
Permanency Planning Report

In Response to Senate Bill 368, 77th Legislature, Regular Session, 2001



Submitted to the Governor and the Texas Legislature
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PERMANENCY PLANNING

INTRODUCTION AND PURPOSE

With the passing of Senate Bill (S.B.) 368, 77th Legislature, Regular Session, 2001, the Texas Health and Human Services Commission (HHSC) was charged with monitoring child (defined in the legislation as a person with a developmental disability under the age of 22) placements and ensuring ongoing permanency plans for each child with a developmental disability residing in an institution in the state of Texas. The initial report of these efforts was filed in December 2002. This report is a follow-up with data ending February 29, 2008.

The state's permanency planning efforts have been achieved by collaborative efforts among HHSC, the Texas Department of Aging and Disability Services (DADS) and the Texas Department of Family and Protective Services (DFPS). HHSC is required to report specific information regarding permanency planning activities to the Legislature, which includes:

- The number of children residing in institutions in the state and, of those children, the number for whom a recommendation has been made for a transition to a community-based residence, but who have not yet made the transition.
- The circumstances of each child including the type of institution and name of the institution in which the child resides, the child's age, the residence of the child's parents or guardians, and the length of time in which the child has resided in the institution.
- The number of permanency plans developed for children residing in institutions in this state, the progress achieved in implementing those plans, and barriers to implementing those plans.
- The number of children who previously resided in an institution in this state and have made the transition to a community-based residence.
- The number of children who previously resided in an institution and have been reunited with their families or placed with alternative families.
- The number of community supports that resulted in the successful placement of children with alternate families; and
- The number of community supports that are unavailable, but necessary, to address the needs of children who continue to reside in an institution in this state after being recommended to make a transition from the institution to an alternative family or community-based residence.

SUMMARY OF AGENCY ACTIVITIES

Since the implementation of S.B. 368, HHSC, DADS, and DFPS have been working diligently on refining and improving permanency planning activities. This has required continuing collaboration across divisions in each agency, as well as collaborative efforts across agencies to facilitate systems' change for long-term results.

Texas Department of Aging and Disability Services

Since September 1, 2007 the following activities were initiated or completed:

- DADS monitored the timely completion of permanency plans.
- DADS monitored permanency planning status reports on a weekly and monthly basis.
- The Department made on-going reports available to local Mental Retardation Authorities (MRAs) for monitoring status of permanency planning efforts and assisting with local planning.
- The Department provided technical assistance to MRA staff to assist in compliance with permanency planning requirements.
- DADS convened a workgroup made up of representatives from health and human services agencies (HHS) and consumer and advocacy groups to identify and develop a plan to address the issues that result in the admission of children/youth to state schools and barriers that prevent children/youth in state schools from returning to their families/communities.

80th Legislature, Regular Session

The 2008-2009 General Appropriations Act (Article II, DADS, H.B. 1, 80th Legislature, Regular Session, 2007) included several riders pertaining to children:

- **Rider 37. Promoting Independence Plan**

As per the 2008-2009 General Appropriations Act, "Out of funds appropriated above in Strategy A.3.2., Home and Community-Based Services, \$1,699,464 in General Revenue Funds in fiscal year 2008 and \$4,859,969 in General Revenue Funds in fiscal year 2009, along with the associated Federal Funds, were set aside from funds appropriated for interest list reduction, for 240 individuals moving out of large intermediate care facilities for persons with mental retardation (ICF/MRs) and 120 children aging out of foster care."¹

¹Actual appropriations of \$16.6 million. All Funds (\$6.6 million general revenue) over the amount appropriated for interest list reduction will fund 180 individuals relocating from large ICF/MRs and 120 children aging out of foster care.

- **Rider 41. Services Under a 1915(c) Waiver**

As per the 2008-2009 General Appropriations Act, “It is the intent of the Legislature that, from the funds appropriated above, DADS shall provide services under a Section 1915(c) waiver program, other than a nursing facility waiver program to an individual, 21 years and younger, leaving a nursing facility if the individual:

- meets the eligibility requirements for that Section 1915(c) waiver program; and
- in order to leave the nursing facility, requires services that are available only under that Section 1915(c) waiver program.”

