



Children's Commission

Attorney Resource Letter:

For Attorneys Handling Child Protective Services Cases

July 21, 2017

2017 Child Protection Legislative Update: 85th Legislative Session

During the 85th Legislative Session, the Texas Legislature made significant changes to the Texas Family Code that will affect the delivery of foster care services, including changes to relative and kinship care. New legislative mandates will impose additional duties on the Department of Family and Protective Services (DFPS), attorneys and guardians ad litem, and courts hearing child welfare cases.

Please read the full [85th Legislative Update](#) at your earliest convenience in order to review and become familiar with the wide-ranging new laws related to CPS and child welfare law. This Update lists the legislative changes by bill number; by Code; and by statute.

Here are some of the most significant changes to the Texas Family Code:

House Bill 4 enacts Texas Family Code 264.755 (Caregiver Assistance Agreement) to allow DFPS to enter into monetary agreements with relatives providing care for children in temporary managing conservatorship. Families making less than or equal to 300% of the federal poverty level are eligible. The payments are capped at 50% of the basic foster care rate for a child (about \$325.00 per child). Monetary assistance is available for one year with one six month extension for good cause.

House Bill 5 establishes DFPS as a stand-alone agency. References throughout the Family Code to the executive commissioner of Health and Human Services Commission (HHSC) are now in reference to the commissioner of DFPS; references to HHSC now mean DFPS. The commissioner of DFPS will be appointed by and report directly to the Governor and will be limited to a two-year term.

House Bill 7 enacts new requirements for attorneys and guardians ad litem, new restrictions on DFPS related to pleadings and affidavits in support of petitions to remove children to foster care, and new duties on courts to ensure better services are delivered to youth who are transitioning out of foster care. House Bill 7 also eliminates group homes and creates five new license types: Child Placing Agency (CPA), General Residential Operation (GRO), Continuum of Care Operation, Specialized Child-Care Operation, and Cottage Home Operation.

Senate Bill 11 mandates a new model of delivery of foster and relative/kinship care called Community Based Foster Care or CBC. This new model is intended to delegate much of the decision-making about how foster care and kinship care services are provided to local decision-makers and communities throughout Texas, including placement and case management decisions currently performed by Department employees. There are many preliminary hurdles, including a lengthy and detailed readiness review that must be completed before CBC goes live in a catchment area.

Senate Bill 999 amends several sections of the Texas Family Code and duplicates many of the provisions in House Bill 7 relating to petitions filed by DFPS, procedures, evidence, and orders related to removing a child to foster care. It incorporates into Section 262.201 the provisions currently found at 262.205 so that all court hearings on emergency and non-emergency petitions are within the same statute; section 262.205 is repealed. It adds a date by which a hearing on a non-emergency petition must be held, and conforms sections of Chapter 262 so that the requirements regarding grounds for removal stated in the petition, and the evidence required in the affidavit in support, are consistent across the three removal situations.

The Children's Commission will present a live webcast entitled **Child Protection Legislative Update: 85th Legislative Session** on Monday, July 24th from 1:30 to 3:00 p.m. on CPS-specific issues (total MCLE 1.5 hours, including .25 ethics hours). To register, please link here: <http://www.TexasBarCLE.com/CLE/AABuy0.asp?IID=15916&sProductType=EV>



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