



Privatization of State Foster Care and Adoption Services An Idea Whose Time Has Come or a Disaster in the Making?

Child Protective Services (CPS) in the Department of Family and Protective Services (DFPS) employs specialists who recruit, train, and monitor foster and adoptive parents and complete adoptions. CPS also contracts with private providers for these services. Some argue that the state should maintain this public-private system. Others argue that the state should use only private providers. This *Policy Page* explores the pros and cons of each approach. Our major findings include:

- At a time when we have children sleeping in state office buildings, privatization will make our foster-care capacity crisis worse;
- Rapid privatization will force children out of their homes, move children into more crowded homes, and compromise their care;
- At a time when we have over 4,000 children available for adoption but without an adoptive home, privatization will make our adoption capacity crisis worse;
- Privatization cannot possibly be accomplished in 24 months; and
- Privatization will cost far more than the state has calculated.

Terminology

Recruiting, training, and monitoring foster parents and adoptive parents goes by the name “substitute care services,” referring to substituting for the care of a biological parent. The public employees who do this work are called FAD workers, for Foster and Adoptive Home Development.¹ The private providers who do this work are called Child Placing Agencies (CPAs).

What does current law require?

In Senate Bill 6, the 79th Legislature required the privatization of all foster and adoption services by September 1, 2011. SB 6 is now current law. Unless the legislature amends current law, the Department of Family and Protective Services

(DFPS) must implement this mandate. In other words, CPS will have to reassign or terminate the public employees who provide substitute care services and contract with private providers for all services by September 1, 2011.

What is the legislature considering?

The Senate is considering Committee Substitute Senate Bill 758,² which not only continues the current law mandate to privatize all foster and adoption services, but also moves the completion date up to September 1, 2009.

The House has not yet held hearings on a specific bill, but several bills are pending that addressing this issue, including a companion bill to SB 758.³ The House will hold hearings in early April.

How does this relate to case management?

Privatizing substitute care services is altogether different from privatizing case management. When the state outsources substitute care services, it contracts for recruiting, training, and monitoring foster and adoptive homes and completing adoptions. When the state outsources case management, it contracts for decisionmaking about children in the state's care.

SB 6 also mandated the privatization of case management. Under SB 6, privatizing all foster and adoption services is necessary to privatize case management because SB 6 names the private provider of substitute care services for a child as the case manager. Since SB 6 requires the state to outsource all case management by September 1, 2011, it therefore had to require the state to outsource all substitute care services by September 1, 2011.

CSSB 758, however, proposes a pilot of case management, leaving the 81st Legislature the opportunity to evaluate the pilot and decide whether privatizing case management is advantageous. If the legislature adopts this approach, it would not be necessary to rush to privatize all substitute care services.

What is the thinking behind privatizing all foster and adoption services before learning the results of the case management pilot?

CSSB 758's author, Senator Jane Nelson (District 12--Denton and Tarrant), Chair of the Senate Health and Human Services Committee, gives three reasons for privatizing all foster and adoption services by September 1, 2009:

- Improving services
- Focusing CPS on its core mission
- Eliminating any conflict of interest between Licensing and CPS

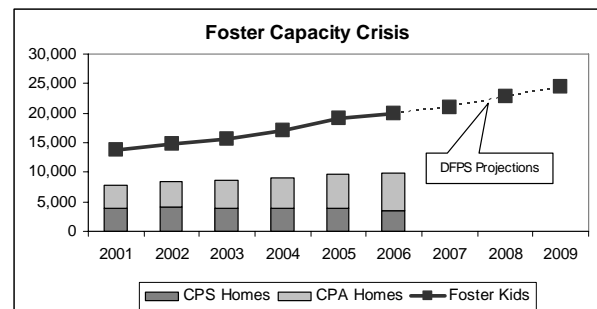
This policy page examines these claims.

Does privatization improve services?

