

By: Kolkhorst, et al.

S.B. No. 1853

A BILL TO BE ENTITLED

AN ACT

relating to certain procedures in a suit affecting the parent-child relationship for a child placed in the conservatorship of the Department of Family and Protective Services and the provision of community-based foster care.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 262.401(3), Family Code, is amended to read as follows:

(3) "Family preservation service" means ~~[a]~~ time-limited, family-focused services ~~[service]~~, including:

(A) services ~~[a service]~~ subject to the Family First Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123), family-based safety services, and services approved under the Title IV-E state plan, provided to the family of a child who is:

(i) ~~[(A)]~~ a candidate for foster care to prevent or eliminate the need to remove the child and to allow the child to remain safely with the child's family;

(ii) ~~[or—(B)]~~ a pregnant or parenting foster youth;

(iii) in joint managing conservatorship with the Department of Family and Protective Services under Section 262.352 or in the relinquishment avoidance program under Section 262.353; or

1 (iv) the subject of an investigation of
2 abuse or neglect that resulted in a disposition of reason to believe
3 abuse or neglect occurred and, absent the provision of services, is
4 a child the department plans to remove from the child's home; and

5 (B) enhanced in-home support services and
6 nonrecurring financial support to promote safe and stable families.

7 SECTION 2. Subchapter A, Chapter 263, Family Code, is
8 amended by adding Section 263.0022 to read as follows:

9 Sec. 263.0022. TEMPORARY EMERGENCY SUPERVISION. (a) In
10 this section, "temporary emergency supervision" means the
11 supervision and care provided by the department for a child without
12 placement for whom the department has been appointed as the
13 temporary or permanent managing conservator.

14 (b) The department may not advocate for and a court may not
15 render an order placing a child in temporary emergency supervision
16 if a safe and appropriate placement is available.

17 SECTION 3. Section 264.1261(b), Family Code, is amended to
18 read as follows:

19 (b) Appropriate department management personnel from a
20 child protective services region in which community-based care has
21 not been implemented, in collaboration with foster care providers,
22 faith-based organizations [~~entities~~], and child advocates in that
23 region, shall use data collected by the department on foster care
24 capacity needs and availability of each type of foster care and
25 kinship placement in the region to create a plan to address the
26 substitute care capacity needs in the region. The plan must
27 identify both short-term and long-term goals and strategies for

1 addressing those capacity needs.

2 SECTION 4. Section 264.152, Family Code, is amended by
3 amending Subdivision (2) and adding Subdivisions (5) and (6) to
4 read as follows:

5 (2) "Case management" means the provision of case
6 management services to a child for whom the department has been
7 appointed temporary or permanent managing conservator or to the
8 child's family, a young adult in extended foster care, a relative or
9 kinship caregiver, or a child who has been placed in the catchment
10 area through the Interstate Compact on the Placement of Children,
11 and includes:

12 (A) caseworker visits with the child;

13 (B) family and caregiver visits;

14 (C) convening and conducting permanency planning
15 meetings;

16 (D) the development and revision of child and
17 family plans of service, including a permanency plan and goals for a
18 child or young adult in care;

19 (E) the coordination and monitoring of services
20 required by the child and the child's family or caregivers,
21 including:

22 (i) pre-adoption and post-adoption
23 assistance; and

24 (ii) services for children in the
25 conservatorship of the department who must transition to
26 independent living;

27 (F) the assumption of court-related duties

1 regarding the child, including:

2 (i) providing any required notifications or
3 consultations;

4 (ii) preparing court reports;

5 (iii) attending judicial and permanency
6 hearings, trials, and mediations;

7 (iv) complying with applicable court
8 orders; and

9 (v) ensuring the child is progressing
10 toward the goal of permanency within state and federally mandated
11 guidelines; and

12 (G) any other function or service that the
13 department determines necessary to allow a single source continuum
14 contractor to assume responsibility for case management.

