

## ***Modification to Sunset Issue 2 on the Department of Family and Protective Services***

**January 14, 2015**

Offered by the DFPS Workgroup chaired by Senator Schwertner and including Senator Campbell, Representative Raymond, Representative Burkett, and Mr. Luce.

### **Background**

- **Sunset Findings.** In Issue 2 of the Sunset staff report on DFPS, staff found the agency and its caseworkers overburdened by continual change, as a result of both frequent legislative change as well as the agency's own initiatives. This constant state of transition distracts DFPS from developing an approach to improve its most basic processes and delivering desired results.
- **CPS Operational Assessment Findings.** The Stephen Group, which conducted DFPS' contracted CPS operational review, found similar issues with the agency's policymaking and implementation process. Perhaps the most notable finding of their review was that that **on average caseworkers spend only about 26 percent** of their time with children and families, with paperwork and other administrative tasks eating up a significant portion of the remainder. The report noted both DFPS' constant stream of new policy as well as burdensome and prescriptive requirements in the Texas Family Code that have the effect of making caseworkers spend more time and resources on compliance than on child well-being.
- **Sunset Commission Recommendations.** To address these issues, in August the Sunset Commission recommended the agency implement changes based on the CPS Operational Assessment with an immediate focus on retention, process, and policy to streamline its processes and allow more time for staff to spend with children and families. **The Commission also directed DFPS to identify statutory barriers that impede needed changes to achieve the vision of the Sunset Commission** and The Stephen Group, and report these by October 2014.

### **Overview of Modification Contents**

- On December 10, Chair Nelson appointed a work group chaired by Senator Schwertner and including Senator Campbell, Representative Raymond, Representative Burkett, and Mr. Luce, to consider the statutory changes proposed by DFPS in its October 2014 report to the Sunset Commission on the progress of CPS Transformation. The workgroup considered each proposed change and used stakeholder input to develop a recommendation to the Sunset Commission on which changes to include in this modification. Not all of DFPS' suggested changes are included here, and some of the changes are modified from DFPS' original proposal. The proposed changes in the following chart are those the workgroup judged to be most closely tied to the areas of focus adopted by the Sunset Commission in August — retention, process, and policy improvements. Also, many of the changes are clarifying and streamlining in nature.
- This modification includes statutory changes intended to streamline and clarify DFPS' statute, and give the agency flexibility to implement the changes in progress through CPS Transformation. While DFPS is separately scrutinizing its internal processes, the agency needs assistance from the Legislature to streamline and simplify statutory requirements — as well-intentioned as they are — that have a cumulative effect of overburdening caseworkers with redundant, excessive paperwork requirements, taking time away from children and families, and ultimately contributing to high turnover. The intent of these changes is to help DFPS improve retention, streamline requirements, respond to situations more flexibly, and increase the amount of time caseworkers spend with children and families.



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<p><b>p. 36</b></p> <p><b>TFC § 261.3021.</b> Subject to the appropriation of money, mandates specific casework documentation and management by DFPS.</p>	<p><b>Limits Agency Flexibility.</b> Statute contains unnecessarily prescriptive direction for management tasks typically left to agency decision making.</p> <p>Such detail ties the agency's hands, limiting its ability to adjust procedures and streamline processes without legislative intervention. Currently, under this statutory directive, caseworkers lack flexibility to adjust workload considerations or higher priority tasks that may have a greater and more immediate bearing on child protection during the same time frame. Caseworkers could benefit from an internal approach regarding best practice.</p>	<p>Repeal section but retain requirement for 24-hour documentation of critical actions in TFC Sec. 261.3021 (1).</p>
<p><b>pp. 36-37</b></p> <p><b>TFC § 262.115(c).</b> Requires parent-child visits three days after the department is appointed temporary managing conservator.</p>	<p><b>Limits Agency Flexibility.</b> While DFPS recognizes the importance of early parent-child visits, prescriptive statutory provisions leaves little room for adjustment based on case circumstances and good professional judgment. The Department remains committed to fostering parent-child relationships, and could benefit from additional flexibility to adjust competing demands.</p>	<p>Amend statute as follows:</p> <p>Sec. 262.115(c). The department shall ensure that a parent who is otherwise entitled to possession of the child has an opportunity to visit the child not later than the <del>third</del> <u>fifth</u> day after the date the department is named temporary managing conservator of the child unless:</p> <p>(1) the department determines that visitation is not in the child's best interest; or</p>

<sup>1</sup> This column contains DFPS' explanation of each problem as described in the "Report to the Sunset Advisory Commission: Child Protective Services Transformation" in Appendix A, Review of Statutory Barriers. [http://www.sunset.texas.gov/public/uploads/files/reports/CPS\\_Transformation.pdf](http://www.sunset.texas.gov/public/uploads/files/reports/CPS_Transformation.pdf)

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		(2) visitation with the parent would conflict with a court order relating to possession of or access to the child.
<p><b>p. 37</b>  <b>TFC § 263.303.</b> Required content of the permanency progress report.</p>	<p><b>Limits Agency Flexibility.</b> Including instructions, the permanency progress report is a 13-page form. The estimates on the time required to complete initial permanency progress reports ranged from 30-45 minutes on the low end to one or more days on the high end, with reports on siblings and children prescribed multiple medications representing the greatest workload.</p>	<p>Repeal and replace current statute with the following:</p> <p><b>PERMANENCY PROGRESS REPORT.</b> (a) Not later than the 10th day before the date set for each permanency hearing <u>prior to a final order</u> [<del>other than the first permanency hearing</del>], the department or other authorized agency shall file with the court and provide to each party, the child's attorney ad litem, the child's guardian ad litem, and the child's volunteer advocate a permanency progress report unless the court orders a different period for providing the report.</p> <p>(b) The permanency progress report shall <u>contain</u>:</p> <p>(1) <u>information necessary for the court to conduct the permanency hearing and make its findings and determination pursuant to Section 263.306;</u> [<del>recommend that the suit be dismissed; or</del>]</p> <p>(2) <u>information on significant events as defined in Section 263.0022(c); and</u> [<del>recommend that the suit continue, and:</del></p> <p><u>(3) any additional information the department determines to be appropriate or that is requested by the court relevant to the findings and determinations to be made by the court pursuant to Section 263.306.</u></p>

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		<p>(c) A parent whose parental rights are the subject of a suit affecting the parent-child relationship, the attorney for that parent, or the child's attorney ad litem or guardian ad litem may file a response to the department's or other agency's report filed under <u>this section</u> <del>Subsection (b)</del>. A response must be filed not later than the third day before the date of the hearing.</p> <p>Repeal (b)(2)(A-G).</p>
<p><b>pp. 38-39</b>  <b>TFC § 263.502.</b> Required distribution and contents of placement review report.</p>	<p><b>Limits Agency Flexibility.</b> Similarly to the permanency progress report, the current placement review report has grown lengthy to accommodate various directives, many of which target the same basic information regarding safety, permanency and well-being. The form itself is 12 pages, including the instructions.</p> <p>In addition, the entire subchapter focuses on “placement review” when the focus should continue to be on permanency for the child, even though a final order has been issued.</p>	<p>Repeal and replace current section with the following:</p> <p><u>PERMANENCY PROGRESS REPORT AFTER FINAL ORDER [PLACEMENT REVIEW]</u>. (a) Not later than the 10th day before the date set for a <u>permanency [placement review]</u> hearing, the department or other authorized agency shall file a <u>permanency progress [placement review]</u> report with the court and provide a copy to each person entitled to notice under Section 263.0021 [<del>263.501(d)</del>].</p> <p>(b) <u>The permanency progress report must contain:</u></p> <p>(1) <u>information necessary for the court to conduct the permanency hearing and make its findings and determination pursuant to Section 263.503;</u></p> <p>(2) <u>information on significant events as defined in Section 263.0022(c);</u></p> <p>(3) <u>any additional information the department determines is appropriate or that is requested by the court relevant to the findings and determinations to be made by</u></p>

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		<p><u>the court pursuant to Section 263.503.</u></p> <p>(c) <u>For good cause shown, the court may order a different time for filing the permanency progress report or may order that a report is not required for a specific hearing.</u></p>
<p><b>pp. 40-41</b>  <b>TFC § 264.108 (e).</b> State employee who violates state laws restricting race/ethnicity based foster placement decisions subject to immediate dismissal.</p>	<p><b>Conflicts with Federal Law.</b> Differences in state statute and federal law cause confusion while DFPS could rely on federal law, which provides financial penalties and injunctive relief.</p>	<p>Repeal.</p>
<p><b>p. 41</b>  <b>Tex. Human Res. Code (HRC) § 40.0324.</b> Requires DFPS, subject to the availability of funds, to develop a program to provide for the timely replacement of caseworkers with trainees hired in anticipation of vacancies, and to consider the turnover rate for caseworkers by region in developing the program.</p>	<p><b>Unnecessary Provision.</b> Currently, the FTE cap, not statutory authority, limits hiring making this provision unnecessary.</p>	<p>Repeal.</p>
<p><b>pp. 41-42</b>  <b>HRC § 40.0327.</b> Requires DFPS to use special assessment tools in screening applicants for employment with the child protective services division.</p>	<p><b>Limits Agency Flexibility.</b> This provision is unduly prescriptive and inhibits needed flexibility in hiring practices. DFPS should use good business judgment to determine the screening method for hiring CPS staff.</p>	<p>Repeal.</p>
<p><b>p. 42</b>  <b>HRC § 40.036.</b> Specifies required training and curriculum for CPS caseworkers.</p>	<p><b>Limits Agency Flexibility.</b> This provision is unduly prescriptive and could interfere with future retention and training decisions. Management needs flexibility to alter structure and content</p>	<p>Repeal.</p>

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	of training to best meet the agency's changing needs.	
<p><b>p. 42</b></p> <p><b>HRC § 40.037.</b> Specifies required training for CPS managers as soon as they are hired or promoted before they can begin working in the new managerial position.</p>	<p><b>Limits Agency Flexibility.</b> This provision creates delays in managers starting their positions because managers frequently have to travel long distances for trainings or wait for a training to be offered in their area before they can begin working. Inability to deploy critical staff like supervisors is directly damaging to staff job function, morale and willingness to remain with the agency. Transformation efforts will address training needs, but removing this barrier only further supports that goal.</p>	<p>Repeal subsections (b) and (c). Amend subsection (a) to require training as soon as possible but not later than the 60<sup>th</sup> day after a supervisor is hired or promoted.</p>
<p><b>pp. 42-43</b></p> <p><b>HRC § 40.0528.</b> Mandates a comprehensive staffing and workload distribution plan for CPS to reduce caseloads, enhance accountability, improve quality of investigations, eliminate delays, and ensure efficient and effective use of resources; mandates numerous steps for carrying out the plan, including financial incentives for recruiting and retaining investigative staff.</p>	<p><b>Unnecessary Provision.</b> This provision requires an additional report that duplicates ongoing agency efforts. In addition, the investigative incentives may need to be explored in light of the agency's current recruitment and retention efforts.</p>	<p>Repeal (b) and (c). Keep (d) and modify (a) as follows:</p> <p>(a) The department shall <u>consider the following goals in developing the child protective services business plan required under Sec. ___ develop and implement a staffing and workload distribution plan for the child protective services program to:</u></p> <ol style="list-style-type: none"> <li>(1) reduce caseloads;</li> <li>(2) enhance accountability;</li> <li>(3) improve the quality of investigations;</li> <li>(4) eliminate delays; and</li> <li>(5) ensure the most efficient and effective use of child protective services staff and resources.</li> </ol>

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<p><b>pp. 43-44</b> <b>New Provision.</b></p>	<p><b>Unclear Statutory Authority.</b> Federal law (recently passed HR 4980) includes a provision requiring licensing standards to “ensure appropriate liability for caregivers when a child participates in an approved activity and the caregiver approving the activity acts in accordance with the reasonable and prudent parent standard.” DFPS currently lacks the ability to grant immunity from liability in this circumstance.</p>	<p>Add a provision to Texas law, similar to that in place in Florida (Florida Statutes § 409.145), which provides, <i>inter alia</i>:</p> <p>“Limitation of liability.—A caregiver is not liable for harm caused to a child who participates in an activity approved by the caregiver, provided that the caregiver has acted in accordance with the reasonable and prudent parent standard. This paragraph may not be interpreted as removing or limiting any existing liability protection afforded by law.”</p>
<p><b>pp. 44-45</b> <b>TEC § 25.087(b)(1)(F).</b> Authorizes “excused absences” from school, including absences for foster children who are participating in any activity ordered by a court under TFC Chapter 262 or 263 that cannot be scheduled outside of school hours.</p>	<p><b>Unclear Statutory Authority.</b> Children’s services are not generally court-ordered, although the parents’ may be. Therefore (b)(1)(F) is not clearly applicable to the child if the child’s therapy or other activities in the service plan are not court-ordered.</p>	<p>Amend to cover any absence to comply with the child’s plan of service under Texas Family Code Chapter 262 or 263.</p>
<p><b>p. 45</b> <b>TEC § 54.366.</b> Outlines eligibility criteria for higher education tuition fee waiver for certain students formerly in DFPS conservatorship.</p>	<p><b>Limits Agency Flexibility.</b> Based on the current eligibility criteria, in cases where either the parental rights of the parent are reinstated after a termination of parental rights, or where permanent managing conservatorship is awarded to the biological parents after termination, the youth will not be eligible for this important benefit. This exclusion can operate as a disincentive against permanency, and there are reports of youth remaining in care so they do not lose the tuition and fee waiver.</p>	<p>Add subsection (c) as follows:</p> <p><u>(c) Notwithstanding Subsection (a)(1), a child who exits conservatorship to the legal responsibility of the child’s parent, including a parent whose rights were previously terminated, may be exempt from the payment of tuition and fees if the department determines, utilizing factors specified in department rule, developed in consultation with the Texas Higher Education Coordinating Board.</u></p>
<p><b>pp. 45-46</b> <b>TFC § 58.0052.</b> Requires</p>	<p><b>Impedes Case Work.</b> Probation departments do not always share the terms of probation for a youth in</p>	<p>Amend statute (or another appropriate provision of Chapter 58) to require probation officers to share the youth’s</p>

