

By: Kolkhorst, et al.
(Hull)

S.B. No. 1853

Substitute the following for S.B. No. 1853:

By: Frank

C.S.S.B. No. 1853

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain procedures in a suit affecting the parent-child
3 relationship for a child placed in the conservatorship of the
4 Department of Family and Protective Services and the provision of
5 family preservation services and community-based foster care.

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

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

9 (3) "Family preservation service" means ~~[a]~~
10 time-limited, family-focused services ~~[service]~~, including
11 services ~~[a service]~~ subject to the Family First Prevention
12 Services Act (Title VII, Div. E, Pub. L. No. 115-123), family-based
13 safety services, and services approved under the Title IV-E state
14 plan provided to the family of a child who is:

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

18 (B) a pregnant or parenting foster youth;

19 (C) a member of a household that is subject to an
20 order rendered under Section 264.203; or

21 (D) the subject of a monitored return under
22 Section 263.403.

23 SECTION 2. The heading to Section 262.411, Family Code, is
24 amended to read as follows:

1 Sec. 262.411. SELECTION OF SERVICE PROVIDER;
2 REIMBURSEMENT.

3 SECTION 3. Section [262.411](#), Family Code, is amended by
4 amending Subsection (c) and adding Subsections (c-1) and (c-2) to
5 read as follows:

6 (c) A [~~parent,~~] managing conservator, guardian, or other
7 member of a household who is not a parent and who obtains family
8 preservation services from a provider selected by the person is
9 responsible for the cost of those services.

10 (c-1) The department shall reimburse a service provider
11 selected by the parent under Subsection (a) who is not under
12 contract with the department in an amount equal to the average cost
13 for the specific service, including any virtual services, from
14 department contractors providing the service in the region where
15 the parent resides.

16 (c-2) The department shall:

17 (1) adopt rules relating to the manner in which
18 providers are reimbursed for services provided under this section;

19 (2) implement this section using existing resources;
20 and

21 (3) prioritize payments to providers of in-home
22 support services under Section [264.2011](#).

23 SECTION 4. Subchapter [A](#), Chapter [263](#), Family Code, is
24 amended by adding Section 263.0022 to read as follows:

25 Sec. 263.0022. TEMPORARY EMERGENCY SUPERVISION. (a) In
26 this section, "temporary emergency supervision" means the
27 supervision and care provided by the department for a child without

1 placement for whom the department has been appointed as the
2 temporary or permanent managing conservator.

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

6 (c) Before a court may order temporary emergency
7 supervision for a child, the department shall submit a report to the
8 court that includes information regarding each attempted
9 placement, including:

10 (1) the type of placement;

11 (2) the location of the placement;

12 (3) the date the department contacted the placement;

13 and

14 (4) the reason the department determined the placement
15 was not safe or appropriate.

16 SECTION 5. Section 264.1261(b), Family Code, is amended to
17 read as follows:

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

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

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

11 (A) caseworker visits with the child;

12 (B) family and caregiver visits;

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

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

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

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

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

26 (iii) services related to family
27 reunification, including services to support a monitored return;

1 (F) the assumption of court-related duties
2 regarding the child, including:

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

5 (ii) preparing court reports;

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

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

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

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

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

21 (6) "Family preservation service" means time-limited,
22 family-focused services, including services subject to the Family
23 First Prevention Services Act (Title VII, Div. E, Pub. L.
24 No. 115-123), family-based safety services, and services approved
25 under the Title IV-E state plan provided to the family of a child
26 who is:

27 (A) a candidate for foster care to prevent or

1 eliminate the need to remove the child and to allow the child to
2 remain safely with the child's family;

3 (B) a pregnant or parenting foster youth;

4 (C) a member of a household that is subject to an
5 order rendered under Section 264.203; or

6 (D) the subject of a monitored return under
7 Section 263.403.

8 SECTION 7. The heading to Section 264.155, Family Code, is
9 amended to read as follows:

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

11 SECTION 8. Section 264.155, Family Code, is amended by
12 amending Subsection (a) and adding Subsection (a-1) to read as
13 follows:

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

17 (1) establish a timeline for the implementation of
18 community-based care in the catchment area, including a timeline
19 for implementing:

20 (A) family preservation services;

21 (B) case management services for children,
22 families, and relative and kinship caregivers receiving services in
23 the catchment area; and

24 (C) [~~(D)~~] family reunification support services
25 to be provided after a child receiving services from the contractor
26 is returned to the child's family;

27 (2) establish conditions for the single source

1 continuum contractor's access to relevant department data and
2 require the participation of the contractor in the data access and
3 standards governance council created under Section 264.159;

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

10 (4) require the single source continuum contractor to
11 maintain a diverse network of service providers that offer a range
12 of foster capacity options and that can accommodate children from
13 diverse cultural backgrounds;

