
COMMUNITY BASED FOSTER CARE

A. What is Community Based Foster Care?

In 2017, the Texas Legislature passed Senate Bill 11, which amended the Family Code, Government Code, and Human Resources Code relating to the provisions of child protective services and other health and human services, including foster care, relative and kinship care, and adoption services. Effective September 1, 2017, DFPS will start implementing Community Based Foster Care, referred to as CBC, in up to eight geographic areas in the state, known as “catchment” areas that are best suited to implement CBC. CBC is intended to delegate or outsource certain decisions about foster care delivery and case management, and that it be implemented with measurable goals related to these decisions. DFPS must develop an implementation plan for implementing CBC throughout the state, as well as a readiness review and process, multiple evaluation processes, and design and execute performance-based contracts for the services.

B. The Single Source Continuum Contractor or SSCC

A Single Source Continuum Contractor or SSCC generally will be a non-profit with focus on child welfare and by law must be formed as a charitable organization. A local governmental entity can also serve as an SSCC and an example of a local governmental entity in a position to do so is Harris County Child Protective Services. Part of the readiness process, explained below, requires DFPS to consider whether an SSCC has demonstrated experience in providing services to children and families in the catchment area. As part of an application to secure a contract for CBC, each SSCC must develop a Community Engagement Plan that includes details about how the SSCC will involve faith-based entities, the judiciary, CASA, CAC, service providers, foster families, biological parents, foster youth and former foster youth, relatives, child welfare boards, attorneys for both children and parents, and any other stakeholder the SSCC wants to include. Each SSCC implementation plan must include a description of how it will avoid conflicts of interest, although Senate Bill 11 does not define or elaborate further on this point. DFPS must approve of the SSCC’s plan for dealing with conflicts of interest before it can execute a contract with an SSCC for CBC. Formation as a charitable organization provides limited protection to the SSCC under Chapter 84 of the Civil Practice and Remedies Code (CPRC). The CPRC protections are limited to acts or omissions that occur while the entity or person is acting within the course and scope of the entity’s contract with the Department and the person’s duties for the entity and only if insurance coverage in the minimum amounts required by Chapter 84 are in force and effect at the time of the cause of action for personal injury, death, or property damage accrues.

C. The Effect of CBC on Courts and Court Process

Senate Bill 11 mandates the transfer of placement and case management services from DFPS to the SSCC. Case management is defined to include court-related duties. Court-related duties include service of process, notice of hearings and significant events, preparation of court reports, appearing in court and offering testimony, engaging in discovery, preparing for trial, appearing at trial and mediation, complying with all of DFPS current statutory duties, and complying with all court orders that would ordinarily bind DFPS, will be the responsibility of the SSCC and its subcontractors. DFPS will be the party to the lawsuit, and the SSCC will act as its agent. SSCC employees will confer with and operate under an attorney-client relationship with the DFPS legal counsel, whether DFPS is represented by a regional attorney or a county or a district attorney. Records that are related to the provision of CBC in a catchment area are subject to the Public Information Act in the same manner as DFPS records.

D. Monitoring of the SSCC by DFPS

Senate Bill 11 directs DFPS to establish a quality oversight and assurance division to oversee contract compliance, conduct assessments of fiscal and qualitative performance of the SSCC and vendors, and create and administer a dispute resolution process. DFPS must also monitor the transfer of case management services through this division, which will have the authority to review, approve, or disapprove a contractor's recommendation with respect to a child's permanency goal. Senate Bill 11, under [Tex. Fam. Code § 264.168](#), allows DFPS to include in the contract with the SSCC any necessary oversight measures and review processes to maintain compliance with federal and state requirements. It also requires DFPS to develop an internal dispute resolution process to decide disagreements between the SSCC and DFPS.