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<p>juvenile service providers, upon request of another juvenile service provider, to share a multi-system youth's personal health information or history of governmental services for purposes of identifying such a youth, coordinating and monitoring care for the youth, and improving quality of services provided.</p>	<p>conservatorship with CPS, making it difficult for caseworkers to find a suitable placement for a youth leaving the juvenile justice system.</p>	<p>terms of probation with CPS immediately upon request.</p>
<p><b>p. 46</b> <b>TFC § 103.001(b).</b> Provides venue for suit in which an adoption petition can be filed. <b>TFC § 155.001(c).</b> Sets forth the parameters of the jurisdiction for the court of continuing, exclusive jurisdiction.</p>	<p><b>Impedes Case Work.</b> Some courts hearing adoptions of CPS children require the underlying CPS suit be transferred, if the adoption petition is filed in a different Texas county than where the original case is filed. This practice, not required by law, causes a delay in getting the court file transferred and additional work for CPS caseworkers</p>	<p>Amend TFC §§ 103.001 and 155.001(c) as follows:  Sec. 103.001(b): A suit in which adoption is requested may be filed in the county where the child resides or in the county where the petitioners resides, <u>notwithstanding that another court has continuing, exclusive jurisdiction under Chapter 155. Transfer of the suit in which a court acquired continuing exclusive jurisdiction is not required pursuant to chapter 155.</u>  Sec. 155.001(c): If a court of this state has acquired continuing exclusive jurisdiction, no other court of this state has jurisdiction of a suit with regard to that child except as provided by this chapter, <u>Sec. 103.001(b),</u> or Chapter 262.</p>
<p><b>pp. 46-47</b> <b>New provision for TFC Chapter 104.</b></p>	<p><b>Unclear Statutory Authority.</b> The limitations on using a child's prerecorded or remote testimony, as specified in TFC § 104.002-104.006, could be applied or construed to require a child in care to attend Chapter 263 hearings in-person even when the child's physical presence is not necessary to convey the child's wishes to the court or the child does not want to attend the hearing. The</p>	<p>Add new statute to TFC Chapter 104 as follows:  1. The limitations on using prerecorded or remote testimony of a child 12 years of age or younger, as specified in TFC § 104.002-104.006, do not apply to a child's out-of-court testimony in any status, permanency, or placement review hearing held pursuant to Chapter 263, and</p>

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	<p>requirement of in-person attendance can also lead to additional caseworker stress and strain, as discussed in TFC § 263.302.</p> <p>Allowing remote or prerecorded testimony for Chapter 263 hearings, yet mandating that every child is allowed to attend or participate in the hearing will allow children to effectively communicate with the court <i>and</i> enable caseworkers to help carry out the children's wishes without having to force children who do not want to attend hearings to attend.</p>	<p>2. A child of any age must be allowed to attend or participate in the hearing as provided in Chapter 263.</p>
<p><b>p. 47</b> <b>TFC § 104.007.</b> Allows professionals in a DFPS case to testify via videoconference upon agreement of DFPS' and defendant's counsel.</p>	<p><b>Impedes Case Work.</b> Current law requires agreement from both parties to a case in allowing videoconference. Amendment would improve case efficiency and facilitate obtaining testimony of professionals without having to delay hearings until professionals are able to attend the hearing.</p>	<p>Amend TFC § 104.007(b) to allow judge to order the testimony of a professional to be taken by videoconference even if the state's counsel and defendant's counsel do not agree, if good cause exists.</p>
<p><b>pp. 50-51</b> <b>TFC § 162.0065.</b> Exempts DFPS from certain redaction if the identity of persons whose identities would otherwise be redacted is already known to the adoptive parents.</p>	<p><b>Limits Agency Flexibility.</b> DFPS supports the provision of a complete case record to a prospective adoptive family upon request. However, there are times when the most important document to an adoptive parent is the child's health, social, educational, and genetic history report (known as a HSEGH), rather than the entire case file (e.g. a grandparent who is intimately familiar with the conservatorship case because the grandparent has been involved continuously).</p> <p>Compiling this information results in delayed adoptions, when the necessary information depends on the nature of the relationship between the adoptive and biological families. With greater flexibility to tailor the</p>	<p>Amend statute as follows:</p> <p><del>[EDITING]</del> ADOPTION RECORDS IN DEPARTMENT PLACEMENT. Notwithstanding any other provision of this chapter, in an adoption in which a child is placed for adoption by the Department of <u>Family and Protective</u> <del>[and Regulatory]</del> Services[-]:</p> <p>(a) the department is not required to edit records to protect the identity of birth parents and other persons whose identity is confidential if the department determines that information is already known to the adoptive parents or is readily available through other sources, including the court records of a suit to terminate the parent-child relationship under Chapter 161[-];</p>

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	<p>information compiled and, to eventually consider producing a more robust HSEGH in lieu of providing the entire case record with the associated redaction workload, DFPS can better provide for permanency.</p>	<p><u>(b) the department may, in accordance with department rule, develop a format for the report required by section 162.007, other than the format provided in section 162.007, which the department determines is appropriate based on the relationship between the adoptive parents and the child or the child's family, the provision of the child's case record to the adoptive parents, or other factor specified in department rule; and</u></p> <p><u>(c) the department must produce a child's case record in accordance with section 162.006 upon request; however, the department may, but is not required to, produce the child's case record in accordance with section 162.006 if the department has compiled a complete report on the child's health, social, education, and genetic history in accordance with section 162.007, and the adoptive parent indicates that the parent wishes to proceed with the adoption.</u></p>
<p><b>p. 52</b> <b>TFC § 262.114(b).</b> Evaluation of kinship placements.</p>	<p><b>Impedes Case Work.</b> Allows the Department to place a child without criminal or CPS background check. Not conducive to child safety.</p>	<p>Amend statute to allow emergency placement with relative without completion of a home study but require background and criminal history check and preliminary evaluation of home prior to placement, and require initiation of a full home study within 48 hours of placement. Require full home study must be completed as soon as possible, subject to judicial direction.</p>
<p><b>pp. 53-54</b> <b>TFC § 263.302.</b> Child shall attend hearing unless court specifically excuses attendance. Court shall consult with child age four or older if court determines in best interest of child.</p>	<p><b>Unclear Statutory Authority.</b> Despite the fact that it is critically important to many youth to attend court, and despite the fact that it may be detrimental to a young child's best interest to attend court, the CPS system is replete with stories of children and youth not being permitted to attend hearings (or not</p>	<p>Repeal current language and replace with the following:</p> <p>Sec. 263.302. CHILD'S ATTENDANCE AT HEARING. <del>[The child shall attend each permanency hearing unless the court specifically excuses the child's attendance. A child committed to the Texas Youth</del></p>

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	<p>being permitted to speak once there), and of children as young as babies being required to attend even if it meant the foster parents staying at court all day waiting for the case to be called.</p> <p>Feedback obtained in the review reflects that CPS staff believe a child should be allowed to attend if the child wishes to attend, but no child should be forced unless the caseworker agrees there is a real reason the judge needs to address the child (e.g. a discussion on truancy). Substantial caseworker resources are expended to facilitate attendance, particularly for children placed out of region. The caseworkers must secure temporary placements, and for children with special needs, ensure that the child has medical equipment and care. For counties which hold all children's review hearings on a single day, the workload of making travel and housing arrangements alone can be staggering.</p>	<p><del>Commission may attend a permanency hearing in person, by telephone, or by videoconference. The court shall consult with the child in a developmentally appropriate manner regarding the child's permanency plan, if the child is four years of age or older and if the court determines it is in the best interest of the child. Failure by the child to attend a hearing does not affect the validity of an order rendered at the hearing.]</del></p> <p><u>(a) It is a rebuttable presumption that the child's attendance in person at each permanency hearing is in the best interest of the child.</u></p> <p><u>(b) Upon request of the department or the attorney ad litem appointed for the child or upon the court's own motion, the court may excuse the child's attendance. The request must state the reasons for waiving the child's attendance and be submitted to the court and all parties entitled to notice of the permanency hearing, not less than 14 calendar days before the hearing. The department, a parent of the child, the attorney for that parent, or the child's attorney ad litem or guardian ad litem may submit a response to the request to excuse the child's attendance not less than ten calendar days prior to the hearing. In the absence of a timely response or court order denying the request, the request shall be deemed granted.</u></p> <p><u>(c) In determining whether to excuse the child's attendance, the court shall consider all relevant factors, including:</u></p> <ol style="list-style-type: none"> <li><u>(1) the child's wishes;</u></li> <li><u>(2) any transportation barriers to securing the child's attendance;</u></li> <li><u>(3) information from the</u></li> </ol>

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		<p><u>department including:</u></p> <ul style="list-style-type: none"> <li>a. <u>whether the child will be required to be absent from school or a significant school-related event or activity;</u></li> <li>b. <u>whether the child has any medical, mental or behavioral health issues that could cause potential harm to the child or others;</u></li> </ul> <p>(4) <u>whether the condition of the court's docket for the day of the hearing will be a barrier to meaningful participation by the child; and</u></p> <p>(5) <u>any other factor relevant to the child's best interest.</u></p> <p>(d) <u>If the child's attendance in person at a permanency hearing is excused, upon the child's election or the court's own motion, the child may attend a permanency hearing by telephone, videoconference, or other means of electronic communication approved by court, or the child may submit a written statement or pre-recorded video statement to the court.</u></p> <p>(e) <u>The court shall consult, in a developmentally appropriate manner, with each child attending a permanency hearing in person unless the court finds that it is not in the child's best interest. The court must consider whether in-chambers consultation is in the child's best interest.</u></p> <p>(f) <u>A child committed to the Texas Juvenile Justice Department may attend a permanency hearing in person, by telephone, or by videoconference.</u></p>

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		(g) <u>The failure of the child to attend a hearing does not affect the validity of an order rendered at the hearing.</u>
<p><b>pp. 55-56</b> <b>TFC § 263.401.</b> Provides for dismissal of a DFPS suit unless the court finds there are extraordinary circumstances.</p>	<p>Unclear Statutory Authority. Current statute does not address the relationship of the dismissal deadline and cases that are halted because of a successful motion for new trial, the declaration of a mistrial, or a successful appeal and remand. A trial court, therefore, does not have a clear basis upon which to retain the case. DFPS must file a new removal and depend on the judge to reassert jurisdiction. In the interest of child safety, in addition to judicial and caseworker efficiency, there needs to be a clear path for the court to follow.</p>	<p>To clarify that if a court has taken jurisdiction in a CPS case and it must be retried or is remanded, add (b-1) and amend (c) as follows:</p> <p align="center"><u>(b-1) If, after commencement of the initial trial on the merits within the time required by Subsection (a) or (b), the court grants a motion for a new trial or mistrial, or the case is remanded to the court by an appellate court following an appeal of the court's final order, the court shall retain the suit on the court's docket and render an order in which the court:</u></p> <p align="center"><u>(1) schedules a new date on which the suit will be dismissed if the new trial has not commenced, which must be a date not later than the 180th day after the date:</u></p> <p align="center"><u>(A) the motion for new trial or mistrial is granted; or</u></p> <p align="center"><u>(B) the appellate court remanded the case;</u></p> <p align="center"><u>(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and</u></p> <p align="center"><u>(3) sets the new trial on the merits for a date not later than the date specified under Subdivision (1).</u></p> <p>(c) If the court grants an extension <u>under Subsection (b) or (b-1)</u> but does not commence the trial on the merits before the <u>new dismissal [required] date [for dismissal under Subsection (b)]</u>, the court shall dismiss the suit. The court may not grant an</p>

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		additional extension that extends the suit beyond the required date for dismissal under Subsection (b) <u>or (b-1)</u> .
<p><b>pp. 58-61</b></p> <p><b>TFC § 263.501.</b> Schedule for and conduct of placement review hearings for children in DFPS' permanent managing conservatorship.</p>	<p><b>Unclear Statutory Authority.</b> Subsection (f) provides that "The child shall attend each placement review hearing unless the court specifically excuses the child's attendance." However, as explained under TFC § 263.302, some courts have excused children's attendance even when attendance is critically important to the child. In addition, children who are not adjudicated into custody of Texas Juvenile Justice Department should be permitted to participate in hearings by video or telephone, in addition to attending in person. Title of "placement review" hearings conveys a focus other than permanency for the child, which should remain the continual focus for the legal case.</p> <p>Subsections (a) (b), and (g) indicate that the placement review hearings are to continue until the child is an adult (or in the case of a child whose parents' rights have been terminated until adoption). The hearings would cease if a child were reunified or if a person other than DFPS were appointed conservator, not only because a child reached adulthood or was adopted.</p>	<p>Amend section as follows:</p> <p><b>SUBCHAPTER F. <u>PERMANENCY</u></b> <del>[PLACEMENT</del> <u>REVIEW]</u> <b>HEARINGS <u>AFTER FINAL ORDER</u></b></p> <p>Sec. 263.501. <u>PERMANENCY HEARING AFTER FINAL ORDER</u> <del>[PLACEMENT REVIEW]</del>. (a) If the department has been named as a child's managing conservator in a final order that does not include termination of parental rights, the court shall conduct a <u>permanency</u> <del>[placement—review]</del> hearing <u>after a final order</u> at least once every six months until the <u>department is no longer the child's managing conservator</u> <del>[child becomes an adult]</del>.</p> <p>(b) If the department has been named as a child's managing conservator in a final order that terminates a parent's parental rights, the court shall conduct a <u>permanency</u> <del>[placement—review]</del> hearing not later than the 90th day after the date the court renders the final order. The court shall conduct additional <u>permanency</u> <del>[placement review]</del> hearings at least once every six months until the <u>department is no longer the child's managing conservator</u> <del>[date the child is adopted or the child becomes an adult]</del>.</p> <p>(c) Notice of <u>each permanency</u> <del>[a placement review]</del> hearing shall be given as provided by <u>Section 263.0021</u> <del>[Rule 21a, Texas Rules of Civil Procedure,]</del> to each person entitled to notice of the hearing.</p> <p>(d) <del>[The following are entitled to not less than 10 days' notice of a placement</del></p>

