



88th Regular Legislative Session Update

DRAKE MIKESKA, MANAGING ATTORNEY

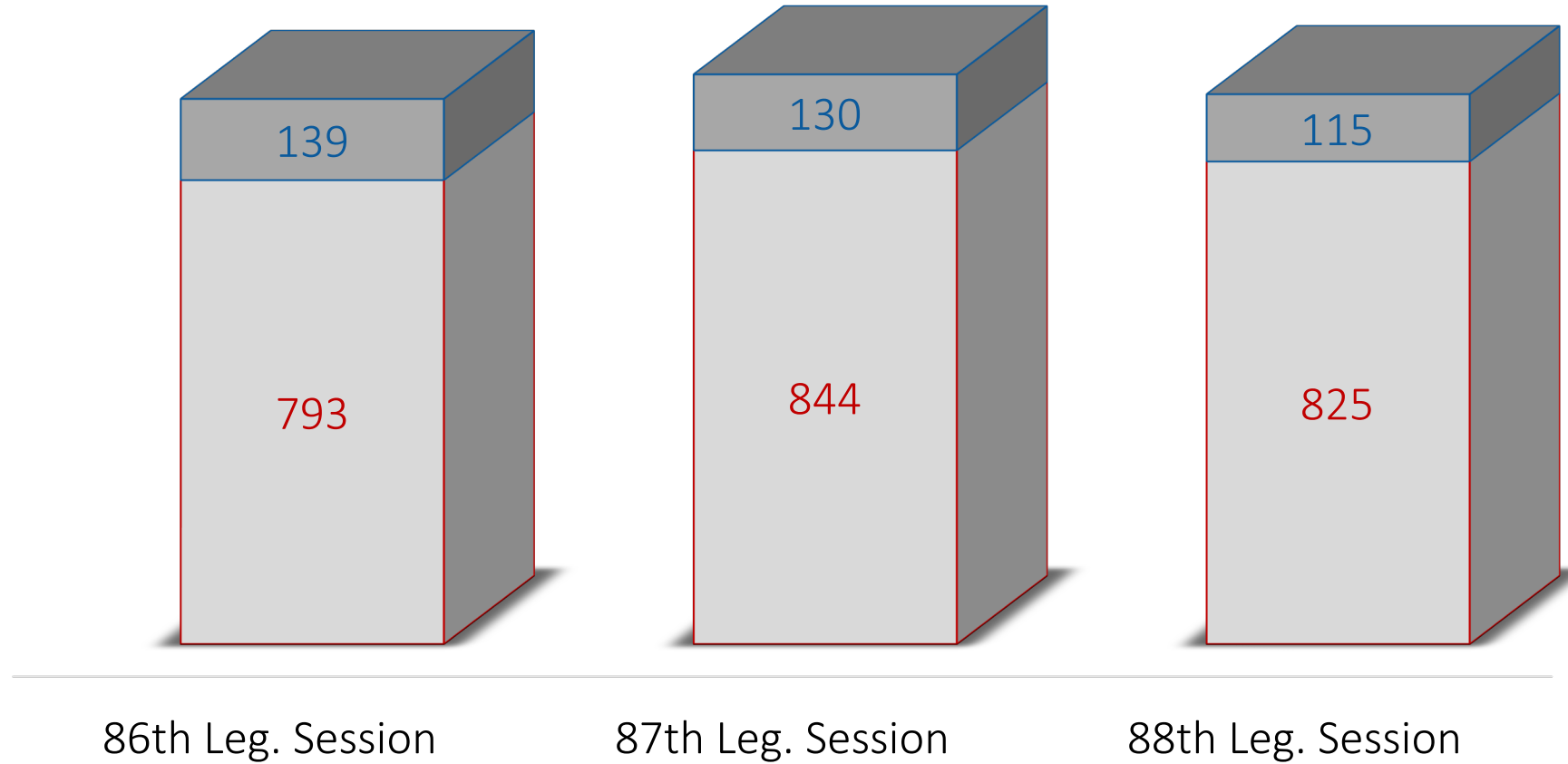
KELLIE PRICE, SPECIAL PROJECTS ATTORNEY

TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

MARCH 1, 2024

Bills Tracked by DFPS

□ Bills Tracked □ Bills Passed into Law



House Bills

Rep. Swanson
Effective Date
September 1,
2023

HB 63

HB 63

Family Code § 261.104, Amended

- Requires an individual making a report of child abuse or neglect to the DFPS hotline (i.e., reporter) to identify themselves and submit contact information. The reporter must be informed that DFPS may not accept anonymous reports, that the reporter's identity remains confidential, and that the reporter may make an anonymous report to law enforcement. If the report is made over the phone, the caller must also be notified that the call is being recorded and that making a false report is a crime.