While some private providers claim that privatizing will improve services to children and families, we have not seen any evidence that on average the services of private providers are superior to those of CPS. In our judgment, privatization will hurt services, particularly the effort to rush to privatize by September 1, 2009.

Texas has a foster-care capacity crisis

Texas already has a foster-care capacity crisis. As the chart below and the table on the top of the next page show,⁴ children are entering foster care much faster than the system is creating new foster homes, leading to crowded homes and inappropriate placements.



In reviewing these numbers, one might conclude that CPAs are doing a better job than CPS in opening foster homes, but this does not account for the effect of adoptions, as explained below.

State spending to build capacity has been flat

Texas did not put additional money into building foster care capacity, either public or private, in the last session and is not planning to do so this session. By 2009, caseloads for FAD workers will be up 47 percent.⁵

FAD Worker Caseloads Projections				
2005	2006	2007	2008	2009
25.7	32	31.4	35.4	37.9

	Foster Kids	% Growth since 2001	CPS Homes	CPS Homes % Growth since 2001	CPA Homes	CPA Homes % Growth since 2001	Total Homes	Total Homes % Growth since 2001
2001	13,729		3,987		3,792		7,779	
2002	14,843	8.1%	4,053	1.7%	4,390	15.8%	8,443	8.5%
2003	15,709	14.4%	3,905	-2.1%	4,670	23.2%	8,575	10.2%
2004	17,109	24.6%	3,824	-4.1%	5,181	36.6%	9,005	15.8%
2005	19,113	39.2%	3,867	-3.0%	5,803	53.0%	9,670	24.3%
2006	19,942	45.3%	3,426	-14.1%	6,406	68.9%	9,832	26.4%

Rapid privatization will make the crisis worse

During the next 24 months, instead of recruiting and training new homes, our state workforce will be looking and leaving for new jobs. The state experienced this same sort of disruption under the Accenture contract when it tried to privatize enrollment and eligibility determination for public benefits.

In addition to losing state workers, CPS foster parents may also quit. CPS foster parents have chosen to work for the state rather than a private provider. If the state forces them to go through a difficult transition to a private provider, many may just quit, severely diminishing capacity. The state has not included these volunteers in its planning or done any preparatory work for a transition.

Rapid privatization would disrupt children's lives

Indeed, a major disadvantage to rapid privatization is that it would cause terrible disruptions to children. If a CPS foster home is unable or unwilling to transfer to a private provider, a child will lose his or her home. Even if foster parents are willing to move from CPS to private providers, private providers will have different managers, therapists, and doctors, disrupting the continuity of care to children. A mandate to privatize in 24 months would have tragic consequences for children.

Private providers cannot build needed capacity

During the debate about privatization, some have observed that private providers account for 80 percent of all foster homes and inferred that providing the other 20 percent should be easy. Unfortunately, a misunderstanding about the 80/20 ratio has led to this erroneous conclusion.

CPA and CPS homes serve different populations. CPS homes tend to be Basic Foster Family Homes, providing foster care for typical children. CPA homes tend to be specialized, providing therapeutic foster care. Historically, CPAs have been less willing to provide basic foster care because the rate does not cover costs.

	Rate to CPA	Minimum To Foster Family
Basic	\$37.00	\$20.46
Moderate	\$67.00	\$35.97
Specailized	\$89.68	\$46.25
Intense	\$164.45	\$82.22

Cost studies show that basic and moderate rates cover about 80 percent of a CPA's cost, while specialized and intense cover closer to 100 percent.⁶ If the state were successful in transitioning all its basic homes to CPAs, it would be a massive cost shift to private providers. Even though private providers do provide some basic care now, it is unrealistic to think that private providers could or would sustain such a large cost shift.

Children Sleeping in State Office Buildings

January 2007:
32 children spent a total of 42 nights in a CPS office.

February 2007:
42 children spent a total of 50 nights in a CPS office.