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		<p><del>review hearing and are entitled to present evidence and be heard at the hearing:</del></p> <ul style="list-style-type: none"> <li><del>(1) the department;</del></li> <li><del>(2) the foster parent, preadoptive parent, relative of the child providing care, or director of the group home or institution in which the child is residing;</del></li> <li><del>(3) each parent of the child;</del></li> <li><del>(4) each possessory conservator or guardian of the child;</del></li> <li><del>(5) the child's attorney ad litem and volunteer advocate, if the appointments were not dismissed in the final order;</del></li> <li><del>(6) the child if:               <ul style="list-style-type: none"> <li><del>(A) the child is 10 years of age or older; or</del></li> <li><del>(B) the court determines it is appropriate for the child to receive notice; and</del></li> </ul> </del></li> <li><del>(7) any other person or agency named by the court as having an interest in the child's welfare.</del></li> </ul> <p><del>(e) The licensed administrator of the child placing agency responsible for placing the child is entitled to not less than 10 days' notice of a placement review hearing.</del></p> <p><del>(f) The child shall attend each permanency [placement—review] hearing in accordance with Section 263.302 [unless the court specifically excuses the child's attendance. A child committed to the Texas Youth Commission may attend a placement review hearing in person, by telephone, or by videoconference. The court shall consult with the child in a developmentally appropriate manner regarding the child's permanency or transition plan, if the child is four years of age or older. Failure by the child to attend a hearing does not affect the validity of an order rendered at the</del></p>

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		<p>hearing].</p> <p><del>[(g)]</del> (e) A court required to conduct permanency [placement—review] hearings for a child for whom the department has been appointed permanent managing conservator may not dismiss a suit affecting the parent-child relationship filed by the department regarding the child while the child is committed to the <u>Texas Juvenile Justice Department</u> [<del>Texas Youth Commission</del>] or released under the supervision of the <u>Texas Juvenile Justice Department</u> [<del>Texas Youth Commission</del>], unless the child is adopted or permanent managing conservatorship of the child is awarded to an individual other than the department.</p>

**Enable Caseworkers to Spend More Time with Children and Families**

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<p><b>pp. 63-64</b></p> <p><b>TFC § 263.004.</b> Requires DFPS to: file a report with the court within five days of the adversary hearing with information on a foster child's educational decision maker and any surrogate parent, provide a copy of the report to each person entitled to notice of the permanency hearing and to the child's school, and to update and refile the report within five days of any change.</p>	<p><b>Impedes Case Work.</b> While a school needs information regarding the identity of the education decision maker, there is no reason the court and other parties need the information within five days of the initial designation and within five days of any changes.</p> <p>In addition, this provision effectively necessitates a form because something must be filed with the court; requires caseworker time to get to drive to court, find parking, and file the document; requires caseworker time to notify parties and others in the case when the only entity with a clear need to immediately have the information is the school; and the form may go through multiple updates and necessitate new signatures and filings.</p>	<p>Amend section as follows:</p> <p>Sec. 263.004. NOTICE TO COURT REGARDING EDUCATION DECISION-MAKING. (a) Unless the rights and duties of the department under Section 153.371(10) to make decisions regarding the child's education have been limited by court order, the department shall <u>provide</u> [<del>file with the court a report identifying</del>] the name and contact information for each person who has been:</p> <p>(1) designated by the department to make educational decisions on behalf of the child; and</p> <p>(2) assigned to serve as the child's surrogate parent in accordance with 20 U.S.C. Section 1415(b) and Section 29.001(10), Education Code, for purposes of decision-making regarding special education services, if applicable.</p> <p>(b) Not later than the fifth day after the date an adversary hearing under Section 262.201 or Section 262.205 is concluded, the <u>information</u> [<del>report</del>] required by Subsection (a) shall be filed with the court and a copy shall be provided to the school the child attends.</p> <p>(c) If a person other than a person identified in the report required by Subsection (a) is designated to make educational decisions or assigned to serve as a surrogate parent, the department shall <u>include the updated information in the permanency progress report filed pursuant to Section 263.303 and Section 263.502</u> [<del>file with the court an updated report that includes the information required by Subsection</del>]</p>

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		<p><del>(a) for the designated or assigned person.]</del> The updated <u>information [report]</u> must be <u>provided to the school the child attends [filed]</u> not later than the fifth day after the date of designation or assignment.</p>
<p><b>pp. 65-66</b> <b>TFC § 263.301.</b> Required notice of permanency hearings to certain listed individuals and entities within 10 days prior to the hearing.</p>	<p><b>Impedes Case Work.</b> DFPS caseworkers are already required to send a report to all the same individuals and entities prior to the hearing in question. Workers' efficiency could be maximized by utilizing the report to provide notice of an upcoming hearing.</p> <p>There is a slightly different list of parties to notify of a permanency hearing and a placement review hearing. While it may make additional sense to notify a child's child-placing agency (CPA) after rendition of a final order, there seems to be no compelling reason not to notify the CPA prior to a final order, and CPS has required as much by policy since it implemented the law. Moreover, the law is not clear inasmuch as a CPA administrator's designee may be the right person to notify in order for a person more involved in the child's case to attend a hearing or review the department's report in anticipation thereof.</p>	<p>Repeal Sec. 263.301 and replace with the following new section:</p> <p><u>Sec. 263.0021. NOTICE OF HEARING. (a) Notice of any hearing under this chapter shall be given to all persons entitled to notice of the hearing.</u></p> <p><u>(b) The following persons are entitled to at least 10 days' notice of a hearing and are entitled to present evidence and be heard at the hearing:</u></p> <ul style="list-style-type: none"> <li><u>(1) the department;</u></li> <li><u>(2) the foster parent, pre-adoptive parent, relative of the child providing care, director or director's designee of the group home or general residential operation where the child is residing;</u></li> <li><u>(3) each parent of the child;</u></li> <li><u>(4) the managing conservator or guardian of the child;</u></li> <li><u>(5) an attorney ad litem appointed for the child under Chapter 107, if the appointment was not dismissed in the final order;</u></li> <li><u>(6) a guardian ad litem appointed for the child under Chapter 107, if the</u></li> </ul>

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		<p><u>appointment was not dismissed in the final order</u></p> <p><u>(7) a volunteer advocate appointed for the child under Chapter 107, if the appointment was not dismissed in the final order;</u></p> <p><u>(8) the child if:</u></p> <p style="padding-left: 40px;"><u>(A) the child is 10 years of age or older; or</u></p> <p style="padding-left: 40px;"><u>(B) the court determines it is appropriate for the child to receive notice; and</u></p> <p><u>(9) any other person or agency named by the court to have an interest in the child's welfare.</u></p> <p><u>(c) Notice may be given:</u></p> <p style="padding-left: 40px;"><u>(1) as provided by Rule 21a, Texas Rules of Civil Procedure;</u></p> <p style="padding-left: 40px;"><u>(2) in a temporary order following a full adversary hearing;</u></p> <p style="padding-left: 40px;"><u>(3) in an order following a hearing under this chapter;</u></p> <p style="padding-left: 40px;"><u>(4) in open court; or</u></p> <p style="padding-left: 40px;"><u>(5) in any manner that would provide actual notice to a person entitled to notice.</u></p> <p><u>(d) The licensed administrator or licensed administrator's designee</u></p>

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		<u>of the child-placing agency responsible for placing the child is entitled to not less than 10 days' notice of a permanency hearing after final order.</u>
<p><b>p. 67</b> <b>TFC § 264.107(b).</b> Requires DFPS to use HHSC's "standard application" for the placement of children in contracted residential care.</p>	<p><b>Limits Agency Flexibility.</b> At this time, the need for a "common application" is limited primarily to DFPS and possibly Texas Juvenile Justice Department. While there is an abbreviated form that can be used in certain circumstances, the primary form (without any content added) is 18 pages. With attachments and information added, the application can easily become 50 pages or more. Caseworkers must complete the application using information that is available elsewhere in the record, making double work. Feedback from providers is that the application is not helpful to them. Accordingly, and in light of evolving best practices, DFPS is examining the application and assessment process.</p>	<p>Require DFPS to work with stakeholders to develop a replacement for the standard application, which may be an appropriate assessment. The new application or assessment must be developed and adopted by December 1, 2016, subject to the availability of funds. Until a new application or assessment is adopted, current application remains in use.</p>

**Remove Prescriptive Statutory Provisions**

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<p><b>p. 71</b> <b>TFC § 161.1031.</b> Requires the case worker to obtain the medical history of the child's family at the time the parent executes an affidavit of relinquishment.</p>	<p><b>Impedes Case Work.</b> There has been significant caseworker feedback about the overabundance of forms. The parent should be asked this information earlier in the process, not when the emotions are so raw. The decision on when to obtain medical history should be based on department (or in the case of a private adoption, CPA) policy and decisions at the field level based on the needs of the child and the availability of the parent.</p>	<p>Repeal and replace with language requiring DFPS to obtain medical history of the child's family as soon as possible, making every reasonable effort to obtain the history prior to a parent executing an affidavit of relinquishment.</p>
<p><b>p. 72</b> <b>TFC § 261.203(d).</b> Requires DFPS to provide a copy of a request for information to the attorney ad litem (AAL) for the deceased child, if any.</p>	<p><b>Unnecessary Provision.</b> In many cases, a request for child fatality information is made by the media well after the death of the child; however, an appointment does not generally survive the death. While it is possible for an attorney to be appointed to represent the estate of a child, it is not clear that such an attorney is within the meaning of this subsection, that DFPS would have knowledge of such appointment, or that it makes sense to use DFPS resources to attempt to find or maintain contact with an AAL who is appointed after death.</p>	<p>Repeal.</p>
<p><b>p. 73</b> <b>TFC § 261.3012.</b> Requires that a caseworker responding to the highest priority report, to the extent reasonable, identify and solicit family assistance in completing any paperwork but remain ultimately responsible for the appropriate completion of the paperwork.</p>	<p><b>Impedes Case Work.</b> This provision is overly prescriptive and appears to focus more on paperwork than child safety. While CPS has developed a family information form (Form 2626), this form is designed to gather information to better care for a child coming into care, not necessarily to have the family assist the caseworker in completing paperwork the worker is otherwise required to complete. As such, this provision and its purpose could be better served through policy or practice.</p>	<p>Repeal.</p>
<p><b>pp. 74-75</b> <b>TFC § 261.3101.</b> Requires DFPS, subject to the availability of funds, to employ or contract with</p>	<p><b>Limits Agency Flexibility.</b> The entire section legislates decisions that could be left to the managerial discretion of the Department. Repealing the statute would allow DFPS greater discretion to</p>	<p>Repeal.</p>

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medical and law enforcement professionals to assist with investigation assessment decisions and intervention activities; to employ or contract with subject matter experts to serve as consultants to DFPS; and designate liaisons within DFPS to develop relationships with local law enforcement agencies and courts.	use experts and consultants and establish liaisons in the community as needed.	
<b>p. 76</b> <b>TFC § 262.105(b).</b> Requires DFPS to file a petition for termination 45 days after taking possession of child without court order.	<b>Archaic Language.</b> DFPS should file its petition on the day of or the first working day after taking possession of child without court order. While there may be limited exceptions, DFPS nearly always files in the alternative and includes termination. Accordingly, provision is in direct tension with TFC § 262.106 and at odds with best practice, which might indicate modifying an initial pleading to include termination at a later date.	Repeal.
<b>p. 77</b> <b>TFC § 264.107(a).</b> Requires DFPS to use a system for foster care placements that conforms to the “levels of care” adopted and maintained by HHSC.	<b>Archaic Language.</b> The substance of this provision dates back to the Sunset bill for the then-DHS in 1987. Senate Bill 298 § 3.03 (70 (R)). While the name of the agency has been updated to HHSC, the substance has not been adjusted for the fact that the former six-level “Levels of Care” system has been replaced with a service level system that promotes placement of children in the least restrictive setting. In addition, the current language does not afford requisite flexibility to account for a redesigned foster care system that does not use a service level system.	Repeal.
<b>pp. 77-78</b> <b>TFC § 264.107(c).</b> Requires DFPS to use real-time technology to screen and	<b>Limits Agency Flexibility.</b> As originally enacted, this provision applied to an independent administrator of outsourced services. Senate Bill 6 §	Repeal.