HB 422 Rep. VanDeaver

Effective Date June 13, 2023

Family Code § 54.012(a), Amended

- Authorizes a juvenile court to conduct detention hearings remotely, without the consent of the parties, unless consent is required by the U.S. or Texas Constitution.

Family Code § 54.012(a-1), (a-2), (e), New Language

- A court may allow or require remote participation by a party, witness, court reporter, or other individual at a detention hearing. The juvenile court must submit a plan for remote proceedings to the Office of Court Administration (OCA) that includes the protocols for handling physical evidence and requires an unobstructed view of those providing remote testimony.

Family Code § 54.012(b), Repealed



HB 730

Rep. Frank
Effective Date
September 1, 2023



HB 730

Family Code § 261.303(b), (c), Amended; (f), (g), (h), New Language

- The court may order admission by DFPS to the home, school, or other place where the child may be for an interview, examination, and investigation if the court has good cause to believe the child is in imminent danger of aggravated circumstances or has probable cause to believe the admission is necessary to protect the child from abuse or neglect.
- To order the release of records by the parent or to order a medical, psychological, or psychiatric examination of the child, the court must have probable cause to believe the order is necessary to protect the child from abuse or neglect.

HB 730

Family Code § 261.303(b), (c), Amended; (f), (g), (h), New Language, cont.

- A hearing for an order may not be ex parte unless the court has probable cause to believe there is no time consistent with the health and safety of the child for a full hearing.
- The order must include the court's findings regarding the sufficiency of the evidence, and the court must provide a copy of the order to a party upon request.

Applies only to an order rendered on or after the effective date.

HB 730

Family Code§261.307, Amended

- Requires a DFPS investigator upon first contact to provide a parent or alleged perpetrator with a written summary that must now include an explanation that any statement or admission made by the person to anyone may be used against the person in a criminal case, as a basis to remove the child, or as a basis to terminate the person's relationship with the child.

HB 730

The summary must also include known allegations under investigation and verbally notify the person of their right to:

- not speak with any agent of DFPS without legal counsel present;
- receive assistance from an attorney;
- have a court-appointed attorney if the person is indigent, they are the parent of the child, and DFPS seeks a court order under Family Code Chapter 262 or 264;
- record any interaction or interview subject to the understanding that the recording may be disclosed to DFPS, law enforcement, or another party under a court order;
- refuse to allow the investigator to enter the home or interview the children without a court order;
- have legal counsel present before allowing the investigator to enter the home or interview the child;
- withhold consent to the release of any medical or mental health records;
- withhold consent to any medical or psychological examination of the child; refuse to submit to a drug test; and
- consult with legal counsel prior to agreeing to any proposed voluntary safety plan.

HB 730

Family Code §261.307, Amended, cont.

- DFPS must document that verbal notice was provided to the person and DFPS must adopt a form to document that the person received the written and oral summary and provide a signed copy to the person's attorney, if represented.
- If the person does not receive the verbal notification and written summary, any information obtained from the person, and any other information that would not have been discovered without that information, is not admissible for use against the person in any civil proceeding.

Applies only to the investigation of a report of abuse of neglect that is made on or after the effective date.

HB 730

Family Code§261.3081, New Language

- DFPS must notify the child's parent; the parent's attorney, if represented; the attorney ad litem for the child; CASA or a guardian ad litem; or any other person the court determines has an interest in the child's welfare of changes or edits to the DFPS investigation report.

HB 730

Family Code § 262.206, Amended

- Ex parte hearings under Family Code Chapter 262 must be recorded by either audio or video or a court reporter transcription. The court must provide a copy of the recording to a party upon request, and DFPS must provide notice of the hearing to the parent's attorney, if represented.

Applies only to an ex parte hearing held on or after the effective date.

HB 730

Family Code §264.203(e), (n), Amended

- Courts may not issue a temporary restraining order under Family Code §105.001 that places the child outside the child's home or in the conservatorship of DFPS.

