



Summary of Recent Texas Legislation

Passed in 2021

[HB 567](#) amended the definition of “neglect” to add that a parent’s behavior must show “blatant disregard” for the consequences to the child and to require that a parent’s acts or failure to act result in harm or place the child in “immediate danger,” rather than “substantial risk” of harm. The law also excludes from criteria for neglect allowing the child to engage in age-appropriate independent activities, prohibits DFPS from taking possession of a child based on evidence that the parent tested positive for marijuana unless DFPS has evidence that the parent’s use of marijuana has harmed the child. The law further forbids removing a child based on a parent’s allowing the child to engage in age-appropriate independent activities. To significantly reduce the authority of DFPS to separate children from their parents, the law also repealed a section of state law that authorized DFPS to remove a child in non-emergency situations. Under prior law, DFPS could seek to remove a child by first providing parents with prior notice and an opportunity to contest the proposed removal in a court hearing. HB 567 restricts removals to those circumstances in which a child is in immediate danger, leaving no time for a pre-removal adversary hearing.

[HB 2536](#) excludes from the definition of neglect evidence that a parent sought an opinion from more than one medical provider regarding a child’s care, transferred the child’s care to a new provider, or transferred the child to another health care facility.

[SB 1578](#) limits the authority of DFPS to remove a child based solely on the opinion of a medical professional under contract with DFPS who did not conduct a physical examination of the child. It excludes a provider who was involved in the report of suspected abuse or neglect from providing a specialty consultation or forensic assessment services on the case. The bill allows a parent to object to a proposed referral for a specialty consultation and to request referral to another specialist. It further allows a parent to obtain a second medical opinion, which must be considered by DFPS. Requires a court, in making a determination at an adversary hearing regarding immediate danger, to consider a medical opinion obtained by the child’s parent.

[HB 135](#) requires DFPS to provide written and oral notice to parents of their right to record their interviews with the agency. Supporters of the bill claimed that knowledge of rights surrounding interviews has been shown to contribute to improved outcomes, including prevention of removals and reductions in length of foster care stays.

[HB 3041](#) requires DFPS to establish a pilot program for family preservation services with Title IV-E funds under the Family First Prevention Services Act. Performance measures include fewer children entering foster care.



[HB 3379](#) changes the reporting standard from “cause to believe” to “reasonable cause to believe.”

Passed in 2023

[HB 63](#) amends current law relating to reports of child abuse or neglect and certain preliminary investigations of those reports.

It prevents DFPS from accepting an anonymous report to the Abuse Neglect Hotline. In the event of an emergency, an anonymous report can still be made to 9-1-1. H.B. 63 further clarifies who at DFPS is allowed to have access to a reporter's information and tightens the language around confidentiality for reporters during an investigation.

[HB 730](#) requires DFPS to verbally notify parents of their right to not speak to DFPS without legal counsel, refuse the investigator to enter the home without a court order, refuse to a drug test, among other rights. DFPS must adopt a form that verifies the information was provided. DFPS must provide in the summary provided to the parents that any statement or admission made by the person may be used against them in a criminal case and used as a basis to remove the child as well as a written summary of the allegations against them.

If DFPS seeks a court order to gain access to a child, this bill limits the use of ex parte hearings unless the court finds probable cause to believe that there is an immediate risk to the physical health or safety of the child and there is no time, consistent with the physical health or safety of the child, for a full hearing.

Limits any voluntary out of home placement agreements to 30 days with the option of one 30-day extension and requires the department to report the number of court ordered services cases in the data counts.

[SB 1447](#) requires DFPS to develop a training program for front-line investigators that includes instruction on notifying parents of their rights, including the right to request an administrative review of investigation findings.

[SB 2120](#) requires the Texas Indigent Defense Commission to develop performance and qualification standards for counsel who represent indigent parents in DFPS cases.

[HB 1087](#) requires that petitions and court orders for removal of a child describe “with specificity” all reasonable efforts consistent with the circumstances that were made to prevent the need for removal. Prior law did not require DFPS to document the reasonable efforts mandated by federal law.

[HB 968](#) requires court orders for removal of a child to contain findings, based on sworn affidavits filed by DFPS, that removal is necessary because the child would not otherwise be not otherwise be | casey.org



protected with voluntary removal of the alleged perpetrator or with a voluntary placement of the child with relatives under a parental child safety placement agreement.

[SB 24](#) transfers prevention and early intervention services currently provided by DFPS, including the nurse-family partnership competitive grant program, the Texas Home Visiting Program to Texas Department of Health and Human Services Commission (HHSC). Creates a "family support services" program under HHSC which is intended to provide intervention services and promote safety and stability for children and at-risk families, which are those with at least one child or a pregnant woman and for which at least one of the following is true:

- a child in the family has been the subject of an investigation of abuse, neglect, or exploitation by DFPS;
- the family or a pregnant woman in the family is experiencing conditions that increase the likelihood of involvement with the child welfare system, the criminal justice system, or the juvenile justice system; or
- the family or a pregnant woman in the family is experiencing other conditions that threaten the self-sufficiency or stability of the family or the birth or health of a baby.

[HB 3765](#) requires DFPS to establish and maintain a supply of luggage to be used to transport foster children and to requires DFPS to report the number of times a trash bag is used to transport children's belongings as well as the status of the state's luggage inventory.

[HB 793](#) expands who parents can receive services from in a CPS case. Currently, DFPS requires parents to use state-contracted service providers to complete court-ordered services. This bill provides parents required to complete a service plan for a child under DFPS care with increased choice by allowing parents to obtain services from any qualified or licensed provider the parent selects, and by requiring DFPS to reimburse the selected provider at the same rate as DFPS contractors.