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match children with qualified placements that have vacancies.	1.48. In response to amendments made by SB 758 (80 (R)), which imposed the duty directly on DFPS, the agency developed its Child Placement Vacancy database (CPV), which is basically a manual tool providers are required to use by contract. However, utilizing technology to assist in placement decisions is simply the baseline of good business judgment in the 21 <sup>st</sup> century, nor does DFPS need a statute to exercise good business judgment; moreover, depending on technological enhancements and the roll-out of Foster Care Redesign, the need for the CPV as such may be obviated.	
<b>p. 78</b> <b>TFC § 264.107(d).</b> Requires DFPS to ensure placement decisions are reliable and made in a consistent manner.	<b>Duplicative of Federal Law.</b> Federal law and monitoring are already focused on safety, well-being, and permanency in a child's placement, so there is no need to restate federal goals in state law. Moreover, doing any action consistently and reliably does not equate to doing the action well.	Repeal.
<b>p. 78</b> <b>TFC § 264.1071.</b> Directs DFPS, in making placement decisions, to ensure stability for children in care under the age of two.	<b>Limits Agency Flexibility.</b> This statutory language legislates decisions that could be left to agency management, without adding any benefit to child safety. There are varied and complex reasons why placements fail or change. Moreover, it is an unduly narrow focus on one age group.	Repeal.
<b>pp. 78-79</b> <b>TFC § 264.1075.</b> Directs DFPS to utilize assessment services to determine the most appropriate placement for a child in substitute care; requires DFPS to assess whether a child has developmental disability or mental retardation and authorizes the assessment to	<b>Limits Agency Flexibility.</b> Children should be adequately assessed upon entry into care, which is measured by the CFSR and is a basic obligation of the system. There is no need to codify it for emphasis, to specify the precise contours of the assessment, or to focus on one particular type of issue, i.e. developmental disability or mental retardation.	Amend subsection (b) as follows:  (b) As soon as possible after a child begins receiving foster care under this subchapter, the department shall assess whether the child has a developmental disability or mental retardation. <del>The commission shall establish the procedures that the department must use in making an assessment under this subsection. The procedures may include screening</del>

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<p>be conducted by certain individuals and entities.</p>		<p><del>or participation by:</del>  <del>(1) a person who has experience in childhood developmental disabilities or mental retardation;</del>  <del>(2) a local mental retardation authority; or</del>  <del>(3) a provider in a county with a local child welfare board.</del></p>
<p><b>p. 79</b>  <b>TFC § 264.110.</b> Among other things, requires DFPS to establish a registry of people who will accept foster care placements of a child, possibly pending termination and with no ability to be compensated, and mandates that DFPS make a “reasonable effort to place a child with the first available qualified person on the list” if the child cannot be placed with a family member.</p>	<p><b>Archaic Language.</b> This is arcane and overly prescriptive language (harkening back to pre-automation days) that does not reflect the way adoptive placement decisions or foster care maintenance payments are made today. In addition, and in contravention of current best practice, the focus is more on the rights of a person to get preferential treatment on a first-come-first-served basis for an adoptive child, instead of focusing on the adoptive placement that would be in the best interests of the individual child.</p>	<p>Repeal all but (d), and amend (d) as follows:    (d) Before a child may be placed with a <u>foster or adoptive parent</u> <del>person</del> under this section, the <u>prospective parent</u> <del>person</del> must sign a written statement in which the person agrees to the immediate removal of the child by the department under circumstances determined by the department.</p>
<p><b>pp. 79-80</b>  <b>TFC § 264.111.</b> Requires DFPS to maintain and make available a lengthy and detailed list of data elements related to substitute care and adoption.</p>	<p><b>Limits Agency Flexibility.</b> Not only is it difficult for a statute at this level of granularity to keep pace with terminology, the focus ends up being out of sync with current practice, e.g. this statute focuses entirely on adoption and substitute care, to the exclusion of reunification and other permanency outcomes. DFPS can still produce the required data if needed, but repealing this statute will permit maximum flexibility for developing and reporting to the public on key measures of the agency’s performance and the functioning of the system on the whole.</p>	<p>Repeal section and replace with new section, TFC Sec. 264.017, as follows.    <u>Sec. 264.017. REQUIRED REPORTING.</u> (a) <u>The department shall prepare and disseminate statistics by county relating to key performance measures and data elements for child protection.</u> (b) <u>The performance measures and data elements required by subsection (a) shall be provided to the legislature, as well as published and made available electronically to the public not later than February 1 of each year and shall include, at a minimum:</u></p>

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		<p><u>(1) data on the number and handling of reports of abuse and neglect of a child received by the department;</u></p> <p><u>(2) information on the number of clients for whom the department took protective action including investigations, alternative response, and court-ordered removal;</u></p> <p><u>(3) information on the number of clients to whom the department provided services in each program administered by the child protective services division, including investigations, alternative response, family-based safety services, conservatorship, post-adoption services, and transitional living services program;</u></p> <p><u>(4) the number of children who died during the preceding year as a result of child abuse or neglect;</u></p> <p><u>(5) of the children to whom Subdivision (4) applies, the number for whom the department was the child's managing conservator at the time of death;</u></p> <p><u>(6) the timeliness of the department's initial contact in an investigation or alternative response;</u></p> <p><u>(8) the response time by the department with respect to commencing services to families and children for whom an allegation of abuse or neglect has been made;;</u></p> <p><u>(9) information regarding child protection staff and caseloads by program area;</u></p>

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		<p align="center"><u>      (10) data on</u>  <u>the permanency goals in place</u>  <u>and achieved for children in the</u>  <u>managing conservatorship of the</u>  <u>department, including information</u>  <u>on the timeliness of achieving the</u>  <u>goals; and</u></p> <p align="center"><u>      (11) the</u>  <u>number of children who suffer</u>  <u>from a severe emotional</u>  <u>disturbance and for whom the</u>  <u>department is appointed</u>  <u>managing conservator, including</u>  <u>statistics on appointments as joint</u>  <u>managing conservator, because a</u>  <u>person voluntarily relinquished</u>  <u>custody of the child solely to</u>  <u>obtain mental health services for</u>  <u>the child.</u></p> <p align="center"><u>(c) Not later than</u>  <u>September 1 of each year, the</u>  <u>department shall seek public input</u>  <u>regarding the utility and any</u>  <u>proposed modifications to</u>  <u>existing reporting measures, as</u>  <u>well as any proposed additional</u>  <u>reporting measures. The</u>  <u>department shall afford</u>  <u>appropriate weight to such public</u>  <u>input and seek to facilitate</u>  <u>reporting to the maximum extent</u>  <u>feasible within existing resources</u>  <u>and in a manner that is most</u>  <u>likely to aid public understanding</u>  <u>of department functioning.</u></p> <p align="center"><u>(d) In addition to the</u>  <u>information required under</u>  <u>subsection (a), the department</u>  <u>shall annually publish information</u>  <u>regarding the number of children</u>  <u>who died during the preceding</u>  <u>year and in whose cases the</u>  <u>department determined the child</u>  <u>had been abused or neglect but</u>  <u>the death was not the result of the</u></p>

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		<u>child abuse or neglect. The department may publish the information in the same publication as that required by subsection (a) or in another annual report published by the department.</u>
<p><b>pp. 71-72</b></p> <p><b>TFC § 261.004.</b> Requires DFPS to compile an annual report with required data elements and submit the report to the Legislature and general public not later than February 1, annually.</p>	<p><b>Limits Agency Flexibility.</b> DFPS is subject to extensive data reporting at the federal level on statistics that are similar to the data elements required for public dissemination under this section, but that differ in some respects. It adds to the complexity of DFPS reports to be required to report different measures in specific ways, which may or may not mirror other review or reporting measures, and it is not clear that this level of granularity and prescriptiveness adds to either child safety or greater transparency.</p>	<p>Repeal and replace with new section TFC Sec. 264.017, as described above.</p>
<p><b>p. 81</b></p> <p><b>TFC § 264.207.</b> Requires DFPS to adopt policies to improve services, including policies to “provide for conducting a home study within four months <i>after</i> the date an applicant is approved.” Delineates multiple, highly specific requirements for DFPS policies adopted pursuant to the subsection, including working with private child-placing agencies, “establish[ing] goals and performance measures in the permanent placement of children”, etc.</p>	<p><b>Unnecessary Provision.</b> First, it is impossible and unsafe to approve a home and then conduct a home study after approval. To ensure child safety, the home study must be done before approval. Second, a statute like this locks DFPS into a time frame that does not recognize how much of the process depends on an applicant. Finally, there is much of the statute that seems to merely restate basic ideas, such as to improve services and be consistent across the state. These are laudable principles, but they can be carried out in the absence of statute and none of them get at the current, safety-driven efforts the agency is undertaking to improve the home assessment process.</p>	<p>Repeal and replace with requirement that DFPS must complete a home study prior to approving an adoptive home.</p>
<p><b>pp. 81-82</b></p> <p><b>TFC § 264.208.</b> Directs DFPS to create a division</p>	<p><b>Unnecessary Provision.</b> As a statewide agency with a need to repeatedly locate parties and other key persons in child welfare cases, and to prove up the efforts</p>	<p>Repeal.</p>

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for locating persons and relatives and to use contractors and volunteer resources to the extent feasible.	to the court, DFPS does not need a statute to legislate its internal structure in this regard.	
<b>p. 82</b> <b>TFC § 264.303.</b> Authorizes DFPS or any contractor for DFPS to commence a civil action to request any district or county court, other than a juvenile court, to determine that a child is an at-risk child. Provides the requirements for notice of an action and directs that a written answer may be filed.	<b>Archaic Language.</b> This is an unnecessarily burdensome and confusing provision that is not needed or used to authorize services for at-risk youth. DFPS legal staff and Prevention and Early Intervention (PEI) staff both confirmed that this court procedure is not used and the necessary services can be authorized and provided to a child without first requiring that a court declare that the child is “at-risk.” Having this prescriptive statute in the Texas Family Code is misleading and confusing for CPS staff and courts.	Repeal.
<b>p. 82</b> <b>TFC § 264.304.</b> Requires the court to set a hearing date for the determination of an at-risk child not later than 30 days after the date the civil action is filed. Provides the criteria the court must follow to determine that a child is an at-risk child.	<b>Archaic Language.</b> Because this statute derives from an action taken pursuant § 264.303, it is also a burdensome and unnecessary provision. See TFC § 264.303.	Repeal.
<b>pp. 82-83</b> <b>TFC § 264.305.</b> Authorizes the court to order that an at-risk child (as determined by a hearing) and the at-risk child’s parent, managing conservator, guardian, or any other member of the at-risk child’s household to participate in services provided by DFPS. Such services may include emergency short-term	<b>Archaic Language.</b> Because this statute derives from an action taken pursuant § 264.303, it is also a burdensome and unnecessary provision. See TFC § 264.303.	Repeal.

<b>Remove Prescriptive Statutory Provisions</b>		
<b>Transformation Report Page Number/Statutory Provision</b>	<b>DFPS' Summary of Problem</b>	<b>Proposed Change</b>
residential care if the court finds that the child engaged in qualifying conduct.		
<b>p. 83</b> <b>TFC § 264.306.</b> Provides the sanctions that shall or may be given to a child or the child's parent, managing conservatorship, guardian, or other member of the child's household for failure to participate in the services ordered by the court.	<b>Archaic Language.</b> Because this statute derives from an action taken pursuant § 264.303, it is also a burdensome and unnecessary provision. See TFC § 264.303.	Repeal.
<b>pp. 83-84</b> <b>TFC § 264.752(b).</b> Requires DFPS to use federal funds available, to the extent permitted by federal law, under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), and to seek a federal waiver to administer the Relative and Other Designated Caregiver Placement program.	<b>Unnecessary Provision.</b> This provision is unnecessary, as there are no IV-E funds available for this program, and this provision duplicates other FFP-maximization directives.	Repeal.
<b>p. 91</b> <b>HRC § 40.0305.</b> Directs DFPS to implement specific technology projects.	<b>Unnecessary Provision.</b> The statutory mandate is unnecessary in that subsections (a) and (d) restate basic business principles, and subsection (e) is unduly prescriptive laying out specific projects.	Repeal.
<b>pp. 90-91</b> <b>HRC § 40.031(b) and (e).</b> Directs the executive commissioner to establish an investigations division to oversee and direct the investigation functions of the child protective services program; provides that	<b>Limits Agency Flexibility.</b> Directions regarding specific divisions or staff are unnecessary to codify in law. The agency should have the ability to make nimble decisions about its programs and the staff best suited to perform an investigation.  The investigations specified in subsection (e) are handled by the state agency responsible for the facility in	Repeal HRC Sec. 40.031 in its entirety.

