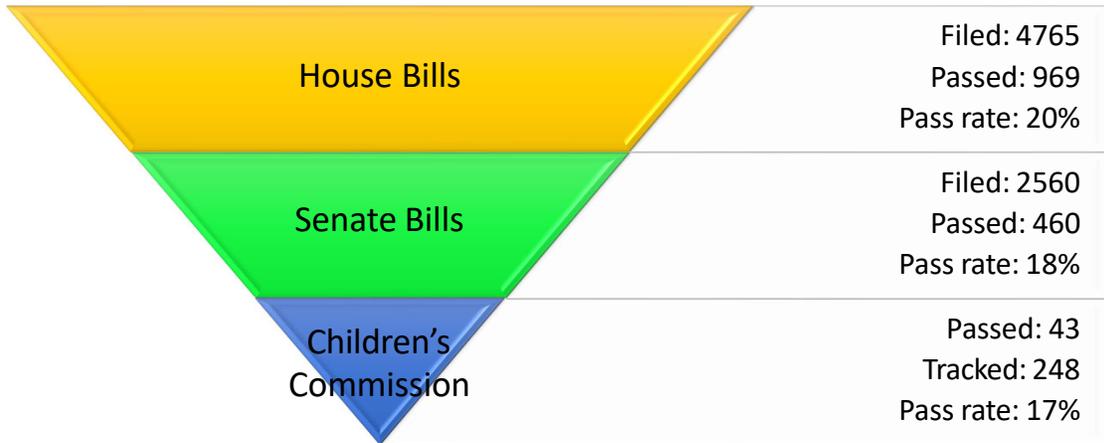


2019 Child Welfare Judges Conference  
*86th Legislative Session Update on  
 CPS-Related Matters*  
 Dylan Moench, Staff Attorney, Children’s Commission  
 October 21, 2019



TEXAS CENTER  
 FOR THE JUDICIARY

Legislative Overview



# House Bills



## HB 1 (Zerwas)

**General Appropriations: The Legislature increased funding for Community Based Care (CBC), authorized by Senate Bill 11 in the 85th Legislature.**

- Phase I (in which a local contractor takes over the responsibility of finding safe, high-quality, nearby homes for children in a region) was expanded to DFPS Region 1, encompassing the Texas panhandle and Region 8b, which is a 20-county areas south of San Antonio making Phase I effective in five DFPS regions before the calendar year is out.
- The Legislature also appropriated funds to start Phase II of CBC (in which the local contractor also assumes responsibility for the conservatorship portion of the case, including decision making authority for family reunification, permanency, and other responsibilities) in DFPS Regions 2, 3b and 8a once the CBC lead agency is ready.

Effective Date 9/1/19.



## HB 53 (Minjarez)

### Family Code § 264.121

- Adds to the life-skills taught to foster youth a financial literacy program developed in collaboration with the Office of the Consumer Credit Commissioner and State Securities Board.
- The program shall include instruction on understanding credit and credit scores, banking and accounting, filing taxes, obtaining insurance, identity theft, and budgeting.
  - For youth 17 and older, the instruction shall also include information on home and auto insurance as well as civic engagement including registering to vote.

Effective Date 9/1/19. Applies to contracts for services after the effective date.



## HB 72 (White)

### Family Code § 162.304

- An adoptive parent or permanent managing conservator of a child formerly in DFPS conservatorship who is eligible for assistance under Family Code chapters 162 or 264 or who was receiving benefits under SSI, may elect to continue to receive benefits under STAR Health.
- Requires an eligible child who is transferring between STAR Health and another Medicaid managed care program to receive continuity of care.

Effective Date 9/1/19.



## HB 111 (Gonzalez, Mary)

### Education Code § 38.0041

- Requires each school district and open-enrollment charter school to adopt and implement a policy addressing sexual abuse, sex trafficking, and other maltreatment of children that includes training specific to the prevention of sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities.

Effective Date 9/1/19. Applies beginning with the 2019-2020 school year.



## HB 123 (White)

### Family Code § 264.121; Health and Safety Code § 191.0049

### Transportation Code §§ 521.1015, 521.1811, 521.421, 521.442, 521.4265

- Requires state registrars, local registrars, and county clerks to issue birth certificates to homeless youth and foster youth without a fee or parental consent.
- Allows foster youth, homeless youth, and unaccompanied youth to use a birth certificate as ID and a letter from a school district, emergency shelter, or transitional living program certifying the youth is homeless or unaccompanied when applying for ID.
- Allows the youths to apply for and receive ID without parent or guardian permission and exempts them from fees.
- Allows DFPS youth to use the address of the DFPS regional office of their case worker.