Rider 41 allows DADS to serve individuals moving out of a nursing facility through Money Follows the Person (MFP) to a waiver other than a nursing facility waiver. This rider language allows individuals who utilize MFP to be served in the Home and Community-Based Services (HCS) waiver.

- **Rider 42. Services under HCS Waiver Program**

As per the 2008-2009 General Appropriations Act, “It is the intent of the Legislature that, from the funds appropriated above, if an individual 21 years and younger, seeking to leave an ICF/MR, has been offered services under the HCS waiver program, DADS may provide services to the individual under another Section 1915(c) waiver program if the individual leaving the facility:

- is determined to be ineligible for the services provided under the HCS waiver program; and
- meets the eligibility requirements for, and needs services provided under, another Section 1915(c) waiver program.”

Rider 42 allows DADS, for individuals 21 years or younger currently residing in an ICF/MR but determined ineligible for HCS, to provide services through another 1915(c) waiver, if the individual meets the criteria for that waiver.

- **Rider 43. Promoting Community Services for Children**

As per the 2008-2009 General Appropriations Act, “It is the intent of the Legislature, out of funds appropriated above, to provide opportunities for children (under the age of 22) residing in community ICF/MRs to transition to families during the 2008-2009 biennium. To facilitate such transitions when requested by parent/guardian, funding for up to 50 children residing in community ICF/MRs may be transferred from the Strategy A.7.1, Intermediate Care Facilities - MR, to Community Care Services strategies to cover the cost of the shift in services. The Executive Commissioner may develop rules that would allow decertification of the ICF/MR beds upon such transition to prevent additional costs being incurred.”

Texas Department of Family and Protective Services

- DFPS continues to hold regular discussions with regional developmental disability specialists to review progress and discuss problems in finding appropriate placements for children with disabilities with needs that make finding placements challenging.

- The Department’s developmental disability specialists carry caseloads of children placed in targeted institutional settings in addition to their other responsibilities.
- DFPS staff will work with DADS staff to implement the General Appropriations Act, Rider 37, 80th Legislature, Regular Session, 2007 regarding making additional HCS waiver slots available to CPS youth transitioning out of care.
- The Department’s developmental disability specialists continue to complete the permanency planning instrument used throughout the agencies.

Texas Health and Human Services Commission

- HHSC monitored standardized reporting and oversight mechanisms in placement and planning activities statewide.
- HHSC maintained a system to review and report data from agencies.
- HHSC worked with DADS to provide resources for permanency planning training.
- Worked with DADS, DFPS, and EveryChild, Inc. to make improvements to the uniform permanency planning tool.
- HHSC provided oversight of the family-based alternative (FBA) contract with EveryChild, Inc. to ensure continued implementation of the project in areas of the state with high concentrations of children residing in institutional settings.
- Directed DADS to convene a workgroup to identify and develop a plan to address the issues that result in the admission of children/youth to state schools and barriers that prevent children/youth in state schools from returning to their families/communities.

REPORTING ELEMENTS

S.B. 368 requires that a permanency plan be developed and updated every six months for each child who resides in an institution (as defined by Texas Government Code §531.151). Permanency plans are developed and updated at the local level.

Total Number of Children Residing in Institutions

S.B. 368 defines an institution as an ICF/MR, a Medicaid waiver group home under the authority of DADS, a foster group home or agency foster group home, a nursing facility, an institution for people with mental retardation licensed by DFPS, or a residential arrangement (other than a foster home) that provides care to four or more children who are unrelated to each other. Institutions under the auspices of DADS include nursing facilities, community ICF/MR facilities (small, medium, and large), state mental retardation facilities, and HCS waiver settings (supervised living or residential support only).

Section 531.162 (b)(1) of S.B. 368 requires information on the number of children residing in institutions in this state and, of those children, the number for whom a recommendation has been

made for a transition to a community-based residence, but who have not yet made that transition. This information is provided in tables 1 and 2.