<b>Remove Prescriptive Statutory Provisions</b>		
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reports of alleged child abuse or neglect investigated under Section 261.401 or 261.404, Family Code, are not subject to investigation by the investigations division.	question or the APS services division of the department, and TFC § 261.401 and .404 adequately codify their authority to continue conducting investigations.	
<b>p. 92</b> <b>HRC § 40.031(c).</b> Directs the commissioner to designate a person with law enforcement experience as the director of the investigations division.	<b>Limits Agency Flexibility.</b> This provision limits DFPS' ability to recruit and hire candidates.	Repeal.
<b>p. 92</b> <b>HRC § 40.031(d).</b> Requires investigation division, as appropriate, to refer children and families in need of services to other department divisions or entities with whom the department contracts.	<b>Unnecessary Provision.</b> This prescription is unnecessary, as referral for services is already an internal management decision and common practice, without the necessity of a statutory requirement.	Repeal.
<b>p. 92</b> <b>HRC §40.052.</b> Prescribes duties related to quality service delivery for DFPS.	<b>Archaic Language.</b> These provisions are outdated, having been around since at least 1991 when the Department of Protective and Regulatory Services was created, and are also unnecessary, prescribing a general directive to promote quality in service delivery. In addition, subsection (3) is codified elsewhere.	Repeal.
<b>pp. 93-94</b> <b>HRC § 40.0524(d).</b> Requires DFPS to establish a process by which a multidisciplinary team is involved in the development and implementation of procedures related to the department's child abuse	<b>Archaic Language.</b> While it is important for DFPS to work closely with multidisciplinary teams, this provision seems unnecessarily prescriptive and implies a level of involvement beyond ordinary cooperation and beyond what occurs in practice today.	Repeal (d). Amend (a) as follows: (a) <u>In a jurisdiction for which no Children's Advocacy Center has been established pursuant to 264.402, Family Code, the department shall, to the extent possible, establish multidisciplinary teams to provide services relating to a report of child abuse or</u>

<b>Remove Prescriptive Statutory Provisions</b>		
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and neglect services with services provided by other agencies.		neglect. A multidisciplinary team shall include professionals in parent education and in each professional discipline necessary to provide comprehensive medical and psychological services to a child who is the subject of a report and to members of the child's household.
<b>p. 94</b> <b>HRC § 40.0525.</b> Requires DFPS to separate the performance of investigations personnel from the delivery of services to clients and to develop policies for exchanging information between investigations employees and employees who are responsible for the delivery of services to clients; provides that DFPS is not required to establish separate departments for investigations and service delivery.	<b>Limits Agency Flexibility.</b> This provision mandates administrative structure at a level of detail that inhibits the agency's ability to make agile decisions in light of current best practice and business need. Moreover, the legislative intent is no longer aligned with current legislative thought, which emphasizes the importance of combining and aligning investigations with Family-based Safety Services.	Repeal.
<b>pp. 95-96</b> <b>HRC § 40.0566.</b> Requires DFPS to develop and implement a statewide outreach program to inform counties about federal funding; requires the designation of specific personnel and directs DFPS to maintain a record of funding amounts.	<b>Unnecessary Provision.</b> This provision is unnecessary because DFPS does not need to mandate outreach to counties. If it does mandate county outreach, it should be a general mandate and not specify such requirements as a database of local county personnel.	Repeal.
<b>p. 96</b> <b>HRC § 40.069.</b> Prescribes a detailed (two-page) affidavit that is required for applicants for temporary or permanent employment	<b>Unnecessary Provision.</b> This provision is unnecessary given criminal and CPS background checks. Moreover, the questions are extremely broad and ask an applicant to explain any mental health conditions, which seems unnecessarily	Repeal.

<b><i>Remove Prescriptive Statutory Provisions</i></b>		
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with DFPS whose job “involves direct interactions with or the opportunity to interact and associate with children”.	intrusive.	

**Eliminate State Law That Duplicates or Deviates From Federal Law**

Transformation Report Page Number/Statutory Provision	DFPS' Summary of Problem	Proposed Change
<p><b>p. 100</b> <b>TFC § 161.001(1)(L).</b> Directs that the court may order termination of the parent-child relationship if the court finds by clear and convincing evidence that the parent has been convicted of or adjudicated for one of the crimes listed pursuant the Texas Penal Code.</p>	<p><b>Conflicts With Federal Law.</b> CAPTA, 42 U.S.C. § 5106a(b)(2)(B)(xvii) requires that a state include as grounds for termination a conviction for certain crimes. Texas's current law refers only to a conviction under the Texas Penal Code. However, as written, CAPTA refers only to the convictions generally and not limited to a conviction under a particular state's laws. Nothing about conforming state law to federal law <i>compels</i> any action by a court, which must still determine that the termination ground has been proven (which would include any necessary inquiry into the circumstances of the conviction) <i>and</i> that termination is in the child's best interest.</p>	<p>Amend subsection as follows:  (L) been convicted or has been placed on community supervision, for being criminal responsible for the death or serious injury to a child under the following sections of the Penal Code, <u>or under a law of another jurisdiction that contains elements that are substantially similar to the offense under the following Penal Code sections</u>, or adjudicated under Title 3 for conduct . . . [no additional changes].</p>
<p><b>p. 102</b> <b>TFC § 264.016.</b> Requires DFPS to ensure that youth in conservatorship receive their credit report and information on interpreting the report and correcting inaccuracies.</p>	<p><b>Duplicative of Federal Law.</b> 42 U.S.C. § 675 (5)(I) requires that each child in foster care age 16 and above receive a copy of any consumer report pertaining to the child, at no cost, each year and receives assistance (<i>including when feasible from any court appointed advocate</i>) in interpreting and resolving any inaccuracies in the report. The state law predated the corresponding federal provision, which is broader.</p>	<p>Repeal.</p>
<p><b>p. 102</b> <b>TFC § 264.1072.</b> Requires DFPS to develop a plan for the educational stability of a child in accordance with 42 U.S.C. § 675.</p>	<p><b>Duplicative of Federal Law.</b> An educational stability plan is already required by federal law (42 U.S.C. § 675(5)(1)(G)), and there is no need to duplicate the mandate in state law.</p>	<p>Repeal.</p>
<p><b>pp. 103-104</b> <b>HRC §40.001.</b> Definitions.</p>	<p><b>Duplicative of Federal Law.</b> The definition of family preservation in subsection (5) partially but not completely restates a defined term in federal law. See 42 U.S.C. § 629a. Moreover, the definition is strangely limited to family preservation, although DFPS is designated by Chapter 40 to provide family preservation <i>and</i> family</p>	<p>Repeal subsection (5). Move Chapter 54 language to the DFPS subtitle. Move definitions to a title-wide definitions section.</p>

***Eliminate State Law That Duplicates or Deviates From Federal Law***

<b>Transformation Report Page Number/Statutory Provision</b>	<b>DFPS' Summary of Problem</b>	<b>Proposed Change</b>
	<p>support services, both of which are defined terms in law.</p> <p>The definitions in § 40.001 apply to “this subtitle,” which is Subtitle D, Department of Protective and Regulatory Services: Child Welfare and Protective Services and includes Chapters 40-49, but not Chapters 51-54, which also pertain in part to DFPS.</p>	

**Streamline Texas Law to Support Caseworker Best Practices for Safety, Permanency, and Well-Being**

<b>Transformation Report Page Number/Statutory Provision</b>	<b>DFPS' Summary of Problem</b>	<b>Proposed Change</b>
<p><b>pp. 104-105</b>  <b>TFC § 107.003(a)(3)(F).</b>                      Allows the child's attorney ad litem and amicus attorney to attend case staffings concerning the child.</p>	<p><b>Streamlining Roles and Responsibilities.</b> While at some points in history, some counties may have operated as "authorized agencies" for purposes of child protection, at this point DFPS is the single state agency authorized to care for children and the single state agency authorized to approve, license, or certify individuals and entities seeking to care for or place children for foster care or adoption.</p>	<p>Delete reference to "authorized agency" in subsection (a)(3)(F).</p>
<p><b>p. 105</b>  <b>TFC §162.005(c).</b> The report (HSEGH) shall include a history of physical, sexual, or emotional abuse suffered by the child, if any.</p>	<p><b>Unclear Statutory Authority.</b> Mandated contents of HSEGH report should be consolidated in a single statute.</p>	<p>Move subsection (c) to 162.007, which lays out the required content of HSEGH reports.</p>
<p><b>pp. 105-106</b>  <b>TFC §162.006(a) and (a-1).</b>                      Requires DFPS, licensed child-placing agencies and any other entity placing a child to inform prospective adoptive parents of their right to examine the records and information relating to the history of the child; edit records to protect the identity of certain parties; and to include any investigation records in which child alleged or confirmed as sexual abuse victim in foster home or residential child-care facility.</p>	<p><b>Unclear Statutory Authority.</b> Need to clarify statute by separating two functions: producing entire case records versus compiling report of child history data. Restructuring and revising for maximum clarity, flexibility, timeliness to permanency, and efficient use of staff time.</p>	<p>Move subsections (b)-(e) of this section into TFC § 162.007 or into a new section (see below). Consolidate contents of TFC § 162.018, which also concerns the provision of an entire case record, into TFC §162.006.</p>
<p><b>p. 106</b>  <b>TFC §162.006(b)-(e).</b></p>	<p><b>Unclear Statutory Authority.</b> While these subsections relate to the compilation of a report (aka a</p>	<p>Consolidate subsections (b)-(e) which pertain to the required</p>

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<b>Transformation Report Page Number/Statutory Provision</b>	<b>DFPS' Summary of Problem</b>	<b>Proposed Change</b>
<p>DFPS and listed entities must compile health, social educational and genetic history of child and must provide copy on proof of identity and entitlement after payment of reasonable costs; report to be retained 99 years from date of adoption.</p>	<p>“HSEGH”) about a child, they are interspersed with provisions that relate to the production of an entire case record.</p>	<p>contents of the HSEGH, into TFC § 162.007 or into, a new section.</p>
<p><b>pp. 106-107</b> <b>TFC §162.018.</b> Requires DFPS, licensed CPAs and others to provide copies of the records and other information relating to the history of an adopted child to the adoptive parents and an adult adopted child. If applicable, the information must be edited to protect the identity of the biological parents and anyone else whose identity is confidential.</p>	<p><b>Unclear Statutory Authority.</b> This relates to the same content that is covered in TFC § 162.006.</p>	<p>Consolidate §162.018 with §162.006(a) and (a-1). Could be consolidated into TFC § 162.006 or a new section could be created.</p>
<p><b>p. 107</b> <b>TFC §162.302.</b> DFPS must promote adoption with information, support, and adoption assistance; legislative intent to reduce costs of foster care by providing stability and permanency; licensed CPA’s and counties to perform these duties; DFPS to keep records; legislative intent to place siblings together where possible.</p>	<p><b>Archaic Language.</b> Provision reflects outdated concepts (counties and CPA’s do not handle adoption assistance and do not incur foster care expenses), legislative intent that is now duplicated by subsequently enacted federal law (goal of sibling placements), and effectively add no value to the Code.</p>	<p>Repeal (a), (b), (c), and (e), and retain (d), moving it to TFC Sec. 162.304.</p>
<p><b>pp. 107-108</b> <b>TFC §162.303.</b> DFPS,</p>	<p><b>Archaic Language.</b> Reference to counties is a hold-over from county-based system and no longer accurate,</p>	<p>Repeal.</p>

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counties and CPAs must disseminate information about adoption assistance, with special focus on low income families.	and federal law separately requires that DFPS publicize the adoption assistance program. 45 C.F.R. 1356.40(f). Emphasis on low income families does not directly conflict with prohibition on means testing for this program but is certainly in tension.	
<b>p. 108</b> <b>TFC § 162.304 (a).</b> DFPS shall enter into Title IV- E adoption assistance agreements with adoptive parents.	<b>Unclear Statutory Authority.</b> Insert directive to DFPS to operate the adoption assistance program ( <i>if § 162.302 is repealed, essentially insert language currently in §162.302 (a).</i>	Add a general directive regarding operation of program so the subsection reads something similar to the following:  “The department shall operate a program to provide adoption assistance for eligible children and shall enter into adoption assistance agreements with the adoptive parents of a child as authorized by Part E of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 673).”
<b>pp. 108-109</b> <b>TFC §162.304 (b-1), (b-2).</b> DFPS to pay \$150 for health benefits for child adopted from DFPS meeting eligibility requirements, including ineligibility for Ch. 32 medical assistance.	<b>Unnecessary Provision.</b> Program creates confusion for public because it has not been funded since 2012 and payments only continue as to previously qualified children.	Add a provision to make payment of the stipend explicitly “Subject to the availability of funding...”
<b>p. 109</b> <b>TFC § 162.304 (c).</b> Authorizes DFPS to subsidize medical care for child.	<b>Archaic Language.</b> This legacy language, which pre-dates the creation of DHS, creates confusion because adopted children receive Medicaid or an equivalent benefit, and neither DFPS nor another agency is funded to subsidize in any way other than the provision of Medicaid or comparable benefit.	Repeal.
<b>p. 109</b> <b>TFC § 162.304 (d).</b> The county may pay an adoption or medical subsidy for	<b>Archaic Language.</b> Outdated reference; originates from a system in which counties were responsible for the foster care payments for certain children.	Repeal.