Source: DFPS Data

Rapid privatization would force children into crowded homes, compromise their care, and increase their levels

To make up for the financial loss, private providers would have to put as many children in a home as possible, crowding children. In addition, while overall rates of abuse and neglect in foster and adoptive homes are very low, private provider homes do have higher rates of confirmed abuse and neglect. For Fiscal Year 2006, CPA homes had 238 confirmed child victims (1.04%) compared to CPS homes, which had 68 confirmed child victims (0.77%).⁷ Further strain on the foster care system might produce even more abuse and neglect.

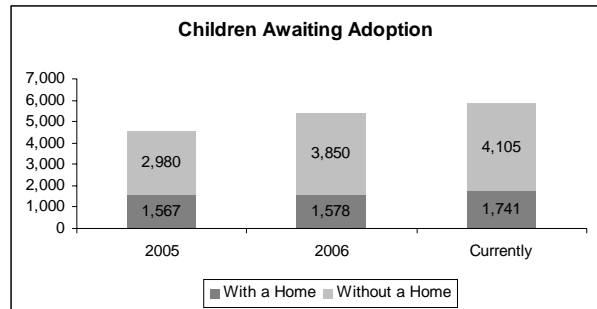
Some have also suggested that private providers may push the state to label children as needing higher levels of care in order to earn higher rates. While others might express indignation at such a suggestion, ironically, the entire premise of privatization is that the state can structure financial incentives to improve performance. Conversely, of course, the state can structure financial incentives that diminish performance. Asking private providers to care for thousands of more children at 80 percent of cost may well result in private providers pushing children to higher levels of care. Not only does this cost the state more, it hurts children, particularly by diminishing their prospects for adoption because

they have been labeled more troubled.

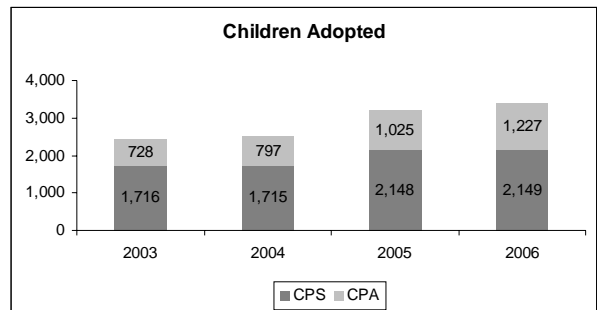
Rapid privatization would make our adoption capacity crisis worse

Because of policy changes at the federal and state level, CPS has worked aggressively to move more children into permanent adoptive homes. One of its tactics has been to encourage foster parents to adopt. Consequently, even as CPS has added new homes, its total number of foster homes has dwindled as foster parents adopt and leave the system. This accounts for the declining number of CPS homes noted in the table above.

Even with this effort, Texas has an adoption capacity crisis. Today, over 4,100 children are available for adoption, but have no adoptive placement.⁸

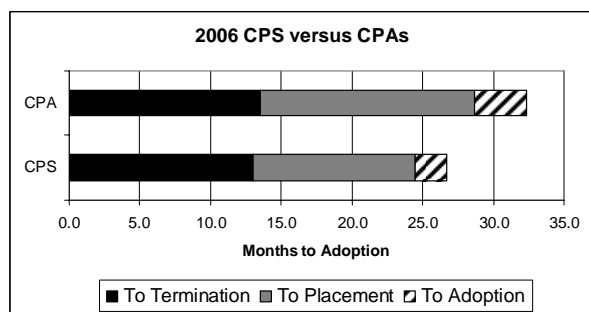


Children are not waiting for lack of effort. Indeed, as the following chart shows,⁹ the number of adoptions has grown each year, but it has not kept pace with the growth in the number of children available for adoption. Just as with foster care, rapid privatization will exacerbate this capacity crisis, as state works change jobs.



