



Testimony

HB 567

Preserving and Strengthening Families

Testimony Submitted to the Texas House Committee on Juvenile Justice & Family Issues

By Andrew C. Brown, JD

Chair Neave and Members of the Committee:

My name is Andrew Brown, and I have the privilege of serving as a senior fellow of child and family policy at the Texas Public Policy Foundation. Thank you for the opportunity to offer testimony in support of [House Bill 567](#) and our state's efforts to preserve and strengthen families.

The 87th Legislature has a unique opportunity to build on recent efforts to reform the Texas child welfare system and make our system more compassionate and responsive. Much of this work will be focused on bringing the state into compliance with the requirements of the Family First Prevention Services Act. This landmark piece of legislation is one of the most comprehensive overhauls of child welfare funding in more than 30 years. One of the main goals of Family First is to reduce the number of children removed into foster care by providing services to preserve families at risk of separation before removal becomes necessary. This is a long-overdue change to the culture of child welfare practice, but services are just one piece of the puzzle. To truly create a more compassionate system that prioritizes family preservation, we must also reform the standards that DFPS and the courts rely upon when making life-altering decisions concerning removal of children and termination of parental rights.

House Bill 567 is aimed at accomplishing the transformational goals of Family First in four primary ways:

1. Reduce the harm caused to children by unnecessary separation from their parents;
2. Prioritize support for families over removal of children into foster care;
3. Ensure accuracy and fairness in CPS investigations; and
4. Allow children in foster care to either return home or be adopted more quickly.

For most of the last decade, the number of Texas children removed from their families and placed in the custody of the Department of Family and Protective Services increased. It is well documented that the mere act of separating a child from his or her family, even for a short period of time, is a traumatic event that carries significant risk of long-term harm to the child. A seminal study from the Massachusetts Institute of Technology, for example, found that children who entered foster care [experienced higher rates of negative outcomes](#) like juvenile justice involvement, teenage pregnancy, and economic instability than similarly at-risk peers who remained with their families. Other studies have shown that post-traumatic stress disorder (PTSD) rates among foster care alumni were [equivalent to, and in some cases greater than](#), that of U.S. combat veterans.

These numbers are tragic and should motivate us to change our approach toward struggling families in our communities. The story becomes even more concerning when you realize that a child's likelihood of removal is often linked to where they live. An analysis of DFPS data reveals dramatic differences in county-level removal rates. For example, the removal rate in Lubbock County is more than [double the state average](#), and the rate in McLennan County is nearly four times higher.

One major factor driving this disproportionality is poverty. Last summer, we published an analysis of the [link between child poverty and removals for allegations of neglect](#) in the state, which I have submitted with my testimony. In Texas, the

majority of children who enter foster care enter due to allegations of neglect, and roughly 75% of child maltreatment victims are [victims of neglect only](#)—meaning no physical or sexual abuse was alleged. Our research found that a child living in one of the 25 poorest counties in Texas is statistically [more likely to be separated from their family](#) due to an allegation of neglect than a child living in one of the 25 wealthiest counties in Texas.

Part of the problem, which House Bill 567 seeks to remedy, is our state's overly broad definition of neglect. Currently, the Family Code [lacks an overarching definition of neglect](#). Instead, the code attempts to define neglect through a list of general circumstances that may be considered neglect. These general circumstances are often speculative, linking the determination to harm that “could have” occurred. The broad and ill-defined nature of neglect allows for issues rooted in poverty, such as the inability to access adequate housing, affordable child care, or food insecurity, to lead to child welfare involvement. As a consequence, circumstances that could be remedied by providing supportive services to families are instead addressed by more heavy-handed and disruptive interventions. House Bill 567 addresses this by creating a clear, narrowly tailored definition of neglect to help front-line workers and the courts to better distinguish between circumstances requiring intervention and those that can be addressed through less intensive community-driven supports.

Reducing removals and creating more consistency in how DFPS responds to allegations is critical to HB 567's goal of preserving families. Equally important is ensuring that children who enter foster care are able to exit to a safe, stable home as quickly as possible. On average, a child who enters the custody of DFPS will [spend about 20 months in care](#). Children who exit to adoption will spend over 2 years in the care of the state, and those who age out will spend, on average, more than 3 years in care. In order to reduce the time children spend in foster care, HB 567 makes important changes to procedures governing reunification and adoption.

Section 6 of the bill promotes reunification by requiring the return of a child to his or her family at the end of each permanency hearing unless the court finds that there is a continuing danger to the physical health or safety of the child and returning the child home would be contrary to the child's welfare. Under this provision, courts retain the authority to order monitoring and services to ensure a successful transition and help the family remain intact.

Section 7 of the bill will help reduce the time it takes for children to achieve permanency through either reunification or adoption. The Family Code currently requires a final trial on the merits in child protection cases to commence by the first anniversary of the date the court rendered temporary orders. The purpose of this provision is to prevent children from lingering in foster care. However, the code does not set a date for when the court is required to enter a final order after trial has commenced—a loophole that has resulted in children experiencing exceptionally long stays in foster care. A disturbing example of this is a 2018 case known as [In re J.D.G.](#) In this case, a final trial on the merits commenced in November 2016 but, due to numerous delays, did not conclude until late May 2018—nearly 2½ years after the children were placed in DFPS conservatorship. In a scathing concurring opinion, Justice Harvey Brown highlighted the need for legislative action to ensure timely resolution of these cases to prevent harm to children caused by unnecessarily long stays in foster care. House Bill 567 solves this problem by requiring the trial to be brought to final resolution within 90 days after it commences.

As the culture of child welfare practices shifts toward a more compassionate approach focused on strengthening rather than separating families, House Bill 567 makes necessary changes to Texas Family Code that will help Texas achieve this important goal. This legislation in concert with implementation of the Family First Prevention Services Act and the ongoing rollout of community-based care will allow Texas to become a model of successful child welfare reform.

Thank you for your time, and I look forward to answering any questions you may have. ★

ABOUT THE AUTHOR

Andrew C. Brown, JD, is the distinguished senior fellow of child and family policy at the Texas Public Policy Foundation. As an attorney, he has represented children in the child welfare system, advocated for the rights of parents, and helped build families through domestic and international adoption.

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