TABLE 1: NUMBER OF CHILDREN RESIDING IN INSTITUTIONS²

Nursing Facilities	Small ICFs/MR	Medium ICFs/MR	Large ICFs/MR	State MR facilities	HCS	DFPS GRO Facility	DFPS Other Licensed Facility	Total
112	254	51	52	331	570	104	116	1,590

TABLE 2: NUMBER OF DFPS CHILDREN WITH DEVELOPMENTAL DISABILITIES BY FACILITY TYPE

	DFPS Children Under Age 22
DADS Facilities	
Small ICF/MR Facility	16
Medium ICF/MR Facility	4
Large ICF/MR Facility	6
State MR Facilities	24
Nursing Facilities	2
HCS	<u>39</u>
	91
DFPS General Residential Operations (GRO) Facility Providing Long-Term Residential Services	
Independent Foster Group Home	3
DFPS Licensed Institution for MR ³	81
Basic Care Facility	<u>20</u>
	104
Other DFPS Licensed Facilities⁴	
Residential Treatment Center (RTC)	94
Other Group Settings	<u>22</u>
	116
Total Children in DFPS Licensed Facilities	220
Total DFPS Children in all Facilities	311

² Data reflects the number of children residing in an institution as of February 29, 2008. Table 1 includes 102 DFPS children in DADS facilities (nursing facilities, ICF/MRs, and state schools).

³ Of the 5,978 CPS children in institutional settings on February 29, 2008, 433 were identified as having a developmental disability. By agreement with HHSC, for purposes of this report, DFPS will target permanency planning reporting efforts at CPS children placed at Mission Roads, Casa Esperanza, Shared Vision and children placed in independent foster group home settings, if they have a diagnosed developmental disability. As of February 29, 2008, CPS had 46 children at Mission Roads, 9 at Casa Esperanza, 25 at Shared Vision, and 3 children with a developmental disability in independent foster group home settings.

⁴ These are not considered to be long-term care facilities; however, DFPS continues to report these in the total number of children in facilities. "Other Group Settings" include settings such as hospitals, emergency shelters, therapeutic camps, psychiatric hospitals, and juvenile justice facilities.

TABLE 3: NUMBER OF CHILDREN RECOMMENDED FOR TRANSITION TO THE COMMUNITY

Recommendations Per Agency	Number of Children
DADS with Family/LAR Support to Move to Family Home	383
DADS with Family/LAR Support to Move to Alternate Family	282
DFPS	84
Total	749

Circumstances of Each Child Residing in an Institution

Attachment A: Demographics by County - Child and Attachment B: Demographics by County - Parent/Guardian contain the elements required by this section, which are: type of facility; age of child; length of time in the institution; and county of residence for child and parent/guardian. Data for this report was drawn from children residing in institutions as of February 29, 2008. The data included in the report determines age and length of time in an institution based on the date the data was received.

Permanency Plans Developed for Children in Institutions

S.B. 368 requires that every child residing in an institution must have a permanency plan developed and updated semi-annually. The information below is categorized by each state agency to describe the quantity of permanency plans developed and any barriers encountered in that process. Each state agency has oversight responsibility for permanency plans where their children reside.

Permanency Planning at the Texas Department of Aging and Disability Services

TABLE 4: PERMANENCY PLANS COMPLETED BY DADS

Nursing Facilities	Small ICFs/MR	Medium ICFs/MR	Large ICFs/MR	State MR Facilities	HCS	Total
106	250	50	49	329	567	1,351

Permanency Planning at the Texas Department of Family and Protective Services

DFPS continues to conduct permanency planning in the process of completing and reviewing the Department’s Child Service Plans that are required for all children placed in substitute care in order to meet federal requirements. Permanency planning information is also submitted to the courts for regularly scheduled court reviews (called Permanency Hearings for cases in temporary legal status and called Placement Review Hearings for cases in permanent legal status with the Department). For children in care who have developmental disabilities and who are placed in certain facilities, DFPS *also* completes the HHSC Permanency Planning Instrument (PPI) to assist with permanency planning activities and to comply with reporting requirements.