Effective Date 9/1/19. Applies to applications for ID submitted on or after 9/1/19.



## HB 369 (Cain)

### Family Code §§ 102.008, 103.001, 155.201, 155.204, 102.008

- Requires a petition to adopt to include a statement that the court in which the petition for adoption is filed either has continuing jurisdiction or jurisdiction where the child resides under Family Code Section 103.001 (VENUE FOR ORIGINAL SUIT). Upon a motion showing that the petition for adoption has been filed under section 103.001 and requesting transfer, the court of continuing jurisdiction must transfer the proceedings to the court with jurisdiction under section 103.001.

Effective Date 9/1/19. Applies to petitions filed on or after 9/1/19.



## HB 405 (Minjarez)

### Government Code § 662.112

- Establishes June as Neonatal Abstinence Month to encourage awareness of the dangers of substance abuse during pregnancy and resources available for care and recovery.

Effective Date 9/1/19.



## HB 475 (Howard)

### Family Code § 264.130

DFPS must provide to youth in DFPS conservatorship who are pregnant or parenting information on:

- Safe sleeping
- Child-proofing their residence
- Coping with crying
- Appropriate substitute caregivers
- Child brain development
- Paternal involvement
- Benefits of reading to children
- Prenatal and postpartum care
- Infant nutrition
- Healthy relationships

Effective Date 9/1/19 .



## HB 553 (Thompson, Senfronia)

### Family Code § 153.312

- Requires the possessory conservator to give written notice to the managing conservator of the location to return the child to after a designated summer weekend.

Effective Date 9/1/19. Applies to orders rendered on or after 9/1/19.



## HB 554 (Thompson, Senfronia)

### Family Code § 109.001

- Changes the word "spouses" to "parties" regarding a TRO enjoining a party from disturbing the peace of a child.

Effective Date 9/1/19. Applies to orders rendered on or after 9/1/19.



## HB 555 (Thompson, Senfronia)

### Family Code §§ 153.132, 153.371

- Awards someone appointed SMC of a child the sole rights regarding, applying, renewing, and maintaining possession of the child's passport.

Effective Date 9/1/19. Applies to a suit that is pending or filed on or after 9/1/19.



## HB 621 (Neave)

### Family Code § 261.110(a)

- Prohibits employers from taking adverse actions against employees who make a good faith report of child abuse. Defines "adverse action" as any action that would dissuade or retaliate against an employee.

Effective Date 9/1/19. Applies to actions taken on or after 9/1/19.



## HB 811 (White)

### Education Code § 37.001

- Specifies that a student's status in DFPS conservatorship or homelessness must be considered as a factor in the decision for suspension, removal, expulsion, or placement of a student in an alternative education program.

Effective Date 9/1/19. Applies beginning with the 2019-2020 school year.



## HB 1191 (Johnson, Jarvis)

### Government Code § 501.023

- Adds specific information to the report the Texas Department of Criminal Justice (TDCJ) must submit to the Governor, Lt. Governor, and Legislature every even-numbered year regarding inmates who have at any time been in DFPS conservatorship. Requires the report to summarize statistical information including the number of inmates who have not previously served a term of imprisonment, disaggregated by age.

Effective Date 9/1/19.



## HB 1374 (Hernandez)

### Government Code § 509.011

- Allows the awarding of grants from the Community Justice Assistance Division of TDCJ to create pre-trial intervention programs for defendants who are the primary caretaker of a minor child or are pregnant at the time of placement into the intervention program.

Effective Immediately.



## HB 1386 (Thompson, Senfronia)

### Human Resources Code § 114.013

- Requires The Health and Human Services Commission (HHSC) to conduct trainings for DFPS personnel that include evidenced-based training regarding autism including instruction on effectively communicating with individuals with limited social or verbal abilities.

Effective Date 9/1/19.



## HB 1702 (Howard)

### Education Code § 51.9356

- Requires an institution of higher education to obtain the names of current and incoming students currently or formerly in DFPS conservatorship and provide that information to the institution's liaison officer responsible for assisting students currently or formerly in foster care. Allows the liaison to attend trainings at the institution for higher education and requires the institution to publicize the liaison's name and contact information and the available support services.

Effective Date 9/1/19. Effective Immediately.