Moreover, the impact will be very significant because, as the chart above shows, CPS does far more adoptions than private providers do. For Fiscal Year 2006, CPS did 63.7% of all adoptions (2,149), while private providers did only 36.3% (1,227).¹⁰ CPS actually does an even greater percentage of the work than these numbers show because the numbers give credit to the CPA if the CPA supplies the home, even if CPS does all the work to consummate the adoption.

When private providers do the work, they take much longer to complete an adoption. In Fiscal Year 2006, CPS completed adoptions in 26.6 months, while private providers took 32.4 months, almost six months longer.¹¹ Not only does adding six months to each adoption have a significant fiscal impact for the state because of the longer stay in foster care, this delay is also disadvantageous to children.



The reason for this difference is not that CPS has easier-to-place children, because CPS places children out of both CPS homes and CPA homes. Indeed, the age and ethnicity of the CPS and CPA adoption pools is very similar.

The more centralized and specialized CPS workforce probably accounts for its greater speed and numbers. Perhaps financial incentives are working perversely. Private providers may be more hesitant to encourage foster parents to adopt, because it means losing the daily rate and a foster home, which is an important business asset. Perhaps rates for adoption services are too low.

If given an opportunity, DFPS might learn more about how to design financial incentives that

work from a pilot, which is why privatizing slowly based upon experience is so important.

CPS Adoption Award

Last year, the U.S. Department of Health and Human Services awarded Texas \$4,082,000 for increasing the number of children adopted from foster care. Texas earned a higher award than any other state.

Does privatization allow CPS to focus on its core mission?

CPS' core mission is safety and permanency for each child. Providing a strong network of foster and adoptive parents has always been a major CPS function. CPS will not be stronger overall for giving up its Foster and Adoption Units. Indeed, CPS will lose valuable expertise about best practices for permanency.

Does DFPS have a conflict of interest in both regulating and providing foster and adoption services?

The Department of Family and Protective Services does include both Child Care Licensing and Child Protective Services. However, Licensing and CPS are entirely separate divisions each headed by its own assistant commissioner. To date, no one has shown that Licensing has "gone easy" on CPS foster and adoptive homes.

If having both divisions report to the same commissioner is seen as a real problem, then moving Licensing to another state agency would be preferable to privatizing all foster and adoption services. Moving Licensing would be relatively easy with minimal cost. Privatizing all foster and adoption services would be hard and costly.

What does privatization cost?

Privatization costs more

The Quality Improvement Center on the Privatization of Child Welfare Services at the University of Kentucky reports:

One area that deserves noting is cost containment. National studies reviewed for this project suggest that, unlike the assumptions in the early literature that privatization would lead to efficiencies and cost savings, in most cases overall spending for projects has increased over previous levels due to a range of expenses including the costs of monitoring and administering services.¹²

DFPS's Legislative Appropriations Request, Exceptional Item 7, requests \$24.5 million in All Funds (\$17.6 million in GR) to outsource foster homes and adoption services. The Fiscal Note to SB 758 explains how this DFPS calculates this cost.¹³ Significantly, this is the net cost after the savings from eliminating state workers.

State Foster and Adoption Workforce—an Asset Worth Protecting

CPS has about 250 public employees working on foster and adoptive home recruitment, training, and monitoring, as well as completing adoptions. The Average Daily Number of Foster and Adoptive Homes with which they work is 3,751. This workforce is highly trained and tenured. If terminated by the state, while some might go to work for private providers, many would find other jobs.

DFPS has a flaw in its cost calculation

DFPS's cost calculation is far too low. DFPS calculated the cost of privatization based on the rates CPS now pays private providers for foster care and adoptive services. As explained above, however, the basic and moderate foster care rates, which allow for recovery of only about 80 percent of costs, are inadequate for private providers to build the necessary capacity. Private providers cannot absorb the additional costs necessary to recruit, train, and monitor several thousand new foster homes each year.

How should the state calculate the cost?