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foster children in county responsibility.		
<p><b>p. 109</b>  <b>TFC § 162.304 (e).</b>                      Authorizes payment of adoption assistance for child receiving SSI benefits, regardless of whether DFPS is conservator.</p>	<p><b>Duplicative of Federal Law.</b> Federal law makes this child population eligible, making state authority unnecessary. 42 U.S.C. § 673(c).</p>	<p>Repeal.</p>
<p><b>pp. 109-110</b>  <b>TFC §162.3041 (a)-(d).</b>                      Subject to appropriations, DFPS to offer adoption assistance until age 18 (if adoption assistance began after 16<sup>th</sup> birthday and child meets academic/training/work criteria) or up to age 21 (child with mental or physical disability).</p>	<p><b>Duplicative of Federal Law.</b> This authority, which already exists in federal law, has never been funded in Texas. Without funding, the prospect of extended adoption assistance for this population, as opposed to the group of individuals who can and do qualify for extended adoption assistance pursuant to TFC § 162.3041(a-1), creates confusion for adoptive parents and unnecessarily populates the Code with authority that already exists in federal law. 42 U.S.C. § 673(a)(4)(A)(ii).</p>	<p>Retain statute but add that DFPS is required to implement this program “subject to the availability of funds.”</p>
<p><b>p. 110</b>  <b>TFC § 162.308(a).</b> No presumption that same race or ethnicity is in child’s best interest permitted in adoption placement by DFPS or CPA.</p>	<p><b>Duplicative of Federal Law.</b> State law barring a presumption that race or ethnicity matching in placement is in child’s best interest does not contradict but invites confusion because the federal law prohibits delay or denial of adoption based on race, color or national origin.</p>	<p>Repeal.</p>
<p><b>p. 110</b>  <b>TFC § 162.308(b).</b> DFPS or a CPA placing a child must have an independent psychological evaluation showing detriment to the child to be placed with a family of particular race or ethnicity, in order to deny, delay or prohibit an</p>	<p><b>Duplicative of Federal Law.</b> State statute mandates a single option for determining when race or ethnicity can be used in selecting an adoption placement when federal law (MEPA-IEP) applies strict scrutiny to placement decisions based on race, ethnicity or national origin but leaves open how that is implemented.</p>	<p>Repeal.</p>

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adoption because of the family's race or ethnicity.		
<p><b>pp. 113-114</b>  <b>TFC § 261.308(b),(c).</b>                      Requires DFPS or designated agency to make a complete written report of the investigation and submit the report with recommendations to the court, district attorney, and appropriate law enforcement agency if sufficient grounds for filing a suit exist. Authorizes the court to direct DFPS or designated agency to file a petition requesting appropriate relief.</p>	<p><b>Archaic Language.</b> This is legacy hold-over language, first introduced in much the same substance, in 1975, by Acts 1975, 64<sup>th</sup> Leg., Ch 1052, §6.08, during part of a major codification of what was then Title 2 of the Family Code. This was during the time when centralized responsibility for child protection was not vested in a state agency (DFPS) with authority to determine when it is appropriate to file suit for the protection of the child as provided under Chapter 262, TFC. This subsection creates a burdensome duty that no longer advances child safety. CPS is already obliged under other law to cooperate in a joint investigation or a prosecution arising from an investigation, and a court can order submission of a report at any time it believes such evidence relevant to a court proceeding, which usually occurs only during the discovery phase of a suit, but the court should not direct DFPS to file a petition at any time.</p>	<p>Repeal.</p>
<p><b>p. 114</b>  <b>TFC § 261.309(d).</b>                      Requires DFPS to conduct an administrative review of findings as soon as possible but not later than 45 days after receipt of request.</p>	<p><b>Limits Agency Flexibility.</b> The 45-day time frame is not realistic in every case. In 1995 when this provision was enacted, it is likely that records redaction was performed in a decentralized manner, making the 45-day time frame more realistic. However, this also meant that production and redaction were inconsistent. Since that time, the function has been centralized, and the volume of the work has increased such that 45 days is not a sufficient time frame for producing redacted records to an alleged perpetrator who would need them in order to properly speak about his or her case. Allowing a good cause exception preserves the integrity of the</p>	<p>Amend subsection (d) as follows:                      Unless a civil or criminal court proceeding or an ongoing criminal investigation relating to the alleged abuse or neglect investigated by the department is pending, the department employee shall conduct the review prescribed by Subsection (c) as soon as possible but not later than the 45th day after the date the department receives the request, <u>unless good cause is shown to extend the time frame.</u> If a civil or criminal court proceeding or an ongoing criminal investigation is pending, the department may</p>

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	statute but takes into account that there may be circumstances that require DFPS to exceed the statutorily specified time frame despite best efforts.	postpone the review until the court proceeding is completed.
<p><b>pp. 115-116</b>  <b>TFC § 261.406(b).</b>                      Requires DFPS to send a copy of its completed investigation report to the Texas Education Agency, the State Board for Educator Certification, the local school board or the school's governing body, the superintendent of the school district, and the school principal or director. Requires DFPS, upon request, to provide a copy of the report to the parent, managing conservator, legal guardian, or person alleged to have committed the abuse or neglect.</p>	<p><b>Impedes Case Work.</b> It is unnecessarily burdensome to require DFPS to provide a copy of the investigative report to five different entities. It is more efficient to require DFPS to provide the report to the Texas Education Agency and make it available to the specified entities upon request. In addition TFC § 261.308(d) already contains more appropriate reporting provisions to ensure proper steps are taken to notify any entity within the school hierarchy as necessary to protect a child from potential harm.</p>	<p>Delete requirement in subsection (b) that DFPS provide a copy of the report to five separate entities and instead require DFPS to provide a copy to the Texas Education Agency and make the report available to specified entities <i>upon request</i>.</p>
<p><b>p. 116</b>  <b>TFC § 262.1041.</b> Allows law enforcement to bypass CPS and take child directly to child-placing agency.</p>	<p><b>Unnecessary Provision.</b> There is no basis to pay for foster care under this system and this provision is reportedly never used. DFPS can accomplish the purpose of the statute without the statute by constructively taking possession of a child and having the child delivered to a child-placing agency.</p>	<p>Repeal.</p>
<p><b>pp. 116-117</b>  <b>TFC § 262.1095.</b> Obligates the department to give information on the case to certain individuals.</p>	<p><b>Unclear Statutory Authority.</b> Subsection (a)(1)(A) requires the department to give information to adult relatives of the most likely alleged father. Early in the case the caseworker may have little information to determine who is the "most likely" alleged father. This concept is unclear and in need of precision that reflects the reality of day-to-day casework where there may be</p>	<p>Add precision to the concept of notifying relatives of alleged fathers early in a CPS case, and correct a drafting error, by revising subsection (a)(1)(A) as follows:</p> <p align="center">(a) When the Department of Family and Protective Services or another agency takes possession of a child under this chapter, the</p>

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	<p>multiple alleged fathers for multiple children in a single case. DFPS believes in the importance of involving fathers and their relatives but in some instances early in the case, it may not be immediately possible.</p> <p>There is a drafting error, inasmuch as the individuals listed in subsections (1)(A) and (B) are separate groups of people. There may be some crossover but many will be simply in one group or the other.</p> <p>Furthermore, recent changes to federal law now includes additional parties who must be notified under this provision.</p>	<p>department:</p> <p>(1) shall provide information as prescribed by this section to each adult the department is able to identify and locate who:</p> <p>(A) is related to the child within the third degree by consanguinity as determined under Chapter 573, Government Code, or is an adult relative of the alleged father of the child <del>[who]</del> <u>if the department [determines is most likely to be] has a reasonable basis to believe the alleged father is the child's biological father; [and] or</u></p> <p>(B) is identified as a potential relative or designated caregiver, as defined by Section 264.751, on the proposed child placement resources form provided under Section 261.307.</p>
<p><b>pp. 118-120</b>  <b>TFC § 262.2015.</b> Defines "aggravated circumstances" under which the department does not have to make reasonable efforts to reunify with parents.</p>	<p><b>Conflicts with Federal Law.</b> CAPTA and title IV-E both require that a state have policies and procedures in effect to not <i>require</i> reunification following a removal with a parent 1) who has subjected a child to aggravated circumstances as defined in state law 2) if a court of competent jurisdiction determines that a parent has committed certain offenses or acts, or is required to register as a sex offender or 3) has had parental rights to a sibling involuntarily terminated. 42 U.S.C. § 5106a(b)(2)(xvi); 42 U.S.C. § 671(a)(15)(B) and (D). Texas law does not fully track all of federal law, and as this statute is the place where the legislature has heretofore memorialized compliance with the requirements in</p>	<p>Recommend amending section as follows:</p> <p>(b) The court may find under Subsection (a) that a parent has subjected the child to aggravated circumstances if:</p> <p>(1) the parent abandoned the child without identification or a means for identifying the child;</p> <p>(2) the child <u>or another child of the parent</u> is a victim of serious bodily injury or sexual abuse inflicted by the parent or by another person with the parent's consent;</p> <p>(3) the parent has engaged in conduct against the</p>

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	question, the provision should be updated.	<p>child <u>or another child of the parent</u> that would constitute an offense under the following provisions of the Penal Code:</p> <p align="right">[no</p> <p>change to subsections (A) through (O)].</p> <p align="right">(4)-(5) [no</p> <p>change]</p> <p align="right">(6) the parent has been convicted for:</p> <p align="right">(A) the murder of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1111(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;</p> <p align="right">(B) the voluntary manslaughter of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1112(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;</p> <p align="right">(C) aiding or abetting, attempting, conspiring, or soliciting an offense under Subdivision (A) or (B); or</p> <p align="right">(D) the felony assault of the child or another child of the parent that resulted in serious bodily injury to the child or another child of the parent; <del>[or]</del></p> <p align="right">(7) the parent's parental rights with regard to <del>[two other children]</del> <u>another child of the parent</u> have been involuntarily terminated<del>[-];</del> <u>or</u></p>

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		(8) the parent is required under any state or federal law to register with a sex offender registry.
<p><b>p. 120</b>  <b>TFC § 263.1015.</b> No service plan required for child abandoned without identification whose identity cannot be determined.</p>	<p><b>Unnecessary Provision.</b> TFC § 262.2015 already permits the court to dispense with the requirement of a service plan and to make reasonable efforts to reunify if “the parent abandoned the child without identification or a means for identifying the child.” TFC § 262.2015(a)(1).</p>	<p>Repeal this statute and retain 262.2015(a)(1).</p>
<p><b>p. 120</b>  <b>TFC § 263.102.</b> Requirements for parents’ service plan.</p>	<p><b>Archaic Language.</b> Subsection (a)(5) does not align with the permanency goals permitted under state and federal law. See 42 U.S.C. § 675(5)(C); Tex. Fam. Code § 263.3026.</p> <p>Subsection (c) merely restates reasonable professional judgment. Subsections (f) and (g) codify best practice, but only for a specific subset of the foster care population (children under 2). There does not appear to be a compelling reason to single out one segment of the child population in statute, nor is there a need to codify best practice.</p>	<p>Revise (a)(5) to repeal current content and replace with a requirement that the plan “specify the primary and concurrent permanency goal”.</p> <p>Repeal (c) and (g). Keep (f).</p>
<p><b>pp. 121-124</b>  <b>TFC § 263.306.</b> Procedure for permanency hearings.</p>	<p><b>Unclear Statutory Authority.</b> The list of required findings in a permanency review hearing has grown to be so lengthy that one commentator has remarked that simply reading the list of findings takes longer than the time allotted for the hearings themselves. While there is non-substantive clean-up that should be made to the section to account for the three separate provisions that amended this section last session, the fact that there are three separate amendments reflects that for each new issue, the list of required findings for judges grows. Yet many of the findings</p>	<p>Amend section as follows:</p> <p><u>Sec. 263.306. PERMANENCY HEARINGS PRIOR TO FINAL ORDER.</u> (a) At each permanency hearing prior to a final order, the court shall:</p> <p>(1) identify all persons or parties present at the hearing;</p> <p>(2) review the efforts of the department or other agency in:</p> <p>(A) locating and requesting service of citation on all persons entitled to service of citation under Section 102.009; and</p>

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	<p>address the same basic concepts in different ways.</p> <p>Note while Texas law is being streamlined, Congress recently enacted HR 4980 (sec. 112) additional specificity about permanency hearings for children and youth whose permanency goal is Another Planned Permanent Living Arrangement. In order to consistently capture federal law and provide clarity to the public and courts, DFPS recommends adding the corresponding federal provision to the requirements for the court's findings (see 263.306 and 263.503.)</p>	<p><u>(B) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, or relative of the child;</u></p> <p><u>(3) review the extent of the parties' compliance with temporary orders and the service plan and the extent of progress that has been made toward alleviating or mitigating the causes necessitating the placement of the child in foster care.</u></p> <p><u>(4) review the permanency progress report to determine:</u></p> <p><u>(A) the safety and well-being of the child;</u></p> <p><u>(B) the continuing necessity and appropriateness of the placement, including with respect to a child who has been placed outside of the state, whether that placement continues to be in the best interest of the child;</u></p> <p><u>(C) the appropriateness of the primary and concurrent goal for the child developed in accordance with department rule and whether the department has made reasonable efforts to finalize the permanency plan and concurrent plan in effect for the child;</u></p> <p><u>(D) whether the child has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on the medical care provided;</u></p> <p><u>(E) for a child receiving psychotropic medication, determine whether the child:</u></p> <p><u>(i) has been provided appropriate non-pharmacological</u></p>

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		<p><u>interventions, therapies or strategies to meet the child's needs;</u>  <u>(ii) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 day;</u>  <u>(F) whether an education decision-maker for the child has been identified, and whether the child's education needs and goals have been identified and addressed, and major changes in school performance or serious disciplinary events;</u>  <u>(G) for a child 14 years of age or older, determine services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;</u>  <u>(H) for a child whose permanency goal is another planned permanent living arrangement:</u>  <u>(i) ask the child about the desired permanency outcome for the child;</u>  <u>(ii) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to:</u>  <u>(a) return home;</u>  <u>(b) be placed for</u></p>

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		<p>adoption;  <u>(c) be placed with a legal guardian; or</u>  <u>(d) be placed with a fit and willing relative.</u></p> <p><u>(5) determine whether to return the child to the parent or parents if the child's parent or parents are willing and able to provide the child with a safe environment and the return of the child is in the child's best interest.</u></p> <p><u>(6) project a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship; and</u></p> <p><u>(7) announce the dismissal date and the date of any upcoming hearings in open court.</u></p> <p>[Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 191, Sec. 5</p> <p><del>-(a) At each permanency hearing the court shall:</del></p> <p><del>(1) identify all persons or parties present at the hearing or those given notice but failing to appear;</del></p> <p><del>(2) review the efforts of the department or another agency in:</del></p> <p><del>(A) attempting to locate all necessary persons;</del></p> <p><del>(B) requesting service of citation; and</del></p> <p><del>(C) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, or relative of the child;</del></p> <p><del>(3) review the efforts of each custodial parent, alleged father, or</del></p>