## HB 1709 (Gonzalez, Mary)

### Education Code §§ 25.007, 29.0151

- School districts must notify DFPS if the school district appoints a surrogate parent to make special education decisions on behalf of the child.
- If the court appoints a surrogate parent and the school district determines the surrogate is not performing his or her duties, the school district must notify DFPS. If DFPS agrees the surrogate is not performing his or her duties, they must notify the court, who must review the appointment and make appropriate orders.

Effective Date 9/1/19.



## HB 1760 (White)

### Family Code §§ 58.005, 58.0052, 58.008, 58.255, 58.2551, 58.263; Human Resources Code § 203.0065

- Cleans up who may have access to a youth's juvenile record and restricts those who have access from improperly sharing it. Mandates immediately sealing a youth's record upon a finding of "not true." Lowers the age at which a youth can submit an application to seal their record from 18 to 17.

Effective Date 9/1/19. Applies to records created before, on, or after 9/1/19.



## HB 1780 (Miller)

### Family Code § 263.401

- Requires the court to consider a parent's good faith attempt to complete a drug rehabilitation program when granting an extension of the deadline.

Effective Date 9/1/19. Applies only to a suit filed on or after 9/1/19.



## HB 1854 (Dutton)

### Family Code § 155.004

- Specifies that a court of continuing jurisdiction loses continuing jurisdiction when an order of adoption is rendered by a court where the adoption suit was filed under TFC 103.001(b).
  - *Applies to an order of adoption rendered on or after 9/1/19. An order for adoption rendered under 103.001(b) on or after 9/1/15 but before the effective date of HB1854 is a final order and is not subject appeal on the basis that the court rendering the order did not have continuing exclusive jurisdiction.*

Effective Date 9/1/19.



## HB 1884 (Minjarez)

### Family Code § 263.401

- Requires that the information manual DFPS provides to relative or designated caregivers include information regarding the ability to become a licensed foster parent and apply for Permanent Care Assistance (PCA).
- Requires the court to inform relatives serving as placement for a child of the ability to become a licensed foster parent and apply for PCA at the Adversary Hearing, Status Hearing, and Permanency Hearings before and after a final order.

Effective Date 9/1/19.



## HB 2184 (Allen)

### Education Code § 37.023

- Defines “Alternative Education Program” (AEP) to include programs run by public schools, open-enrollment charter schools, juvenile justice, or a residential facility operated by or under contract with TJJD.
- When the program’s administrator determines the date of the student’s release they must provide written notice to the student’s parent or person standing in as parent and the administrator of the campus the child is returning to.

Effective Date 9/1/19.



## HB 2184 (Allen)

### Education Code § 37.023

- Within five days after release from an AEP, the campus administrator must coordinate the student's transition to a regular classroom that must include a personalized transition plan for the student developed by the campus administrator.
- The plan must include recommendations for educational placement and may include recommendations for counseling, academic assistance, mental health services, and special education evaluation.

Effective Date 9/1/19.



## HB 2229 (Johnson, Jarvis)

### Human Resource Code § 243.008

- Adds specific information to the report the Texas Juvenile Justice Division (TJJD) must submit to the Governor, Lt. Governor, and Legislature every even-numbered year regarding foster children in TJJD. Requires the report to break down the number of children in TJJD custody by age, sex, race, conduct, and first-time offenders.

Effective Date 9/1/19.



## HB 2363 (Harris)

### Human Resources Code § 42.042

- Amends minimum standards for foster parents to allow firearms and ammunition to be stored together in the same locked location if the firearms have a trigger locking device attached.

Effective Date 9/1/19.



## HB 2737 (Wu)

### Government Code § 22.0135

Requires the Texas Supreme Court to annually provide guidance to judges who preside over CPS and juvenile cases to establish greater uniformity in issues related to:

- Placement of children with severe mental health issues
- Changes in placement
- Termination of parental rights
- Release of children from juvenile detention
- Certification to stand trial as an adult
- Children's appearance before the court including the use of restraints and clothing worn by the child
- Commitment of children to TJJD

Effective Date 9/1/19.



## HB 2764 (Frank)

### Human Service Code § 42.042

- Requires DFPS to create and implement a process to simplify, streamline, and provide for greater flexibility in the application of the minimum standards to licensed child-placing agencies, agency foster homes, and adoptive homes with the goal of increasing the number of foster and adoptive homes.
- CPAs and SSCCs shall have the authority to waive certain minimum standards not directly related to caring for the child.

Effective Date 9/1/19.