HB 730

Family Code §264.902 (a), Amended; (e)-(j), New Language

- Before a parent may enter into a PCSP, DFPS must notify the parent of their right to counsel and give them a reasonable amount of time to consult an attorney. PCSPs automatically terminate after 30 days and DFPS may enter into not more than two 30-day extensions.
- Upon entering a PCSP agreement, DFPS must inform the parent of their right to refuse to enter into the agreement and to be represented by an attorney or a court-appointed attorney, if indigent and if DFPS seeks a subsequent court order.
- DFPS may not place a child in a PCSP for longer than 90 days unless both the parent and their attorney sign the agreement or a court renders an order under Family Code Chapter 262. Written notice of certain provisions must be placed in the PCSP.

Applies only to a PCSP executed on or after the effective date.

HB 793 Rep. Noble

Effective Date September 1, 2023

Family Code § 263.1021, New Language

- Allows a parent to obtain services in their service plan by a qualified or licensed provider selected by the parent. The services must be designed to achieve the goals of the service plan and may be provided remotely. The provider must certify whether the parent has satisfactorily completed the service. DFPS must reimburse the service provider at the same rate as DFPS' contracted providers in the region.

Applies only to a suit filed by DFPS on or after the effective date.



HB 968

Rep. Gates
Effective Date
September 1, 2023



HB 968

Family Code § 262.101, Amended

- Adds to the requirements of emergency removal affidavits that the child could not be protected by a kick-out order of the perpetrator or by placement with a relative or designated caregiver under a PCSP because it was refused, was not possible, or that placement would pose an immediate danger to the child.
- The affidavit must describe all reasonable efforts that were made to prevent or eliminate the need for the removal of the child.

HB 968

Family Code§262.1016, New Language

- Authorizes an agreed order to remove a perpetrator. The order may not be used against an alleged perpetrator as an admission of child abuse or neglect and is enforceable civilly or criminally but is not enforceable as a contract.
- The person affected by an agreed order may request that the court terminate the order and the court must terminate the agreed order upon a finding that the order is no longer needed and that terminating the order is in the best interest of the child.

HB 1087

Rep. Hull
Effective Date
September 1, 2023



HB 1087

Family Code § 161.001(f), (g), New Language

- Prevents the court from ordering termination of parental rights in a suit by DFPS unless the court finds by clear and convincing evidence that DFPS made reasonable efforts to return the child to the parent before commencement of a trial on the merits, and despite those reasonable efforts, a continuing danger remains in the home that prevents the return of the child to the parent.
- The court does not have to make a finding regarding reasonable efforts if a service plan for the parent was waived due to aggravated circumstances.
- The court must include in a separate section of its order written findings describing with specificity the reasonable efforts DFPS made to return the child to the child's home.

HB 1087

Family Code§262.201(g-2), New Language

- Requires adversary hearing orders to describe with specificity in a separate section all reasonable efforts made to prevent or eliminate removal or return the child home and to place the child with a non-custodial parent.

Applies only to a Suit Affecting the Parent-Child Relationship filed on or after the effective date.

HB 2187 Rep. Davis

Effective Date September 1, 2023

Family Code § 161.001(b), Amended

- Adds abandoning an elderly or disabled person to the termination ground regarding the criminal offense of abandoning a child.

Family Code § 262.2015(b), Amended

- Adds abandoning an elderly or disabled person to the list of aggravated circumstances allowing for waiver of a service plan and the requirement to make reasonable efforts to return a child to the parent.

Applies only to an offense committed on or after the effective date. An offense was committed before the effective date if any element of the offense was committed before that date.

*See bill for additional citations.



HB 2658 Rep. Leach

Effective Date September 1, 2023

Family Code § 161.001(b), Amended

- Adds termination ground (V) that allows for termination if a parent has been convicted of criminal solicitation of a minor either online or in-person.

Applies only to a suit affecting the parent-child relationship filed on or after the effective date.



HB 2850 Rep. Smith

Effective Date September 1, 2023

- Amends the Family Code by creating Title 6, entitled “Civil Procedure,” and adding Chapter 301. Discovery Procedures for Civil Actions.

Family Code § 301.001, New Language

- Clarifies that Family Code Chapter 301 applies only to civil actions brought under the Texas Family Code.

Family Code § 301.002, New Language

- Notwithstanding Government Code § 22.004, Family Code Chapter 301 may not be modified or repealed by a rule adopted by the Supreme Court of Texas.