Accurately calculating the cost would require soliciting offers for the necessary services. To date, the state has not solicited bids. The state has nothing but vague assurances from some private providers that they want this business. Neither the state nor any private provider has a business plan or cost estimate for this massive task.

Moreover, the state should spend extra during the transition period in order to maintain the state's own capacity while creating new private capacity. A budget that assumes private capacity can smoothly come on line just as state capacity smoothly shuts down over a two-year budget is highly unrealistic.

What are the House and Senate budgeting?

House Appropriations rejected the idea of privatizing substitute care services and refused to set aside any money to do so. While Senate Finance has set aside money, it has underfunded even the flawed DFPS cost calculation, shorting DFPS by about \$2 million (GR).

Is Texas acting like a business?

A business would not outsource a job it could do more cost effectively. Privatization of substitute care services may do just that—buy less for more.

A business would see itself as a market competitor and would understand that by going out of business, prices might go up. In other words, by putting CPS out of business, the legislature eliminates a major market player and in the end may increase its own costs.

A business would not jeopardize its own ability to continue making a key product component, until it knew it had an outsourcing deal that would work. Privatization of substitute care services does just that—dismantles the state's own workforce before the state knows it has a deal that works.

A business would not create the classic problem of the driver who runs out of gasoline on a lonely road who consequently must buy gas on whatever terms available. Mandating privatization of substitute care services by a date certain does just that—forces DFPS to buy services at whatever price, on whatever terms to meet the mandate.

No business would approach privatizing a critical service in the way the legislature is considering.

What about other states?

Private providers in other states claim to have increased capacity, but they spent more money to do so. The Texas system too could increase capacity by spending more money. The issue is which system is more cost effective, and if private providers are more cost effective, how to transition without hurting children.

Is there a better plan?

If private providers can truly increase foster and adoption capacity, given our foster and adoption capacity crisis, a better plan would be for the legislature to allocate more money to purchase substitute care services, allowing private providers to show that they can deliver more capacity across the state and at what cost. Based upon this experience, the legislature could determine whether privatization would better serve children and families. To try to privatizing all substitute care services by September 1, 2009, however, is a disaster in the making.

¹ FAD Policies and Procedures are set out in the Child Protective Services Handbook, § 7000 Foster and Adoptive Home Development, http://www.dfps.state.tx.us/Handbooks/CPS_Handbook/CPS_Handbook.htm

² SB 758 is on line at <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=80R&Bill=SB758>. CSSB 758 is not yet on line.

³ For a discussion of the various bills, see Strengthening Child Protective Services: Comparing SB 758, HB 2140, and HB 3916 with HB 1361(CPPP 2007) at <http://www.cppp.org/files/4/POP%20283.pdf>.

⁴ Data from DFPS Data Books at http://www.dfps.state.tx.us/About/Data_Books_and_Annual_Reports/. Foster care population projections from DFPS Presentation to the Senate Finance Committee, p. 5 (Oct. 23, 2006).

⁵ FAD caseload projections from DFPS Detail of Exceptional Items, Presented to Senate Finance Committee, p. 72 (Oct. 23, 2006).

⁶ DFPS Cost Study Data provided to the Legislature in 2005.

⁷ DFPS Fiscal Year 2006 Data, Management Reporting and Statistics Log 20581.

⁸ DFSP Fiscal Year Data.

⁹ DFPS Fiscal Year Data.

¹⁰ DFPS 2006 Data Book p. 79.

¹¹ DFPS Fiscal Year 2006 Data, Management Reporting and Statistics Log 20580

¹² Planning and Learning Technologies, Inc. and Univ. of Kentucky, *Literature Review on the Privatization of Child Welfare Services* p. 43 (2006), <http://www.uky.edu/SocialWork/qicpcw/documents/QICPCWLiteratureReview.pdf>

¹³ Fiscal Note to SB 758 in Section 5, p. 3 at <http://www.capitol.state.tx.us/tlodocs/80R/fiscalnotes/pdf/SB00758L.pdf>.