## HB 2764 (Frank)

### Human Service Code § 42.042

- Required trainings by DFPS, Child Placing Agencies (CPA), or Single Source Continuum Contractors (SSCC) shall not exceed 35 hours total unless the child has complex medical needs, emotional disorders, intellectual or developmental disabilities, is the victim of human trafficking, or other circumstances DFPS determines requires additional training.
  - The foster parent may receive provisional verification while they complete the required training.
- The training must also meet standards set by a nationally recognized accrediting organization and meet the standards set by the federal Family First Prevention Services Act.

Effective Date 9/1/19.



## HB 3145 (Toth)

### Family Code § 153.073

- Adds to the rights a parent has at all times the right to attend school activities, including lunches, performances, and field trips.

Effective Immediately.



## HB 3390 (Sanford)

### Family Code §§ 107.002, 262.1041

- Adds a duty for an AAL and GAL of a child to elicit information from the child in a developmentally appropriate manner about possible relative or designated caregivers and provide that information to DFPS immediately.
- DFPS has a duty to elicit information regarding potential caregivers from the child at the investigative stage and prior to the adversary hearing.
- The court has the duty to inquire from all parties whether the child has had the opportunity to provide information regarding potential caregivers at the Adversary Hearing, Status Hearing, and Permanency Hearings before and after a final order and whether any identified potential caregivers are listed on the proposed child placement resource form.

Effective Immediately.



# Senate Bills



## SB 41 Zaffirini

### Government Code §§ 36.003, 37.002

- Exempts AALs, GALs, amicus attorneys, and mediators who work pro bono from the Chapter 36 reporting requirements. Also allows judges to appoint attorneys out of rotation, or not on the list established by Chapter 37, but who meet the statutory requirements in an event of a natural disaster.

Effective Date 9/1/19.



## SB 72 Nelson

### Government Code § 402.034

- Requires the Office of the Attorney General to establish a Human Trafficking Prevention Coordinating Council. The Council includes the DFPS commissioner or a DFPS representative and must develop a five-year strategic plan and submit annual reports to the legislature.

Effective Date 9/1/19.



## SB 195 (Perry)

### Family Code §§ 162.007, 264.019

- Requires DFPS and HHSC to collect information on the number of children who test positive for alcohol or controlled substances at birth, the specific controlled substances, and the number of children who have resulting disabilities or other chronic conditions. DFPS must prepare a report to the legislature by November 1<sup>st</sup> of each year and post a copy on its website.

Effective Date 9/1/19.



## SB 325 (Huffman)

### Government Code §§ 72.151-158

- Requires the Office of Court Administration (OCA) in conjunction with the Department of Public Safety to establish and maintain a centralized internet-based registry for applications for protective orders and protective orders that allows a member of the public free of charge to search electronically by:
  - County
  - Name of the subject of the P.O.
  - DOB of subject of the P.O.

Effective Date 9/1/19.



## SB 325 (Huffman)

### Government Code §§ 72.151-158

- The publicly available information must include:
  - The court issuing the order
  - The case number
  - Full name, DOB, county residence, and race and ethnicity of the subject
  - Date the order was issued, served, expired, or vacated
- The protected person may request that OCA grant the public more information about their P.O. in the registry but may also withdraw that permission at any point and OCA must remove the information within three business days of receiving the request.

Effective Date 9/1/19. Registry must be established by 6/1/20 but will not be available to the public until 9/1/20.



## SB 355 (West)

### Family Code § 265.0051

- Requires DFPS to develop a strategic plan to ensure that the provision of prevention and early intervention services meets the requirements of the federal Family First Prevention Services Act and is coordinated with the implementation of Community Based Care. The plan must identify for federal approval a network of prevention and early intervention services providers to provide mental health, substance use, and in-home parenting support services.

Effective Immediately.



## SB 436 (Nelson)

### Health and Safety Code § 34.0158

- Requires HHSC to develop and implement initiatives to improve screening, continuity of care, health care, medication-assisted treatment, and prevention of neo-natal opioid disorder.

Effective Date 9/1/19.



## SB 560 (Kolkhorst)

### Government Code § 71.0355

- Requires the Texas Judicial Council to develop a statewide plan to report information on attorneys appointed under chapter 107. The plan shall consider the cost to counties and the design must reduce redundant reports. Requires district and county clerks to submit to the council in accordance with the plan all formal and informal rules for appointments, the fee schedule used, the money spent on representation including private attorneys, public defenders, and litigation support.

Effective Date 9/1/19.



## SB 586 (Watson)

### Occupations Code § 1701.253

- Requires the Texas Commission on Law Enforcement to provide trauma-informed training for peace officers for cases involving child abuse, domestic violence, and sexual assault. Also establishes a certification for officers who can become certified as a special officer for responding to child abuse, domestic violence, and sexual assault if they complete an advanced course on the subjects, trauma-informed responses, and pass an exam.

