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## **CPS: IS THE LEGISLATURE GOING TO MAKE THINGS WORSE FOR TEXAS CHILDREN AND FAMILIES?**

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In July 2004, the Governor issued an executive order to the Health and Human Services Commission (HHSC) to review Child Protective Services (CPS). After its review, HHSC made recommendations, including that the state “outsource” or “privatize” many of the services currently performed by CPS.<sup>1</sup> Acting on these recommendations, the House and the Senate have taken similar but distinct approaches. The House proposes complete privatization in CSHB 6, including “case management.” The Senate proposes privatization of foster care and direct services in CSSB 6, but a pilot for “case management.” In an earlier brief, we analyzed privatization of case management.<sup>2</sup> This brief compares CPS performance in Texas to the three states favorably cited by HHSC that have made the greatest use of privatization. Based on this comparison, this brief argues that the Senate proposal to pilot privatization is the only prudent course.

### **Comparing Texas to Other States**

#### **The Children and Family Services Review**

Congress authorized the Child and Family Services Review (CFSR) in the 1994 amendments to the Social Security Act. The Children’s Bureau of the US Department of Health and Human Services administers the CFSR to assess whether state child welfare agency practices conform to federal child welfare requirements. The CFSR assesses state performance during a given time period on specific child welfare outcomes and the systemic factors that impact those outcomes. The CFSR uses data from a statewide assessment prepared by the state child welfare agency, the State Data Profile prepared by the Children’s Bureau, reviews of 50 cases from three counties in the state, and interviews or focus groups with state and local stakeholders to evaluate processes and outcomes for children and families engaged in the child welfare system.

HHSC identified several states as having best practices in child welfare:

- Michigan for its use of private agencies to increase adoptions;
- Kansas for its approach to capitated rate funding of child welfare services; and
- Florida for its development of a quality management system.<sup>3</sup>

This brief compares how these three states performed to how Texas performed in the CFSR.

#### **Comparisons of Critical Systems**

According to the federal CFSR, there are seven critical systems (both internal and external to CPS) which impact child welfare outcomes. Compared to Kansas, Michigan, and Florida, Texas has more of the critical child welfare systems in place, and these systems better adhere to federal standards. In other words, Texas is doing **better** than the privatized states. The chart on the next page compares Texas to the privatized states on the seven critical systems:

**CFSR Ratings of National Indicators of Child Welfare Outcomes:  
Systemic Factors**

State	Statewide Information System	Case Review System	Quality Assurance System	Staff and Parent Training	Array of Services	Agency Responsive to the Community	Foster & Adoptive Parent Recruitment/Retention	Total
Texas	4 (✓)	3 (✓)	4 (✓)	4 (✓)	3 (✓)	4 (✓)	3 (✓)	25
Michigan	3 (✓)	2	4 (✓)	4 (✓)	3 (✓)	4 (✓)	4 (✓)	24
Kansas	3 (✓)	3 (✓)	3 (✓)	2	3 (✓)	4 (✓)	3 (✓)	21
Florida	3 (✓)	2	4 (✓)	3 (✓)	1	3 (✓)	3 (✓)	19

Note: A ✓ indicates that the system was rated as “substantially conforming” to federal requirements. Rating scale ranges from 1 = Not in substantial conformity with federal requirements to 4 = In substantial conformity with federal requirements.

Of particular note is how Texas compares to Florida. HHSC selected Florida as a best practices state because of its development of a quality management system; yet, the CFSR rated Texas and Florida equal on their quality assurance systems. Further, the CFSR identified specific strengths in both states for having standards in place to ensure: 1) child safety and health services are provided and, 2) that the quality assurance system operates in the locales where service is provided, evaluates the quality of services, identifies strengths and needs of the service delivery system, provides relevant reports, and evaluates program improvement measures.

**Comparison of Key Outcomes**

The Children’s Bureau also developed six key outcome indicators for the CFRS. Texas and Michigan each meet 4 of the federal standards, while Kansas and Florida only meet 3 of the federal standards. The chart compares Texas to the privatized states on the key outcome indicators:

**CFSR National Indicators of Child Welfare Outcomes:  
Percent of Child and Family Services Cases**

	Repeated Abuse or Neglect within 6 Months of Prior Episode	Abuse or Neglect Occurring In Foster Care	Re-Entry into Foster Care within 12 Months of Discharge	2 or Fewer Placements in First 12 Months In Foster Care	Reunification With Family Within 12 Months of Removal	Adoptions Within 24 Months of Removal	# of Indicators Meeting Federal Standard
Federal Standard	< 6.1%	< 0.57%	< 8.6%	>86.7%	>76.2%	>32%	
Texas	4.2	0.29	1.5	71.2	64.4	43.7	4
Michigan	3.3	0.33	5.0	86.2	52.9	32	4
Kansas	3.2	1.55	2.4	64.2	50.2	57.5	3
Florida	5.6	N/R	5.3	20.5	44.6	43.4	3

Although Texas and Michigan perform equally well in terms of the number of federal standards met, closer inspection of the data shows that Texas actually performs better on the adoption rate indicator (43.7% versus 32%). Why did HHSC identify Michigan as a best-practices state for their use of private agencies to increase adoptions when the CFRS data indicates that Texas’ “dual system” of using both private and CPS caseworkers to provide adoption services has seen a **greater** percentage of children quickly moved into adoption?

