



# MEMORANDUM

To: David Slayton, Executive Director, Texas Judicial Council

From: Geoff Burkhart and Wesley Shackelford

Date: August 20, 2021

Re: Implementation of CPS reporting requirements pursuant to SB 560 (86<sup>th</sup> R.S.)

---

The 86<sup>th</sup> Legislature required “counties and courts are to report information on court-ordered representation for appointments made in suits affecting the parent-child relationship.” [Senate Bill 560](#) contains two main new reporting requirements:

1. CPS Data Reporting Requirements- Expenditures and case counts

SB 560 provides that:

- Not later than November 1 of each year, each county auditor or other individual designated by the commissioners court of a county must prepare and send to the Texas Judicial Council information on:
  - i. The total number of appointments made in suits affecting the parent-child relationship under Part 1, Subchapter B, Chapter 107 of the Family Code in each district court, county court, statutory county court, and appellate court in the county; and
  - ii. The total amount of money spent by the county to provide court-ordered representation services in suits affecting the parent-child relationship under Part 1, Subchapter B, Chapter 107 of the Family Code, and of this total amount, the amount spent:

1. For appointments in each district court, county court, statutory county court, and appellate court in the county;
2. For appointments of private attorneys for respondents, including parents, children, and alleged fathers, who are indigent; and
3. For investigation, expert witness, or other litigation expenses.

Two Phase Implementation Strategy:

- Phase 1 – **Summary Reporting (FY21)**: In Phase 1, counties will report total expenditures for CPS appointments and the number of CPS appointments for each court. Counties will report this data in a new section of the FY2021 Indigent Defense Expenditure Report (IDER) submitted to the Texas Indigent Defense Commission by **November 1, 2021**. Expenditures should be separated by the following expense categories: **Attorney Fees, Investigator Fees, Social Worker Fees, Expert Witnesses Fees and Other Litigation Expenses**.
- Phase 2 – **Detailed Reporting (FY22)**: In Phase 2, counties will report the data in Phase 1, broken down by appointment type into the following categories: **Custodial Parents, Non-Custodial Parents, Non-Parent Conservator, Children, Adult Appeal, and Children Appeal**. To assist in collecting data on appointment type, OCA has provided this attached [Model Voucher](#). The Phase 2 detail will be reported on the expanded IDER for FY 2022, due **November 1, 2022**.

2. CPS Appointment Documentation Requirements- Judicial plans for appointment of counsel

SB 560 provides that:

- Not later than November 1 of each odd-numbered year, each local administrative district judge for a court that appoints representation in suits affecting the parent-child relationship under Part 1, Subchapter B, Chapter 107 of the Family Code must submit to the Texas Judicial Council, and in the form and manner prescribed by the Council:
- A copy of all formal and informal rules and forms a court uses to appoint representation in suits affecting the parent-child relationship under Part 1, Subchapter B, Chapter 107 of the Family Code;
- Any fee schedule(s) the court uses for such representation; and
- Information on whether the court is complying with Chapter 37 of the Government Code, including the lists and the rotation system required by that chapter.

Two Phase Implementation Strategy:

- Phase 1- **Basic Reporting**: In Phase 1, the local administrative district judges will report basic information about the appointment of counsel systems they use in CPS cases. The judges will report this information on a new section of the Texas Indigent Defense

Commission's data reporting website maintained by its partners at Texas A&M University's Public Policy Research Institute like that currently used for reporting indigent defense plans applicable to criminal and juvenile delinquency cases. The first reports are due by **November 1, 2021** and will include summary information including:

- Types of attorney appointment lists maintained
- Qualifications for attorneys to be on appointment list(s);
- Any procedures for maintaining the list(s);
- System type for appointment of counsel (e.g. assigned counsel, public defender, contract, managed assigned counsel)
- Timing of appointment of counsel (Ex Parte hearing, adversary hearing, status hearing, permanency hearing)
- Standards for determining indigence of parents
- Forms used:
  - Attorney fee schedule
  - Attorney fee voucher
  - Affidavit of indigence
  - Attorney application for appointment
  
- **Phase 2- Develop Reporting Strategy:** In Phase 2, a more comprehensive system will be developed, alongside a website to facilitate the expanded reporting. TIDC/OCA are about to bring onboard an attorney with extensive CPS case experience as a senior policy analyst to lead this project working with stakeholders. Currently the agency does not have any staff with subject matter expertise in this area of the law. The second reports will be due by **November 1, 2023**.