Effective Date 9/1/19.



## SB 781 (Kolkhorst)

### Human Resources Code §§ 40.043-42.0462

- Requires the DFPS commissioner to establish by rule trauma-informed protocols for reducing runways from RTCs and balancing child safety with state and federal normalcy requirements.
- Requires DFPS to develop a strategic plan regarding placement of children in settings that meet the requirements of the federal Family First Prevention Services Act.
- Requires DFPS to adopt by rule a general enforcement policy including a publicly available methodology for determining appropriate disciplinary actions including probation, suspension, and denial or revocation of license or registration.

Effective Date 9/1/19.



## SB 781 (Kolkhorst)

### Human Resources Code §§ 40.043, 42.0462

- An RTC in repeated non-compliance of non-safety related standards can have its license suspended or put on probation and may have their license revoked if compliance is not established within the suspension or probation period.
- DFPS may not issue a license to a provider who has had its license revoked, denied, or voluntarily closed in lieu of disciplinary action.

Effective Date 9/1/19.



## SB 781 (Kolkhorst)

### Human Resources Code §§ 40.043, 42.0462

- Facilities that care for seven or more children or youth and provide treatment for emotional disorders must submit a proposed operational plan that includes:
  - A community engagement plan
  - Discussions with local law enforcement as well as health, therapeutic and recreational services
  - Community social interaction
  - An education plan that identifies whether the children and youth will attend a local school, off-site charter school, or on-site charter school
  - A trauma-informed plan to address runaways
  - The qualifications, background, and history of operation management and educational leadership of on-site charter schools

Effective Date 9/1/19.



## SB 781 (Kolkhorst)

### Human Resources Code §§ 40.043, 42.0462

- The HHSC shall collaborate with the TEA to determine best practices for educational services in General Residential Operations and make available on DFPS's website information and training regarding trauma-informed practices to assist school districts with training employees and increasing staff awareness of trauma-informed care.

Effective Date 9/1/19.



## SB 781 (Kolkhorst)

### Human Resources Code §§ 40.043, 42.0462

- Only applies to applications for licenses, contracts with DFPS, and disciplinary actions taken after the law goes into effect.
- Implementation of each provision of the act is only required if funds are allocated for that provision. If funds are not allocated DFPS and HHSC may, but are not required to, use other available funds to implement the provision.

Effective Date 9/1/19.



## SB 821 (Nelson)

### Family Code §§ 264.402, 264.4031, 264.408

- Modifies the statutory framework governing Children's Advocacy Centers to codify how CACs have developed over time and are currently operating.

Effective Date 9/1/19.



## SB 1231 (Bettencourt)

### Family Code § 261.105

- DFPS must notify the director of an open-enrollment charter school or CEO of a private school if an abuse or neglect investigation involves an employee of an open-enrollment charter school or private school.

Effective Date 9/1/19.



## SB 1238 (Johnson)

### Family Code § 35A.001-5

### Health and Safety Code §§ 572.001, 572.0025

- Adds a new chapter to the Family Code establishing authority for a non-parent to authorize voluntary inpatient mental health services for a child in certain circumstances. Clarifies that for a minor in DFPS conservatorship, the amendments passed last session to 572.001 (c-2) that prohibit admission based solely on the child's consent still apply.

Effective Date 9/1/19.



## SB 1494 (Paxton)

### Government Code §§ 552.117, 552.1175, Tax Code § 25.025.

- Adds current or former CPS or APS caseworker, elected state officer, or legislative member to the list of those who may choose to make their information unavailable to the public.

Effective Date 9/1/19. Effective Immediately.



## SB 1887 (Huffman)

### Family Code § 51.04, 51.0414, 201.204

- Allows a judge to refer any aspect of the juvenile case to a Child Protection Court (CPC) serving in the county and exercising jurisdiction over the child under Subtitle E, Title 5, with the CPC judge's consent.
- A juvenile court may transfer the juvenile case to a court located in another county that is exercising jurisdiction over the child under Subtitle E, Title 5 with the consent of the judge of the receiving court regardless of whether that court is designated as a juvenile court.
  - If the court consents to the transfer, the juvenile court shall file the transfer order and clerk of the transferring court shall transfer the files within 10 days of the order.

Effective Date 9/1/19. Applies to conduct that occurs on or after 9/1/19.



# Questions?

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*Thank You*