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		<p><del>relative of the child before the court in providing information necessary to locate another absent parent, alleged father, or relative of the child;</del></p> <p><del>(4) review any visitation plan or amended plan required under Section 263.107 and render any orders for visitation the court determines necessary;</del></p> <p><del>(5) return the child to the parent or parents if the child's parent or parents are willing and able to provide the child with a safe environment and the return of the child is in the child's best interest;</del></p> <p><del>(6) place the child with a person or entity, other than a parent, entitled to service under Chapter 102 if the person or entity is willing and able to provide the child with a safe environment and the placement of the child is in the child's best interest;</del></p> <p><del>(7) evaluate the department's efforts to identify relatives who could provide the child with a safe environment, if the child is not returned to a parent or another person or entity entitled to service under Chapter 102;</del></p> <p><del>(8) evaluate the parties' compliance with temporary orders and the service plan;</del></p> <p><del>(9) determine whether:</del></p> <p><del>(A) the child continues to need substitute care;</del></p> <p><del>(B) the child's current placement is appropriate for meeting the child's needs, including with respect to a child who has been placed outside of the state, whether that placement continues to be in the best interest of the child; and</del></p> <p><del>(C) other plans or services are needed to meet the child's special</del></p>

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		<p>needs or circumstances;  <del>(10) if the child is placed in institutional care, determine whether efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child;</del>  <del>(11) if the child is 16 years of age or older, order services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;</del>  <del>(12) determine plans, services, and further temporary orders necessary to ensure that a final order is rendered before the date for dismissal of the suit under this chapter;</del>  <del>(13) if the child is committed to the Texas Juvenile Justice Department or released under supervision by the Texas Juvenile Justice Department, determine whether the child's needs for treatment, rehabilitation, and education are being met; and</del>  <del>(14) determine the date for dismissal of the suit under this chapter and give notice in open court to all parties of:</del>  <del>(A) the dismissal date;</del>  <del>(B) the date of the next permanency hearing; and</del>  <del>(C) the date the suit is set for trial.</del></p> <p>Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 204, Sec. 4</p> <p><del>(a) At each permanency hearing the court shall:</del>  <del>(1) identify all persons or parties present at the hearing or those</del></p>

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		<p><del>given notice but failing to appear;</del>  <del>(2) review the efforts of the department or another agency in:</del>  <del>(A) attempting to locate all necessary persons;</del>  <del>(B) requesting service of citation;</del>  <del>and</del>  <del>(C) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, or relative of the child;</del>  <del>(3) review the efforts of each custodial parent, alleged father, or relative of the child before the court in providing information necessary to locate another absent parent, alleged father, or relative of the child;</del>  <del>(4) return the child to the parent or parents if the child's parent or parents are willing and able to provide the child with a safe environment and the return of the child is in the child's best interest;</del>  <del>(5) place the child with a person or entity, other than a parent, entitled to service under Chapter 102 if the person or entity is willing and able to provide the child with a safe environment and the placement of the child is in the child's best interest;</del>  <del>(6) evaluate the department's efforts to identify relatives who could provide the child with a safe environment, if the child is not returned to a parent or another person or entity entitled to service under Chapter 102;</del>  <del>(7) evaluate the parties' compliance with temporary orders and the service plan;</del>  <del>(8) review the medical care provided to the child as required by Section 266.007;</del></p>

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		<p><del>(9) ensure the child has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on the medical care provided;</del></p> <p><del>(10) for a child receiving psychotropic medication, determine whether the child:</del></p> <p><del>(A) has been provided appropriate psychosocial therapies, behavior strategies, and other non-pharmacological interventions; and</del></p> <p><del>(B) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days for purposes of the review required by Section 266.011;</del></p> <p><del>(11) determine whether:</del></p> <p><del>(A) the child continues to need substitute care;</del></p> <p><del>(B) the child's current placement is appropriate for meeting the child's needs, including with respect to a child who has been placed outside of the state, whether that placement continues to be in the best interest of the child; and</del></p> <p><del>(C) other plans or services are needed to meet the child's special needs or circumstances;</del></p> <p><del>(12) if the child is placed in institutional care, determine whether efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child;</del></p> <p><del>(13) if the child is 16 years of age or older, order services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;</del></p> <p><del>(14) determine plans, services, and</del></p>

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		<p> <del>further temporary orders necessary to ensure that a final order is rendered before the date for dismissal of the suit under this chapter;</del>  <del>(15) if the child is committed to the Texas Juvenile Justice Department or released under supervision by the Texas Juvenile Justice Department, determine whether the child's needs for treatment, rehabilitation, and education are being met; and</del>  <del>(16) determine the date for dismissal of the suit under this chapter and give notice in open court to all parties of:</del>  <del>(A) the dismissal date;</del>  <del>(B) the date of the next permanency hearing; and</del>  <del>(C) the date the suit is set for trial.</del> </p> <p>Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 688, Sec. 5</p> <p> <del>(a) At each permanency hearing the court shall:</del>  <del>(1) identify all persons or parties present at the hearing or those given notice but failing to appear;</del>  <del>(2) review the efforts of the department or another agency in:</del>  <del>(A) attempting to locate all necessary persons;</del>  <del>(B) requesting service of citation; and</del>  <del>(C) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, or relative of the child;</del>  <del>(3) review the efforts of each eustodial parent, alleged father, or relative of the child before the court</del> </p>

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		<p><del>in providing information necessary to locate another absent parent, alleged father, or relative of the child;</del></p> <p><del>(4) return the child to the parent or parents if the child's parent or parents are willing and able to provide the child with a safe environment and the return of the child is in the child's best interest;</del></p> <p><del>(5) place the child with a person or entity, other than a parent, entitled to service under Chapter 102 if the person or entity is willing and able to provide the child with a safe environment and the placement of the child is in the child's best interest;</del></p> <p><del>(6) evaluate the department's efforts to identify relatives who could provide the child with a safe environment, if the child is not returned to a parent or another person or entity entitled to service under Chapter 102;</del></p> <p><del>(7) evaluate the parties' compliance with temporary orders and the service plan;</del></p> <p><del>(8) identify an education decision-maker for the child if one has not previously been identified;</del></p> <p><del>(9) determine whether:</del></p> <p><del>(A) the child continues to need substitute care;</del></p> <p><del>(B) the child's current placement is appropriate for meeting the child's needs, including with respect to a child who has been placed outside of the state, whether that placement continues to be in the best interest of the child; and</del></p> <p><del>(C) other plans or services are needed to meet the child's special needs or circumstances;</del></p> <p><del>(10) if the child is placed in institutional care, determine</del></p>

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		<p>whether efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child;</p> <p>(11) if the child is 16 years of age or older, order services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;</p> <p>(12) determine plans, services, and further temporary orders necessary to ensure that a final order is rendered before the date for dismissal of the suit under this chapter;</p> <p>(13) if the child is committed to the Texas Juvenile Justice Department or released under supervision by the Texas Juvenile Justice Department, determine whether the child's needs for treatment, rehabilitation, and education are being met; and</p> <p>(14) determine the date for dismissal of the suit under this chapter and give notice in open court to all parties of:</p> <p>(A) the dismissal date;</p> <p>(B) the date of the next permanency hearing; and</p> <p>(C) the date the suit is set for trial.</p> <p>(b) The court shall also review the service plan, permanency report, and other information submitted at the hearing to:</p> <p>(1) determine:</p> <p>(A) the safety of the child;</p> <p>(B) the continuing necessity and appropriateness of the placement;</p> <p>(C) the extent of compliance with the case plan;</p> <p>(D) whether the child's education needs and goals have been identified and addressed;</p>

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		<p><del>(E) the extent of progress that has been made toward alleviating or mitigating the causes necessitating the placement of the child in foster care; and</del></p> <p><del>(F) whether the department has made reasonable efforts to finalize the permanency plan that is in effect for the child, including the concurrent permanency goals for the child; and</del></p> <p><del>(2) project a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship.]</del></p>
<p><b>pp. 125-128</b>  <b>TFC § 263.503.</b> Conduct of placement review hearing.</p>	<p><b>Unclear Statutory Authority.</b> See TFC §263.306.</p>	<p>Amend section as follows:</p> <p><u>Sec. 263.503 PERMANENCY HEARINGS FOLLOWING FINAL ORDER [PLACEMENT REVIEW; PROCEDURE]. (a) At each permanency hearing following rendition of a final order, the court shall:</u></p> <p><u>(1) identify all persons and parties present at the hearing.</u></p> <p><u>(2) review the efforts of the department or other agency in notifying persons entitled to notice under Section 263.0021</u></p> <p><u>(3) review the permanency progress report to determine:</u></p> <p><u>(A) the safety and well-being of the child;</u></p> <p><u>(B) the continuing necessity and appropriateness of the placement, including with respect to a child who has been placed outside of the state, whether that placement continues to be in the best interest of the child;</u></p> <p><u>(C) the efforts to place the child in the least restrictive</u></p>

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		<p><u>environment consistent with the child's best interest and special needs if the child is placed in institutional care;</u>  <u>(D) the appropriateness of the primary and concurrent goal for the child developed in accordance with department rule and whether the department has made reasonable efforts to finalize the permanency plan and the concurrent plan that is in effect for the child, including whether:</u>  <u>(i) the department has exercised due diligence in attempting to place the child for adoption if parental rights to the child have been terminated and the child is eligible for adoption; or</u>  <u>(ii) another permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;</u>  <u>(E) for a child whose permanency goal is another planned permanent living arrangement:</u>  <u>(i) ask the child about the desired permanency outcome for the child;</u>  <u>(ii) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it</u></p>

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		<p><u>continues to not be in the best interests of the child to:</u></p> <ul style="list-style-type: none"> <li><u>(a) return home;</u></li> <li><u>(b) be placed for adoption;</u></li> <li><u>(c) be placed with a legal guardian; or</u></li> <li><u>(d) be placed with a fit and willing relative;</u></li> </ul> <p><u>(F) if the child is 14 years of age or older, determine services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;</u></p> <p><u>(G) whether the child is receiving appropriate medical care and has been provided the opportunity in a developmentally appropriate manner, to express the child's opinion on the medical care provided;</u></p> <p><u>(H) for a child receiving psychotropic medication, determine whether the child</u></p> <ul style="list-style-type: none"> <li><u>(i) has been provided appropriate non-pharmacological interventions, therapies or strategies to meet the child's needs;</u></li> <li><u>(ii) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days;</u></li> </ul> <p><u>(I) whether an education decision-maker for the child has been identified, and the child's education needs and</u></p>

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		<p><u>goals have been identified and addressed, and major changes in school performance or serious disciplinary events;</u>  <u>(J) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, order the department to provide services to a parent for not more than six months after the date of the placement review hearing if:</u>              <u>(i) the child has not been placed with a relative or other individual, including a foster parent, who is seeking permanent managing conservatorship of the child; and</u>              <u>(ii) the court determines that further efforts at reunification with a parent are:</u>                  <u>(a) in the best interest of the child; and</u>                  <u>(b) likely to result in the child's safe return to the child's parent;</u>              <u>and</u>  <u>(K) determine whether the department has identified a family or other caring adult who has made a permanent commitment to the child;</u></p> <p>[Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 204 (H.B. 915), Sec. 5</p> <p>(a) At each placement review hearing, the court shall determine whether:</p>

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		<p>(1) the child's current placement is necessary, safe, and appropriate for meeting the child's needs, including with respect to a child placed outside of the state, whether the placement continues to be appropriate and in the best interest of the child;</p> <p>(2) efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child if the child is placed in institutional care;</p> <p>(3) the services that are needed to assist a child who is at least 16 years of age in making the transition from substitute care to independent living are available in the community;</p> <p>(4) the child is receiving appropriate medical care;</p> <p>(5) the child has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on the medical care provided;</p> <p>(6) a child who is receiving psychotropic medication:</p> <ul style="list-style-type: none"> <li>(A) has been provided appropriate psychosocial therapies, behavior strategies, and other non-pharmacological interventions; and</li> <li>(B) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days for purposes of the review required by</li> </ul>

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		<p>Section <del>266.011</del>;</p> <p><del>(7) other plans or services are needed to meet the child's special needs or circumstances;</del></p> <p><del>(8) the department or authorized agency has exercised due diligence in attempting to place the child for adoption if parental rights to the child have been terminated and the child is eligible for adoption;</del></p> <p><del>(9) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, a permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;</del></p> <p><del>(10) for a child whose permanency goal is another planned, permanent living arrangement, the department has:</del></p> <p style="padding-left: 40px;"><del>(A) documented a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent is not in the child's best interest; and</del></p> <p style="padding-left: 40px;"><del>(B) identified a family or other caring adult who has made a permanent commitment to the child;</del></p> <p><del>(11) the department or authorized agency has made reasonable efforts to finalize</del></p>

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		<p>the permanency plan that is in effect for the child; and  <del>(12) if the child is committed to the Texas Juvenile Justice Department or released under supervision by the Texas Juvenile Justice Department, the child's needs for treatment, rehabilitation, and education are being met.</del></p> <p>Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 688 (H.B. <a href="#">2619</a>), Sec. 6</p> <p><del>(a) At each placement review hearing, the court shall determine whether:</del></p> <ul style="list-style-type: none"> <li><del>(1) the child's current placement is necessary, safe, and appropriate for meeting the child's needs, including with respect to a child placed outside of the state, whether the placement continues to be appropriate and in the best interest of the child;</del></li> <li><del>(2) efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child if the child is placed in institutional care;</del></li> <li><del>(3) the services that are needed to assist a child who is at least 16 years of age in making the transition from substitute care to independent living are available in the community;</del></li> <li><del>(4) other plans or services are needed to meet the child's special needs or circumstances;</del></li> <li><del>(5) the department or authorized agency has</del></li> </ul>

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		<p>exercised due diligence in attempting to place the child for adoption if parental rights to the child have been terminated and the child is eligible for adoption;</p> <p><del>(6) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, a permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;</del></p> <p><del>(7) for a child whose permanency goal is another planned, permanent living arrangement, the department has:</del></p> <p style="padding-left: 40px;"><del>(A) documented a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent is not in the child's best interest; and</del></p> <p style="padding-left: 40px;"><del>(B) identified a family or other caring adult who has made a permanent commitment to the child;</del></p> <p><del>(8) the department or authorized agency has made reasonable efforts to finalize the permanency plan that is in effect for the child;</del></p> <p><del>(9) if the child is committed to the Texas Juvenile Justice Department or released under supervision by the Texas Juvenile Justice Department, the child's needs for treatment,</del></p>