15 (5) "Faith-based organization" means a religious or
16 denominational institution or organization, including an
17 organization operated for religious, educational, or charitable
18 purposes and operated, supervised, or controlled, in whole or in
19 part, by or in connection with a religious organization.

20 (6) "Family preservation service" means time-limited,
21 family-focused services, including:

22 (A) services subject to the Family First
23 Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123),
24 family-based safety services, and services approved under the Title
25 IV-E state plan provided to the family of a child who is:

26 (i) a candidate for foster care to prevent
27 or eliminate the need to remove the child and to allow the child to

- 1 remain safely with the child's family;
2 (ii) a pregnant or parenting foster youth;
3 (iii) in joint managing conservatorship
4 with the Department of Family and Protective Services under Section
5 262.352; or
6 (iv) the subject of an investigation of
7 abuse or neglect that resulted in a disposition of reason to believe
8 abuse or neglect occurred and, absent the provision of services, is
9 a child the department plans to remove from the child's home; and
10 (B) enhanced in-home support services and
11 nonrecurring financial support to promote safe and stable families.

12 SECTION 5. The heading to Section 264.155, Family Code, is
13 amended to read as follows:

14 Sec. 264.155. [~~REQUIRED~~] CONTRACT PROVISIONS.

15 SECTION 6. Section 264.155, Family Code, is amended by
16 amending Subsection (a) and adding Subsection (a-1) to read as
17 follows:

18 (a) A contract with a single source continuum contractor to
19 provide community-based care services in a catchment area must
20 include provisions that:

21 (1) establish a timeline for the implementation of
22 community-based care in the catchment area, including a timeline
23 for implementing:

24 (A) family preservation services;

25 (B) case management services for children,
26 families, and relative and kinship caregivers receiving services in
27 the catchment area; and

1 (C) [~~(B)~~] family reunification support services
2 to be provided after a child receiving services from the contractor
3 is returned to the child's family;

4 (2) establish conditions for the single source
5 continuum contractor's access to relevant department data and
6 require the participation of the contractor in the data access and
7 standards governance council created under Section 264.159;

8 (3) require the single source continuum contractor to
9 create a single process for the training and use of alternative
10 caregivers for all child-placing agencies in the catchment area to
11 facilitate reciprocity of licenses for alternative caregivers
12 between agencies, including respite and overnight care providers,
13 as those terms are defined by department rule;

14 (4) require the single source continuum contractor to
15 maintain a diverse network of service providers that offer a range
16 of foster capacity options and that can accommodate children from
17 diverse cultural backgrounds;

18 (5) allow the department to conduct a performance
19 review of the contractor beginning 18 months after the contractor
20 has begun providing case management and family reunification
21 support services to all children and families in the catchment area
22 and determine if the contractor has achieved any performance
23 outcomes specified in the contract;

24 (6) following the review under Subdivision (5), allow
25 the department to:

26 (A) impose financial penalties on the contractor
27 for failing to meet any specified performance outcomes; or

1 (B) award financial incentives to the contractor
2 for exceeding any specified performance outcomes;

3 (7) following the review under Subdivision (5),
4 transfer the provision of family preservation services to the
5 contractor;

6 (8) require the contractor to give preference for
7 employment to employees of the department:

8 (A) whose position at the department is impacted
9 by the implementation of community-based care; and

10 (B) who are considered by the department to be
11 employees in good standing;

12 (9) [~~(8)~~] require the contractor to provide
13 preliminary and ongoing community engagement plans to ensure
14 communication and collaboration with local stakeholders in the
15 catchment area, including any of the following:

16 (A) community faith-based organizations
17 [~~entities~~];

18 (B) the judiciary;

19 (C) court-appointed special advocates;

20 (D) child advocacy centers;

21 (E) service providers;

22 (F) foster families;

23 (G) biological parents;

24 (H) foster youth and former foster youth;

25 (I) relative or kinship caregivers;

26 (J) child welfare boards, if applicable;

27 (K) attorneys ad litem;

1 (L) attorneys that represent parents involved in
2 suits filed by the department; and

3 (M) any other stakeholders, as determined by the
4 contractor; and

5 (10) [~~9~~] require that the contractor comply with any
6 applicable court order issued by a court of competent jurisdiction
7 in the case of a child for whom the contractor has assumed case
8 management responsibilities or an order imposing a requirement on
9 the department that relates to functions assumed by the contractor.