HB 2969 Rep. Cook

Effective Date September 1, 2023

Family Code § 162.604, New Language

- Restricts DFPS or Single Source Continuum Contractor (SSCC) from setting a maximum age or maximum age differential for an adoptive parent but allows them to consider the health and expected lifespan of each prospective adoptive parent when determining best interest.



HB 3765 Rep. Bucy

Effective Date September 1, 2023

Family Code § 263.008(b), Amended

- Adds having luggage available to transport the child's personal belongings to the foster child's bill of rights.

Family Code § 264.1078, New Language

- Requires DFPS to establish a luggage program for children who are being removed from their home or changing placements. The luggage belongs to the child and not the caregiver or DFPS. DFPS must document and report the inventory of the luggage program and the number of times a child is forced to use a trash bag to transport their belongings. DFPS may solicit and accept gifts, grants, and donations to the program.



HB 4233 Rep. Zwiener

Effective Date September 1, 2023

Family Code § 264.015(d), (e), New Language

- Each foster parent, prospective adoptive parent, and relative or other designated caregiver for children 10 years or older must complete a training program developed by DFPS on runaway prevention measures and proper procedures to support children and youth at high risk for running away.



HB 5010 Rep. Schofield

Effective Date September 1, 2023

Government Code § 81.073(a)(1)(B), (a)(2)(B), New Language

- Requires grievances against an attorney to be classified as a complaint if submitted by the following persons in the proceeding that is the subject of the grievance:
 - a family member of a ward in a guardianship proceeding;
 - a family member of a decedent in a probate matter;
 - a trustee of a trust or an executor of an estate;
 - the judge, prosecuting attorney, defense attorney, court staff member, or juror in the legal matter;
 - a trustee in a bankruptcy; or
 - any other person who has a cognizable individual interest in or connection to the legal matter or facts alleged in the grievance.



HB 5010 Rep. Schofield

Effective Date September 1, 2023

Government Code § 81.074, Amended

- Adds grievances submitted by person other than those listed in Government Code § 81.073 to the inquiry disposition procedures.

Applies only to a grievance filed on or after the effective date.



Senate Bills

SB 26 Sen. Kolkhorst

Effective Date September 1, 2023

Government Code § 531.09915, New Language

- Requires HHSC to establish a matching grant program for eligible community-based initiatives that promote identification of mental health issues and improve access to early intervention and treatment for children and families.
- HHSC must prioritize grants for entities that work with children and family members of children with a high risk of experiencing a crisis or developing a mental health condition to reduce:
 - The need for future intensive mental health services;
 - The number of children at-risk of placement in foster care or the juvenile justice system; and
 - The demand for placement in state hospitals, inpatient mental health facilities and residential behavioral health facilities.

*See bill for additional citations.



SB 135 Sen. West

Effective Date September 1, 2023

Family Code § 262.114(a-3), New Language

- Requires DFPS to record the results of home studies of relatives or designated caregivers in IMPACT.

Applies only to a home study performed on or after the effective date.



SB 593 Sen. Sparks

Effective Date May 19, 2023

Human Resources Code § 42.027, New Language

- Requires HHSC to engage a third party to conduct an audit of rules, minimum standards and contract requirements applying to Child-Placing Agencies (CPAs), RTCs, foster homes, kinship homes, and adoptive homes. The audit must also review the standards or oversight requirements to determine whether the standard or oversight requirement complies with federal laws, rules, or guidelines and whether the standard or oversight requirement is the best practice.

Expires September 1, 2025.



SB 614 Sen. Perry

Effective Date September 1, 2023

Family Code § 264.017(f), New Language

- Requires DFPS to publish a monthly report on PCSPs that includes: the number of children placed under a PCSP, the average duration of a placement, the average duration of a placement during an investigation, and the percentage of children removed and placed in the managing conservatorship of DFPS.

Applies only to a PCSP executed on or after the effective date.

*See bill for additional citations.



SB 718 Sen. Paxton

Effective Date September 1, 2023

Family Code § 157.168, Amended

- Requires a court to order additional periods of possession and access when court-ordered access has been denied due to a DFPS investigation that did not result in a finding of Reason to Believe (RTB), unless the party denying access shows good cause as to why more access should not be granted. Does not create a cause of action against DFPS or waive sovereign immunity.

Applies only to a Suit Affecting the Parent-Child Relationship pending before a trial court on or on or after the effective date.