TABLE 5: PERMANENCY PLANS COMPLETED BY DFPS

Total Plans Completed	Total Plans Required
56	84

As of February 29, 2008, DFPS had responsibility for preparing PPI reports on 84 children. For the reporting period, DFPS sent permanency information on 56 plans to HHSC for DFPS youth. However, Department service plans that included permanency plans were completed on all these children, and their court reviews, which addressed permanency issues, were current.

Movement of Children from Institutions to the Community and to Families or Family-Based Alternatives

Permanency planning for children is a process of communication and planning with families and children to help identify options and develop services and supports essential to the eventual and planned outcome of reuniting children with their own family or a support family. Staff at local agencies have taken important and necessary preliminary steps in communicating available options to families and initializing the identification of needed supports. Ongoing review of data demonstrates the number of children moving from institutions into the community, either to their own family home or to a support family, is continuing at a steady pace. Additionally, other children have moved from larger institutions into less restrictive institutions in the community.

These data reflect movement of children from institutions to the community during a six-month period ending February 29, 2008. (For information regarding children who are in the process of moving, see *Community Supports Unavailable for Children Recommended for Community Movement*.)

While every effort is made to encourage reunification of children with birth families, there are some instances when this is not in the best interest of the child or family. In those situations, the preferred alternative for a child may be a support family, also known as a family-based alternative. Family-based alternatives are defined in S.B. 368 as "...a family setting in which the family provider or providers are specially trained to provide support and in-home care for children with disabilities or children who are medically fragile." While active recruitment of families for these goals are being pursued, the number of children in need far exceeds the current availability of support families.

Across agencies, for the six month reporting period described above ending February 29, 2008:

- 161 children moved to less restrictive environments (other than family-based settings);
- 145 children moved to family-based settings; and
- 306 total children with developmental disabilities left an institution for a family, family-based setting, or other less restrictive setting.

The details by agency are as follows:

Texas Department of Aging and Disability Services

During the period of September 1, 2007 through February 29, 2008, 238 individuals moved to a less restrictive setting:

- One hundred forty-five individuals moved to HCS supervised living or residential support or a smaller ICF/MR.
- Twenty-four individuals returned home.
- Sixty-nine individuals moved to an alternate family.

Texas Department of Family and Protective Services

During the period of August 31, 2007 to February 29, 2008, there were 68 children that transitioned to a less restrictive setting in the community:

- Thirteen children moved to less restrictive institutional settings (HCS homes, small ICF/MRs, or foster group homes) from another institutional placement.
- Fifty-two children transitioned to family settings.
- Three transitioned to an independent living situation.

Community Supports Necessary to Transition Children to Support Families

The desired outcome is to provide a family for every child residing in an institution. In some instances, this means providing specialized supports to allow the child and family to thrive as independently as possible in the community. For many children, these specialized supports take the form of medical equipment or staff and behavioral interventions, which may not be readily available or accessible in all communities. To reach the desired goal, specialized supports are identified and documented in the permanency plan. These supports must then be developed or located on an individual basis for each child and family. Once specialized supports are identified and located, families must be able to access supports through funding and other options.

Texas Department of Aging and Disability Services

Table 6 illustrates the support services and the number and percentage of individuals who needed each support service in order to achieve their permanency planning goal.

TABLE 6: PERCENT OF INDIVIDUALS IN DADS INSTITUTIONS WITH PERMANENCY PLANS NEEDING SUPPORT SERVICES

Support Service	Total Needing Support Service	Percent Needing Support Service
Ongoing Medical Services	715	52%
Personal Attendant	690	51%
Behavioral Intervention	631	46%
Night Person	552	40%
Transportation	555	41%
Respite In-Home	503	37%
Respite Out-of-Home	475	35%
Mental Health Services	449	33%
Training	420	31%
Crisis Intervention	321	23%
Specialized Therapies	269	19%
Specialized Equipment	244	18%
Specialized Transportation	217	16%
Child Care	204	15%
Durable Medical Equipment	174	12%
Support Family	185	13%
Family/LAR Support	212	15%
Architectural Modification	150	11%
In-Home Health	134	9%
Volunteer Advocate	70	5%

Texas Department of Aging and Disability Services

From September 1, 2007, through February 29, 2008, a total of 93 individuals moved from a DADS institution to the birth family (24 individuals) or an alternate family (69 individuals). Table 7 illustrates the service needs that were identified for those individuals.