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		<p>rehabilitation, and education are being met;  <del>(10) an education decision-maker for the child has been identified; and</del>  <del>(11) the child's education needs and goals have been identified and addressed.</del>  <del>(b) For a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, the court may order the department to provide services to a parent for not more than six months after the date of the placement review hearing if:</del>  <del>(1) the child has not been placed with a relative or other individual, including a foster parent, who is seeking permanent managing conservatorship of the child; and</del>  <del>(2) the court determines that further efforts at reunification with a parent are:</del>  <del>(A) in the best interest of the child; and</del>  <del>(B) likely to result in the child's safe return to the child's parent.]</del></p>
<p><b>pp. 128-129</b>  <b>TFC § 264.002.</b> Lists requirements for DFPS concerning the enforcement of child protection laws and the involvement in all matters involving the interests of children where adequate provision has not already been made.</p>	<p><b>Archaic Language.</b> The language in § 264.002 has its origins in law enacted by Acts 1931, 42<sup>nd</sup> Leg., Ch. 194 (SB 375), which created the “Division of Child Welfare” in the “Board of Control”. Over the 80 years since SB 375 was enacted the state’s child welfare system has undergone fundamental change, gradually evolving from a largely county-based system that was inextricably intertwined with the juvenile justice system and that had very minimal state involvement, to a largely centralized state-wide system with</p>	<p>Repeal every provision in this section other than (e), which provides that the department may not spend funds to accomplish the purposes of this chapter unless the funds have been specifically appropriated for those purposes.</p> <p>Move or combine Subsection (e) into a subtitle-wide provision to the effect of “The department may not spend funds to accomplish the purposes of this subtitle unless the</p>

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	<p>separate enabling authority (HRC 40) and managed by a single state agency that is independent of the juvenile justice system. The language in § 264.002 has not kept pace with this evolution, and no longer accurately reflects the respective roles and responsibilities of the state vis-à-vis the counties and other public and private entities with respect to child welfare.</p>	<p>funds have been specifically appropriated for those purposes.”</p>
<p><b>pp. 129-130</b> <b>TFC § 264.012.</b> Mandates that DFPS ask the parents of a child (or certain but not all young adults) who die in foster care or extended foster care to contribute to funeral expenses for the child.</p>	<p><b>Limits Agency Flexibility.</b> Originally enacted by HB 1826 in the 75(R), the provision is currently inflexible and mandates that caseworkers go through a largely meaningless exercise that can appear jarring and officious at such a difficult and painful juncture. Moreover, while very rare, many would find it objectionable to ask biological parents to pay for the burials costs of a child who is removed from those parents and dies in foster care due to abuse and neglect of a foster caregiver.</p> <p>At a minimum, there is a gap in the authority to pay expenses for young adults, as only those in extended foster care on some, but not all, bases are listed.</p>	<p>Repeal.</p>
<p><b>pp. 130-131</b> <b>TFC § 264.014 and § 264.121(e).</b></p>	<p><b>Limits Agency Flexibility.</b> The current system is inflexible. DFPS is directed to obtain certified copies of a youth’s birth certificate, a social security card, and an identification certificate by the time of a youth’s 16<sup>th</sup> birthday. At the time of discharge at the age of 18 or older, DFPS is directed to provide a birth certificate (not necessarily certified), the social security card as well as a personal identification certificate. Depending on the situation the youth may need a certified copy or original. Other times the youth may need only a copy. In</p>	<p>Consolidate with 264.121(e). Direct DFPS to ensure that by the age of 16, youth in care receive or are given a copy of (according to the preference of the youth) a certified copy of the youth’s birth certificate, a social security card or replacement social security card, as appropriate, and a personal identification certificate under Chapter 521, Transportation Code.</p> <p>Direct DFPS to provide the following to a young adult who</p>

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	<p>addition, DFPS is working with Appleseed on a tool to potentially provide the youth electronic access to their key documents. The statutory scheme should permit maximum flexibility to accommodate varying needs.</p>	<p>leaves care on or after the age of 18, if the young adult does not already have it:</p> <ul style="list-style-type: none"> <li>(1) the young adult's birth certificate;</li> <li>(2) the young adult's immunization records;</li> <li>(3) the information contained in the young adult's health passport;</li> <li>(4) a personal identification certificate under Chapter 521, Transportation Code;</li> <li>(5) a social security card or a replacement social security card, if appropriate; and</li> <li>(6) proof of enrollment in Medicaid, if appropriate.</li> </ul> <p>Again specify that the document provided may be an original, or a copy, depending on the preference of the youth.</p>
<p><b>pp. 131-132</b> <b>TFC § 264.101.</b> Sets forth authority for and limitations on DFPS' expenditure of foster care maintenance dollars.</p>	<p><b>Unclear Statutory Authority.</b> The current provision does not support the current reality faced by caseworkers. First, the language refers only to children for whom DFPS has initiated a suit and not necessarily children of whom DFPS has lawfully taken possession pursuant to other law, e.g. in Chapter 262 TFC. Caseworkers and other staff have historically scrambled to find money to pay for an otherwise lawful placement, by asking the Child Welfare Board for the funds. Second, caseworkers may properly need to place a child into a facility that does not meet the definitions in Chapter 42 of the Human Resources Code (e.g. older youth or young adult in</p>	<p>Amend statute as follows:</p> <p>(a) The department may pay the cost of foster care for a child <u>only if</u>:</p> <p>(1) [ <del>for whom the department has initiated a suit and has been named managing conservator under an order rendered under this title, who is a resident of the state, and who</del> ] <u>the child has been placed by the department in: [(A)] a foster home or other residential child-care facility [child-care institution], as defined by Chapter 42, Human</u></p>

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	<p>an HCS home awaiting a waiver slot). More recently, caseworkers have struggled with the issue of human trafficking victims, some of whom may in limited circumstances need a secure facility to receive treatment.</p>	<p>Resources Code, <u>or in a comparable residential facility in another state; and</u></p> <p align="center">(2) the department:</p> <p align="center">(A) has initiated suit and been named conservator; or</p> <p align="center">(B) has the duty of care, control, and custody after taking possession of the child in an emergency without a prior court order as authorized under this Code ...[no revisions proposed for the remaining subsections].</p>
<p><b>p. 133</b> <b>TFC § 264.121(e).</b></p>	<p>N/A.</p>	<p>Consolidate and streamline provision as described under TFC § 264.014.</p>
<p><b>p. 140</b> <b>TFC § 266.001.</b> Definitions related to the medical care and educational services for children in foster care.</p>	<p><b>Unclear Statutory Authority.</b> Because the statute defines medical care for which treatment can be given by reference to the “health care and related services provided” by Medicaid, the agency has at times been in a position whereby a service or treatment not covered by Medicaid is recommended or ordered for a child in DFPS conservatorship, yet DFPS does not have the authority to provide (or refuse) consent. In some instances the biological parents, in addition to the judge, should be involved, but decision-making authority is unclear. For example: in a child’s circumcision. Conversely, there are procedures not covered by Medicaid, such as withdrawal of life sustaining treatment or organ donation, but for which DFPS would still need authority over as conservator, with input of parents and judge if necessary.</p>	<p>Amend statute to make clear that for purposes of medical consent, the definition of “medical care” includes any medical care ordered or prescribed by a qualified health care practitioner, regardless of whether the treatment is provided under Medicaid, so that the agency can appropriately tailor the protocols to the seriousness and type of treatment.</p> <p>If provisions related to drug research program are eliminated, corresponding definitions in (2-a) and (4-a) should be eliminated as well.</p> <p>Suggest title or subtitle-wide definitions for Title V so that Commission, Commissioner, Department, do not need to be redefined. Foster child or foster</p>

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		care probably also needs title-wide definition.
<p><b>pp. 140-141</b>  <b>HRC § 40.0523.</b> Requires DFPS and the Children's Trust Fund of Texas Council to develop and implement a statewide education program designed to prevent infant mortality.</p>	<p><b>Unclear Statutory Authority.</b> DFPS PEI program staff confirmed that an "infant mortality prevention education program" can be characterized as one type of child abuse and neglect primary prevention program, rendering it unnecessary to have a specific statute for an infant mortality prevention education program. Later enacted provisions (HRC §§ 40.101-107) direct DFPS to carry out child abuse and neglect primary prevention programs. This specific provision, therefore, thwarts DFPS's ability to flexibly expend limited funding on the types of primary prevention programs that are most needed at any given time. Additionally, this provision is outdated, as the Children's Trust Fund of Texas Council was abolished and incorporated into DFPS' PEI program in 2001.</p>	<p>Repeal.</p>
<p><b>pp. 141-142</b>  <b>HRC § 40.101.</b> Definitions related to child abuse and neglect primary prevention programs.</p>	<p><b>Unclear Statutory Authority.</b> These definitions are pertinent to PEI's responsibility for developing, funding, and implementing primary prevention and early intervention programs. The purposes of these definitions would be better served positioned within Texas Family Code Chapter 265 (Prevention and Early Intervention Services). Caseworkers could more easily reference and utilize PEI-related material if all of the applicable provisions were streamlined into one comprehensive Chapter.</p> <p>Additionally, expanding the definition of "primary prevention" to include an infant mortality prevention education program would provide DFPS with the maximum flexibility to use limited funds for the primary prevention purposes that</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) and consolidate into TFC § 265.001 (Definitions) for clarity and organizational purposes.</p> <p>Amend HRC § 40.101(2) to read as follows:</p> <p>(2) "Primary prevention" means services and activities available to the community at large or to families to prevent abuse and neglect before it occurs, <u>and may include an infant mortality prevention education program.</u></p>

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	appear to be the highest priority at any point in the future. This expansion would eliminate the need for a specific statute for an infant mortality prevention education program while maintaining its significance as one type of primary prevention program (See HRC § 40.0523).	
<p><b>p. 142</b>  <b>HRC § 40.102.</b> Requires DFPS to operate the children’s trust fund to develop and carry out child abuse and neglect primary prevention programs.</p>	<p><b>Unclear Statutory Authority.</b> This statute falls under PEI’s responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p>
<p><b>pp. 142-143</b>  <b>HRC § 40.104.</b> Describes the requirements DFPS must follow in regards to administrative costs and other funds expended relating to child abuse and neglect primary prevention programs.</p>	<p><b>Unclear Statutory Authority.</b> This statute falls under PEI’s responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p>
<p><b>p. 143</b>  <b>HRC § 40.105.</b> Authorizes and describes the child abuse and neglect prevention trust fund account.</p>	<p><b>Unclear Statutory Authority.</b> This statute falls under PEI’s responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p> <p>Additionally, this statute contains inconsistent language, in that money is dedicated for “abuse prevention programs” when “abuse” and “neglect” have separate statutory definitions and are not, in fact, synonymous. Given the title of HRC § 40 Subchapter D, the titles of § 40.102 and § 40.105, and the language used within § 40.105, the inconsistent terminology within this statute seems to be inadvertent.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p> <p>Amend HRC § 40.105(a) and (e) to clean-up of inconsistent terminology, as follows:</p> <p>(a) The child abuse and neglect prevention trust fund account is an account in the general revenue fund. Money in the trust fund is dedicated to child abuse <u>and neglect primary</u> prevention programs.</p> <p>(e) All marriage license fees and other fees collected for and deposited in the trust fund and</p>

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		interest earned on the trust fund balance shall be appropriated each biennium only to the operating fund for [primary] child abuse and neglect primary prevention programs.
<p><b>pp. 143-144</b>  <b>HRC § 40.106.</b> Authorizes and describes the child abuse and neglect prevention operating fund account.</p>	<p><b>Unclear Statutory Authority.</b> This statute falls under PEI's responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p>
<p><b>p. 144</b>  <b>HRC § 40.107.</b> Authorizes DFPS to solicit contributions from any appropriate source and provides stipulations and limitations concerning contributions for child abuse and neglect primary prevention programs.</p>	<p><b>Unclear Statutory Authority.</b> This statute falls under PEI's responsibility for coordinating prevention and early intervention programs. See HRC § 40.101.</p>	<p>Move statute to Texas Family Code Chapter 265 (PEI subchapter) for clarity and organizational purposes.</p>
<p><b>pp. 145-147</b>  <b>Tex. Gov't Code § 411.114.</b>  Describes and directs DFPS's access to criminal history record information.</p>	<p><b>Unclear Statutory Authority.</b> This provision originated decades ago and has been steadily added to, in a manner that does not necessarily reflect current terminology ever since. The numbering is off and many subsections do not reflect current business reality.</p>	<p>Repeal language giving the agency authority to conduct background checks on specific groups listed, and replace with catch-all authority authorizing DFPS to run background checks on anyone when deemed necessary to the protection of a vulnerable child, elderly person, or person with a disability.</p> <p>This change would not alter any current language requiring background checks of certain groups.</p> <p>For an example of such broad authority:  Sec. 411.091. ACCESS TO CRIMINAL HISTORY RECORD</p>

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		<p>INFORMATION: TEXAS ALCOHOLIC BEVERAGE COMMISSION.</p> <p>(a) The Texas Alcoholic Beverage Commission is entitled to obtain from the department criminal history record information maintained by the department that the commission believes is necessary for the enforcement or administration of the Alcoholic Beverage Code.</p> <p>(b) Criminal history record information obtained by the commission under Subsection (a) may be used only for the enforcement and administration of the Alcoholic Beverage Code.</p>