SB 870 Sen. West

Effective Date September 1, 2023

Family Code § 154.017, New Language

Allows a court or Title IV-D agency to require an unemployed or underemployed obligor to participate in a program that provides employment assistance, skills training, or job placement services.

Family Code § 231.002(e), Amended

Allows the Office of the Attorney General (OAG) to administratively adjust the obligations of an incarcerated obligor.

Family Code § 231.101(f), New Language

Requires the OAG to distribute a child support payment received on behalf of a child placed in substitute care by DFPS to the appropriate state agency in accordance with applicable federal laws or regulations.

Applies only to a child support payment received by the OAG on or after the effective date.

*See bill for additional citations.



SB 1379 Sen. Parker

Effective Date September 1, 2023

Family Code § 264.1215, New Language

- Requires DFPS to establish a pilot program to assist foster youth to achieve financial security and independence.
- The program must include an agreement with financial institutions to establish saving and checking accounts for foster youth between the ages of 14 and 21.
- The foster youth are to be the solo owners of the accounts even without a co-signor.
- The financial institution may not require maintenance, overdraft, insufficient funds, inactivity, or other penalty fees.
- DFPS may partner with non-profits and foundations to provide matching funds for deposits. DFPS must survey youth about the program and complete an evaluation of the program by December 31, 2027.
- If DFPS is unable to enter into an agreement with financial institutions, DFPS must report barriers to be addressed.

Expires January 1, 2028.



SB 1447 Sen. Miles

Effective Date September 1, 2023

Family Code § 261.3105, New Language

- Requires DFPS to develop a robust training program for persons investigating suspected child abuse or neglect. An investigator or investigative supervisor may not be assigned to investigate or supervise the investigation of any case until the investigator or supervisor successfully completes the training program and passes an examination.

Applies only to investigation of a case assigned to an investigator or investigative supervisor on or after January 1, 2025.



Sen. Kolkhorst
Effective Date
September 1,
2023

SB 1930

SB 1930

Family Code § 107.004(f), New Language

- If the child is considered for placement in an RTC, QRTP, or similar setting, an attorney ad litem must review any available information regarding the child's needs including the Child and Adolescent Needs and Strengths (CANS) assessment, psychological evaluations, discharge notes, incident reports and counseling notes and determine if the placement is appropriate to meet the child's needs.
- The attorney ad litem must meet with the child to elicit the child's opinion regarding the child's current or proposed placement.
- The attorney ad litem must advise the child regarding DFPS' request for placement and the likelihood of the request being granted.
- The attorney ad litem must advocate to the court for the child's specific desires regarding the requested placement.
- The attorney ad litem may request a placement conference and participate in any placement conferences conducted by DFPS regarding an RTC, QRTP, or similar placement.

SB 1930

Family Code§107.0131(a), Amended

- An attorney appointed to represent a parent may participate in a case staffing related to a placement in an RTC or QRTP.

Family Code§263.001(a)(3-c), New Language

- Defines an RTC per Human Resources Code Chapter 42.

SB 1930

Family Code §264.018(a)(5), Amended

- Adds placement of a child in an RTC or placement conferences to determine the appropriateness of an RTC placement to the definition of a significant event requiring notice to the parent, attorney ad litem, and guardian ad litem.

SB 2120

Sen. Zaffirini
Effective Date
September 1, 2023



SB 2120

Government Code § 79.034(a), Amended; (a-1), New Language

- Gives TIDC authority to develop policies and standards for providing family protection services to indigent parents and children.
- They may include performance standards, qualification standards, successful completion of CLE, testing, and certification.
- TIDC may also set standards for caseloads, compensation, determining indigency, and policies and standards for assigned counsel programs, offices of parent and child representation, contract defender programs, and managed assigned counsel programs.

SB 2120

Government Code§79.0365, New Language

- Each county must biannually report to TIDC a copy of all formal and informal rules and forms governing the procedures the county uses to provide indigent parents and children with counsel, any fee schedule used by the court, and information on the court's compliance with Government Code Chapter 37 including the lists and rotation system required under that chapter.
- Counties must also annually report information on the number of appointments made to each attorney and information provided to the county by those attorneys under new Family Code§107.0042.

SB 2120

Family Code §107.259(a), (d), Amended

- Requires the chief counsel for an office of child representation to have practiced law for five years instead of three.

Questions?

William.Mikeska@dfps.Texas.gov

Kellie.Price@dfps.Texas.Gov