TABLE 7: SERVICE NEEDS OF INDIVIDUALS IN DADS INSTITUTIONS WHO REUNITED WITH FAMILY OR MOVED TO ALTERNATE FAMILY

Service Type	Number Who Needed These Services to Reunite with Family	Number Who Needed These Services to Live with an Alternate Family
Behavioral Intervention	10	22
Personal Attendant	5	27
Transportation	4	25
Night Person	3	17
On-going Medical Services	9	25
Mental Health Services	9	21
Training	2	16
Respite Out-of-Home	4	21
Respite In-Home	4	20
Crisis Intervention	5	14
Specialized Therapies	1	10
Specialized Equipment	0	6
Support Family	1	8
Child Care	2	8
Architectural Modification	0	4
Durable Medical Equipment	0	7
Specialized Transportation	1	6
In-Home Health	1	4
Family/LAR Support	0	6
Volunteer Advocate	1	3

Texas Department of Family and Protective Services

Supports that have facilitated the transition of children into the community included:

- Parents being able to complete the Department’s requirements to reduce the risk factors for parents to safely care for their children in their home.
- Adoptive recruitment efforts for parents willing to parent a child with medical/cognitive/physical disabilities.
- Enrollment in Medicaid waiver programs.
- SSI funding and Medicaid eligibility.
- Community supports and resources available as needed.
- Interagency cooperation (DADS/DFPS) that ensures that children are on waiting lists and that local service areas are processing requests.
- EveryChild, Inc., HHSC’s Family-Based Alternatives contractor, explores support family alternatives to institutional care, wrap-around, and other services for children with disabilities in an effort to transition children from institutional settings into the community.

- Knowledgeable resource personnel that assisted caseworkers (such as developmental disability specialists in regions).
- Foster families willing to work with children with special needs.
- Rider 37, making additional HCS waiver slots available to CPS youth transitioning out of care.
- Efforts of the Texas Integrated Funding Initiative (TIFI) and the Community Resource Coordination Groups (CRCGs).

Community Supports Unavailable for Children Recommended for Movement to the Community

For some children recommended to move to the community, the identification and location of specialized supports has been accomplished. The barrier for these children is funding for the needed supports. For other children, supports are identified but the location and accessibility to the supports are not available such as community services with waiting lists. For still others, the identification and accessibility to a specialized support is accomplished, but since the support is not developed in their community, it is not available.

Texas Department of Family and Protective Services

Supports unavailable for children recommended for movement to the community include:

- available family placements;
- respite in-home services;
- respite out-of-home services;
- child care services;
- behavior intervention services; and
- other Medicaid Waiver resources for children currently in out-of-home care.

Children in DFPS conservatorship have been removed from families due to issues of abuse and/or neglect. For some children, the parents are still working with DFPS to resolve these issues so that the children can be returned to them. In other cases, DFPS is pursuing a plan of trying to find a relative or some other alternative family to care for the child on a permanent basis (through adoption, transfer of conservatorship, or through DFPS maintaining conservatorship and placement of the child with a foster family willing to make a commitment to the child).

More Medicaid waiver slots are needed, including more flexible waiver programs to meet the unique circumstances of children with disabilities, as well as available foster families that are skilled, trained, and willing to work with children with disabilities, particularly foster families that can effectively communicate with children who are deaf. In addition, needed supports include in- and out-of-home respite services, child care (including day care), and behavior intervention services for children with co-existing diagnostic issues.