10 (a-1) A contract with a single source continuum contractor
11 to provide community-based care services in a catchment area may
12 include provisions that require the contractor to develop a program
13 to recruit and retain foster parents from faith-based
14 organizations, including requirements for the contractor to:

15 (1) collaborate with faith-based organizations to
16 inform prospective foster parents about:

17 (A) the need for foster parents in the community;

18 (B) the requirements for becoming a foster
19 parent; and

20 (C) any other aspect of the foster care program
21 that is necessary to recruit foster parents;

22 (2) provide training for prospective foster parents;
23 and

24 (3) identify and recommend ways in which faith-based
25 organizations may support persons as they are recruited, are
26 trained, and serve as foster parents.

27 SECTION 7. Section 264.156(a), Family Code, is amended to

1 read as follows:

2 (a) The department shall develop a formal review process to
3 assess the ability of a single source continuum contractor to
4 satisfy the responsibilities and administrative requirements of
5 delivering foster care services and services for relative and
6 kinship caregivers, including the contractor's ability to provide:

7 (1) family preservation services;

8 (2) case management services for children and
9 families;

10 (3) [~~(2)~~] evidence-based, promising practice, or
11 evidence-informed supports for children and families; and

12 (4) [~~(3)~~] sufficient available capacity for inpatient
13 and outpatient services and supports for children at all service
14 levels who have previously been placed in the catchment area.

15 SECTION 8. Sections 264.158(a) and (b), Family Code, are
16 amended to read as follows:

17 (a) In each initial catchment area where community-based
18 care has been implemented or a contract with a single source
19 continuum contractor has been executed before September 1, 2017,
20 the department shall transfer to the single source continuum
21 contractor providing foster care services in that area:

22 (1) family preservation services;

23 (2) the case management of children, relative and
24 kinship caregivers, and families receiving services from that
25 contractor; and

26 (3) [~~(2)~~] family reunification support services to be
27 provided after a child receiving services from the contractor is

1 returned to the child's family for the period of time ordered by the
2 court.

3 (b) The commission shall include a provision in a contract
4 with a single source continuum contractor to provide foster care
5 services and services for relative and kinship caregivers in a
6 catchment area to which community-based care is expanded after
7 September 1, 2017, that requires the transfer to the contractor of
8 the provision of:

9 (1) family preservation services;

10 (2) the case management services for children,
11 relative and kinship caregivers, and families in the catchment area
12 where the contractor will be operating; and

13 (3) [~~2~~] family reunification support services to be
14 provided after a child receiving services from the contractor is
15 returned to the child's family.

16 SECTION 9. Sections 264.113(a), (b), and (c), Family Code,
17 are repealed.

18 SECTION 10. (a) Section 263.0022, Family Code, as added by
19 this Act, applies to a placement review hearing of a child
20 regardless of the date on which the Department of Family and
21 Protective Services is named the child's managing conservator.

22 (b) Sections 264.152, 264.155, 264.156(a), and 264.158(a)
23 and (b), Family Code, as amended by this Act, apply only to a
24 contract with a single source continuum contractor entered into on
25 or after the effective date of this Act. A contract with a single
26 source continuum contractor entered into before the effective date
27 of this Act is governed by the law in effect on the date the contract

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1 was entered into, and the former law is continued in effect for that
2 purpose.

3 SECTION 11. This Act takes effect September 1, 2023.