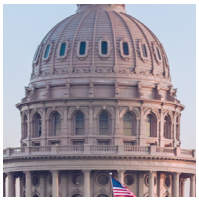

TEXAS PUBLIC POLICY FOUNDATION
Testimony

May 12, 2021

HB 2374
DFPS Efficiency Audit

Invited Testimony Submitted to the Texas Senate Health and Human Services Committee

By Andrew C. Brown, JD

Chair Kolkhorst and Members of the Committee:

My name is Andrew Brown, and I have the privilege of serving as a senior fellow of child and family policy at the Texas Public Policy Foundation. Thank you for the opportunity to offer testimony in support of House Bill 2374.

The last several years have seen extensive activity in Texas and at the federal level aimed at improving outcomes for children and families who have contact with the child welfare system. In many ways we are witnessing a sea change in the culture and practice of child welfare as the system moves away from an outdated, punitive approach to one that prioritizes strengthening and preserving families. The success of reform efforts in Texas will require the 87th Legislature to make important decisions regarding compliance with the *M.D. v. Abbott* lawsuit, the continued rollout of community-based care, and the implementation of the Family First Prevention Services Act. House Bill 2374 provides you with a powerful tool—the efficiency audit—to aid in achieving these goals.

Efficiency audits are nothing new to Texas. During the 86th Legislature, you enacted HB 3, which included a provision requiring local school districts to conduct efficiency audits before seeking voter approval to increase maintenance and operations taxes. House Bill 2374 takes this concept and applies it to the child welfare system.

Unlike traditional financial audits, which only look at the financial statements of an agency to ensure that records provide a fair and accurate representation of financial activities, efficiency audits are intended to determine if taxpayer dollars spent by state agencies are achieving desired outcomes. The power of efficiency audits lies in their ability to improve agency operations by identifying opportunities to deliver services more effectively, to eliminate duplication of services, and to obtain cost savings through streamlined and innovative processes. In the context of child welfare, an efficiency audit can help ensure that the Department of Family and Protective Services activities are actually generating positive outcomes in the lives of children and families served.

Over the last year, the Department of Family and Protective Services has come under increasing scrutiny over concerns with its compliance with court orders in the *M.D. v. Abbott* lawsuit and its ability to successfully implement the community-based foster care model created in 2017. In 2020, Federal District Court Judge Janis Jack held the state in contempt of court on two separate occasions for not making progress on implementing her orders. These contempt rulings came with hefty fines and have resulted in an appropriations request for the upcoming biennium of an additional $88.7 million in all funds for ongoing compliance with the court's remedial orders.

Although progress is being made, as Judge Jack noted during a status hearing held last week, the state still has a long way to go in complying with the court's orders. But mere compliance is not enough—new systems need to be put into place to sustain improvements and ensure that Texas does not fall back into old patterns once the lawsuit finally concludes.

The second area of concern relates to the department's performance in the ongoing rollout of community-based care. On March 11, the night before the bill filing deadline, the department published a long-awaited process evaluation commissioned by the Legislature and performed by Texas Tech University. This detailed evaluation found a number of deficiencies

continued

in the department's handling of community-based care implementation. One key finding was that the department's implementation of community-based care lacked a clear strategic framework, which resulted in "processes that were random, chaotic, and trial-and-error."

Failure in either of these areas is simply not an option. Implementing a regular efficiency audit of the Department of Family and Protective Services, as proposed by HB 2374, would provide the department with the ongoing feedback and support necessary to maintain the positive changes made in response to the lawsuit and aid in the successful transition to community-based care. Along with my testimony, I've submitted a research paper we published last fall detailing how a regular efficiency audit of the Department of Family and Protective Services can help Texas get it right.

This research paper includes an examination of Oregon's recent foster care crisis, which presents a compelling case study of how efficiency audits, like the one House Bill 2374 would create, can be used to turn around a struggling child welfare system. In April 2019, a federal class action lawsuit similar to the one we are currently under was filed against the state of Oregon. In response, state lawmakers engaged an independent third-party contractor to conduct an efficiency audit of its child welfare system. The engagement lasted for 8 months and not only identified a number of high priority areas of improvement, but also provided an actionable work plan for implementing necessary changes. While it remains to be seen if the lawsuit will be dismissed, the efficiency audit has resulted in substantial improvements to the Oregon foster care system.

The most dramatic improvement was a rapid reduction in the number of children placed out of state. Oregon had long struggled with finding placements for foster children with high needs. At the height of its foster care crisis, almost 100 children were placed in treatment facilities in other states where they were subjected to maltreatment. Within one year of the completion of the efficiency audit, however, nearly every child was returned to Oregon and placed in a less restrictive setting. Amazingly, this was achieved without significant increases in foster home capacity. Rather, changes to department practices and improved efficiencies drove the drop in out-of-state placements.

Texas should learn from the experience of Oregon. Incorporating regular third-party efficiency audits into the oversight of DFPS will help the state build a safer, more effective child welfare system.

Thank you for your time, and I look forward to answering your questions. ☆

ABOUT THE AUTHOR

Andrew C. Brown, JD, is the distinguished senior fellow of child and family policy at the Texas Public Policy Foundation.

Brown has dedicated his career to serving vulnerable children and strengthening families through community-focused, liberty-minded solutions. As an attorney, he has represented children in the child welfare system, advocated for the rights of parents, and helped build families through domestic and international adoption.

Andrew earned his BA magna cum laude in political science from Baylor University and his JD from Southern Methodist University Dedman School of Law. He is licensed to practice law in Texas and Virginia. His work on international adoption law and other child welfare issues has been published in leading legal journals and respected media outlets.

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The public is demanding a different direction for their government, and the Texas Public Policy Foundation is providing the ideas that enable policymakers to chart that new course.