SUMMARY AND CONCLUSION

Key Points

The total number of children with developmental disabilities residing in institutions has remained relatively unchanged in the past five years:

TABLE 8: NUMBER OF CHILDREN RESIDING IN INSTITUTIONS 2003-2008

Reporting Period	Total Number of Children Residing in Institutions
Mid-year 2008	1,590
Mid-year 2007	1,636
Mid-year 2006	1,596
Mid-year 2005	1,587
Mid-year 2004	1,587
Mid-year 2003	1,545

While the total number of children in institutions, as defined by S.B. 368, which includes HCS supervised living and residential support, has remained around 1,600,⁵ there has been a significant shift in the distribution patterns, as DADS residential settings are continuing to experience a shift to smaller, less restrictive environments.

The number of individuals living in all types of DADS institutions decreased moderately from 1,434 in mid-year 2007 to 1,370 in mid-year 2008. The data shows an overall increase in the number of individuals moving to smaller settings in the mid-year 2007 to mid-year 2008 period, with two exceptions, state MR facilities and DFPS licensed facilities, where in each the number of individuals has increased in the past year, and as compared to five years ago. However, the total number of children living in all DADS non-HCS facilities, which include community ICF/MRs, nursing facilities, and state mental retardation facilities, has declined by one-third in the past five and one-half years, and is down 12 percent in the past year. Meanwhile, the number of children in all DFPS and all non-HCS DADS facilities combined has declined by 8 percent in the past year, and 25 percent since August 2002.

⁵ During this time period, the number of children in Texas increased by approximately 4.8 percent.

**TABLE 9: TRENDS IN NUMBER OF CHILDREN RESIDING IN INSTITUTIONS
BY FACILITY TYPE 2003-2008**

Institutional Type	Baseline Number as of 8/31/02*	Number as of 2/28/07	Number as of 2/29/08	Percent Change Since August 2002*	Percent Change in Past Year
HCS	312	529	570	83%	8%
Small ICF/MRs	418	275	254	(39%)	(8%)
Medium ICF/MRs	39	58	51	31%	(12%)
Large ICF/MRs	264	89	52	(80%)	(42%)
State MR Facilities	241	297	331	37%	11%
Nursing Facilities	234	186	112	(52%)	(40%)
DFPS Facilities	167	202	220	32%	9%
Total DADS Facilities	1,508	1,434	1,370	(9%)	(4%)
Total DADS Facilities Without HCS	1,196	905	800	(33%)	(12%)
Total DADS and DFPS	1,675	1,636	1,590	(5%)	(3%)
Total DADS and DFPS Without HCS	1,363	1,107	1,020	(25%)	(8%)

*Baseline data for DFPS facilities as of August 31, 2003.

During the six-month reporting period ending February 29, 2008;

- One hundred forty-five children were moved from institutions (not including RTCs) to family-based settings, of which:
 - 24 returned to their birth home; and
 - 121 moved to other family-based alternatives.
- One hundred sixty-one children left an institution (not including RTCs) for a less restrictive setting under an arrangement other than a family or family-based alternative.

The one hundred forty-five children that moved back to birth families or to family-based alternatives by mid-year 2008 is higher than the mid-point the last two years, but lower than in 2005.

TABLE 10: NUMBER OF CHILDREN MOVING INTO FAMILIES 2003-2008

Reporting Period	Number of Children Moved to Family or Family-Based Alternatives
Mid-year 2008	145
Mid-year 2007	125
Mid-year 2006	123
Mid-year 2005	156
Mid-year 2004	57
Mid-year 2003	n/a

The number of children (161) moving to less restrictive environments other than family or family-based alternatives is up substantially from the mid-year point the previous fiscal year, and greater than the previous high of 113 moved by mid-point fiscal year 2005:

TABLE 11: NUMBER OF CHILDREN MOVING TO LESS RESTRICTIVE ENVIRONMENTS 2003-2008

Reporting Period	Number of Children Moved to Less Restrictive Environment
Mid-year 2008	161
Mid-year 2007	62
Mid-year 2006	57
Mid-year 2005	113
Mid-year 2004	37
Mid-year 2003	n/a

Implementing this legislation requires ongoing collaboration among all oversight agencies, as well as providers and community groups, to ensure family options for each child. Permanency planning for children in Texas continues as each agency works to enhance the monitoring and training efforts across the state. Agencies remain committed to continuing efforts to provide each child with the opportunity to grow up in a family.