### **Privatization of Case Management: Will it Help or Hurt?**

Texas’s performance on the indicators described above is positive in comparison to the states identified by HHSC as having “best practices.” Texas, however, still has a great deal of room for improvement. The question is whether privatization of case management is the solution to making things better, or might it make things worse.

For example, Texas did not meet the federal percentage standard for children in their first 12 months of foster care to have two or fewer placements. Why do children move so often? A key reason is that private providers insist that CPS “pick up” children when they are too much trouble. Without CPS caseworkers managing the case and overseeing private providers, will private providers churn children through foster home after foster home?

Another example: Texas needs to increase by almost 12% the percentage of children reunified with their family within 12 months of removal of the child from the home. Yet private providers have no experience whatsoever in managing litigation or making permanency decisions. Will Texas fall further behind when the system is thrown into chaos by rapid transition to an inexperienced private sector?

### **Cost Comparisons**

Additional CFRS data not reported here shows that Texas has work to do helping families increase their capacity to provide for their children, and ensuring that children receive appropriate education services and adequate physical and mental health services. These challenges are primarily funding issues that privatization cannot address. Texas simply spends less than other states on helping children and families. Indeed, one clear advantage the “best practices” states have over Texas is that they spend significantly more money on child protection.

Resources for Child Welfare			
	Incoming Cases Per State Worker <sup>4</sup>	State Spending Per Child In General Population	Rank Among 50 States in Per Child Spending
Texas	162	\$134	47
Michigan	116	\$297	21
Kansas	41	\$263	25
Florida	87	\$199	36

Data Source: US Dept. HHSC and Urban Institute

The Texas CPS has truly done more with less.

## Looking Closely at Kansas

Comparing Texas and Kansas is particularly instructive for two reasons. First, Kansas has done the most privatization and is most like the House plan. Second, HHSC identified Kansas as a “best practices” state for their capitated-rate funding program, often cited as a key component to cost reduction and efficiency.

Kansas spends almost twice what Texas spends per child; yet, Texas rates as well as or better than Kansas on almost all of the CFSR key indicators. Kansas probably is spending more on increased layers of administration between the state and its contractors, and Kansas almost certainly underestimated start-up and maintenance costs. (Significantly, both the Texas House and Senate assume the transition to privatization to be “cost neutral.”)

*The Wichita Eagle* in Kansas editorialized on January 23, 2005:

A main goal of privatizing foster care was to move children through the child-welfare system faster. But eight years and hundreds of millions of dollars later, that hasn't happened.

Lawmakers, the courts and social service officials need to fix that -- which could include pulling the plug on privatization.

When the state first issued contracts to private foster-care providers in 1997, the Kansas Department of Social and Rehabilitation Services wanted 55 percent of foster children to exit the system in six months, and 70 percent in 12 months. But today, only about one-fourth of children return home within six months, and only about 44 percent by 12 months.

What's more, children are remaining in the foster-care system longer today, on average, than before privatization. This even though state spending on foster care jumped from less than \$25 million in 1997 to \$91 million last fiscal year.

. . . in addition to tweaking the system and the contracts, lawmakers also need to have the courage to decide whether privatization has been worth it -- and whether it is worth continuing.

## Summary

CPS is an under funded system working with fragile children and families. Private case management of this system raises too many questions to justify implementation without a careful pilot as proposed by the Senate. Moreover, the House plan provides too little time for transition, and neither the House nor the Senate has set aside adequate funding for any transition. Unless the Senate's prudent plan to pilot private case management prevails, the legacy of the 79<sup>th</sup> Legislature may be that it made everything worse for children and families.

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<sup>1</sup> *Protecting Texas Children: Final Report in Response to Governor Rick Perry's Executive Order to Reform Child Protective Services* at 37-41 (HHSC January 6, 2005).

<sup>2</sup> *Privatization of Child Protection in Texas* (CPPP March 2005).

<sup>3</sup> *Protecting Texas Children* at 11-12.

<sup>4</sup> This figure is a federal measure based on annual workload and is not comparable to state average daily or monthly caseloads.