your questions.

Brandon Logan, J.D., CWLS, is the Director of the Center for Families and Children at the Texas Public Policy Foundation. Before joining the Foundation, Brandon represented hundreds of children as attorney and guardian in child welfare courts throughout Texas. He is certified as a Child Welfare Law Specialist by the National Association of Counsel for Children. Brandon has also represented parents, grandparents, and foster families in custody and adoption cases across the state.