



Community-Based Foster Care

Testimony on HB 6 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 Representative Frank for the deep commitment to improving the child welfare system that he has demonstrated this session. He and his office have worked tirelessly to address the concerns of a broad and passionate group of stakeholders.

On February 20, 2017, in this committee, I testified in support of community-based foster care, generally, and HB 6, specifically. While our commitment to community-based foster care remains strong, we are no longer able to support HB 6 in its current form, which bears little resemblance in language or spirit to the bill as filed.

We fully support the parts of Section 2 which set forth the problems with our current child welfare system and their causes. The bill speaks to the Legislature's desire and intent to fix foster care.

Unfortunately, the current version does little to accomplish the Legislature's sincere intent to improve the system for our most vulnerable citizens. It evidences a startling lack of urgency while also recommitting to what has brought us to the point of systemwide failure—central control.

Just over a year ago, a federal judge declared that “rape, abuse, psychotropic medication, and instability are the norm” in the Texas foster care system and that the state has been deliberately indifferent to that fact for decades. Governor Abbott declared the reform of Child Protective Services and the safety of children in state care the first emergency item in his State of the State address on January 31 of this year.

The budgets in both chambers pour money into the state child protective services agency. Each budget increases appropriations for CPS by almost \$0.5 billion. The increased appropriations are on top of repeated increases over the last decade, which doubled the CPS budget.

HB 6 represents the House's solution to reform foster care, make it safe for children, and provide the outcomes due to them by right and by moral obligation. Nevertheless, if fully implemented, HB 6 will have little to no effect by the time this Legislature reconvenes in 2019.

The bill as filed reflected an intent to expand statewide a foster care model that is currently working in Texas. It set forth a timeline for such an expansion that demonstrated the state's commitment to the model and indicated that help was on the way for children across the state.

The caption of the bill still reflects this intent but all references that community-based foster care will be implemented statewide have been omitted from the substitute. Furthermore, though the bill anticipates implementation of community-based foster care in two catchment areas by December 2019, it is probable that no catchment will have effected community-based foster care by that date.

HB 6 puts the speed and scope of reform in the hands of a state agency whose employees have opposed it. The glacial pace with which Foster Care Redesign has been rolled out since 2011 evidences the risks inherent in this conflict of interests.

Additionally, HB 6 increases the layers of regulation on local single-source providers. The Foster Care Redesign model currently benefits from flexibility in achieving state-approved outcomes for children. The positive outcomes demonstrated to date by the model rely on the ability of local providers to develop unique and innovative approaches.

Community-based foster care was supposed to bring the same flexibility and innovation to case management, which has become stagnant and prescriptive. However, the repetitive and unnecessary layers of oversight at the local, agency, and legislative levels will strangle innovation. By failing to fully transfer fact-specific service administration to the provider with the best information, the system created by the bill may actually be worse than the status quo.

HB 6 requires CPS to review and approve or disapprove the permanency goals of single-source providers within 72 hours of receipt. It is unclear how often CPS must reconsider its decision.

Despite the limited expansion of community-based foster care in the foreseeable future, the requirement for wholesale review risks the failure of reform in at least two ways. First, the requirement prevents a transfer of full-time equivalent (FTE) units from the agency to non-profit providers.

Second, the requirement results in unnecessary and duplicative work and delay. Many of these recommendations will be pro forma. The initial recommendation in almost every case is “family reunification.” Permanency goals are restated in court filings throughout the case. It is unclear whether the restatement of goals will trigger agency review.

At the same time, permanency goals and their appropriateness are already reviewed by the court at each permanency hearing.

We propose that Section 264.165 in Section 2 of the bill be amended to allow parties and their representatives to trigger review of non-profit permanency goal recommendations on a case-by-case basis—specifically that subsection (a) be amended to read:

“(a) Notwithstanding any other provision of this subchapter governing the transfer of case management authority to a single source continuum contractor, the department shall review and approve or disapprove the contractor’s permanency goal not later than 72 hours after the department receives a written request from the parent, an attorney for the parent, the child made the subject of the suit, an attorney ad litem for the child, or a guardian ad litem for the child.”

In its present form, HB 6 does nothing to address the foster care capacity problem that has resulted in children sleeping in agency offices and remaining in psychiatric hospitals after discharge. Because HB 6 does not contemplate statewide expansion of community-based foster care, the agency should entertain bids from those non-profit providers across the state that are best equipped to help with capacity.

Rather than relying on the agency to designate future catchments for expansions, Section 264.155 in Section 2 of the bill should be amended to allow non-profit providers to submit proposals to provide community-based foster care in self-designated catchments.

The current House budget has appropriated funding to expand community-based foster care to four new catchments. Allowing providers to volunteer for readiness review of self-selected catchments means the expansion of community-based foster care to those catchments in the next biennium. Otherwise, it is unlikely that expansion will occur beyond those regions already designated by the agency to date.

I appreciate your thoughtful consideration of my concerns and recommendations. I look forward to your comments and questions. ★