14 (5) require [~~allow~~] the department to conduct a
15 performance review of the contractor beginning 18 months after the
16 contractor has begun providing case management, family
17 preservation, and family reunification support services [~~to all~~
18 ~~children and families~~] in the catchment area and determine if the
19 contractor has achieved [~~any~~] performance outcomes specified in the
20 contract, including:

21 (A) the percentage of children reunified with
22 their families within six months, 12 months, 18 months, and 24
23 months or later, after the date a suit is filed by the department;

24 (B) the percentage of children who reenter the
25 conservatorship of the department within six months, 12 months, or
26 three years after the date the child leaves the conservatorship of
27 the department, disaggregated by case outcome and reason for

1 reentry;

2 (C) the percentage of children who remain in the
3 conservatorship of the department until the age of majority,
4 including the percentage of children receiving extended foster care
5 services;

6 (D) the number of placement moves per 1,000 days
7 a child is in substitute care, disaggregated by placement type and
8 the number of days in each placement type;

9 (E) the percentage of families completing family
10 preservation services within three months, six months, nine months,
11 and 12 months, and after 12 months after the date a suit is filed by
12 the department, disaggregated by type of service;

13 (F) the percentage of children entering the
14 conservatorship of the department within six months, 12 months, and
15 24 months of the date the child's family begins receiving family
16 preservation services, including the reason the department was
17 granted conservatorship;

18 (G) the percentage of children entering the
19 conservatorship of the department within six months, 12 months, two
20 years, and four years of the date the child's family completes
21 family preservation services, including the reason the department
22 was granted conservatorship; and

23 (H) the percentage of children residing with one
24 parent, with both parents, or in a shared custody arrangement
25 between parents on completion of family preservation services;

26 (6) following the review under Subdivision (5),
27 require ~~allow~~ the department to:

1 (A) impose financial penalties on the contractor
2 for failing to meet [~~any specified~~] performance outcomes under
3 Subdivision (5); and [~~or~~]

4 (B) award financial incentives to the contractor
5 for exceeding [~~any specified~~] performance outcomes under
6 Subdivision (5);

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

10 (8) require the contractor to give preference for
11 employment to employees of the department:

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

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

16 (9) [~~(8)~~] require the contractor to implement
17 [~~provide~~] preliminary and ongoing community engagement plans to
18 ensure communication and collaboration with local stakeholders in
19 the catchment area, including any of the following:

20 (A) community faith-based organizations
21 [~~entities~~];

22 (B) the judiciary;

23 (C) court-appointed special advocates;

24 (D) child advocacy centers;

25 (E) service providers;

26 (F) foster families;

27 (G) biological parents;

- 1 (H) foster youth and former foster youth;
- 2 (I) relative or kinship caregivers;
- 3 (J) child welfare boards, if applicable;
- 4 (K) attorneys ad litem;
- 5 (L) attorneys that represent parents involved in
- 6 suits filed by the department; and
- 7 (M) any other stakeholders, as determined by the
- 8 contractor; and

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

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

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

21 (A) the need for foster parents in the community;
22 (B) the requirements for becoming a foster
23 parent; and

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

26 (2) provide training for prospective foster parents;
27 and

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

4 SECTION 9. Section 264.156(a), Family Code, is amended to
5 read as follows:

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

11 (1) family preservation services;

12 (2) case management services for children and
13 families;

14 (3) [~~(2)~~] evidence-based, promising practice, or
15 evidence-informed supports for children and families; and

16 (4) [~~(3)~~] sufficient available capacity for inpatient
17 and outpatient services and supports for children at all service
18 levels who have previously been placed in the catchment area.

19 SECTION 10. Sections 264.158(a) and (b), Family Code, are
20 amended to read as follows:

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

26 (1) family preservation services;

27 (2) the case management of children, relative and

1 kinship caregivers, and families receiving services from that
2 contractor; and

3 (3) [~~(2)~~] family reunification support services to be
4 provided after a child receiving services from the contractor is
5 returned to the child's family for the period of time ordered by the
6 court.

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

13 (1) family preservation services;

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

17 (3) [~~(2)~~] family reunification support services to be
18 provided after a child receiving services from the contractor is
19 returned to the child's family.

20 SECTION 11. The heading to Section 264.2031, Family Code,
21 is amended to read as follows:

22 Sec. 264.2031. SELECTION OF SERVICE PROVIDER;
23 REIMBURSEMENT.

24 SECTION 12. Section 264.2031, Family Code, is amended by
25 amending Subsection (b) and adding Subsections (b-1) and (d) to
26 read as follows:

27 (b) A [~~parent,~~] managing conservator, guardian, or other

1 member of a household who is not a parent and who obtains services
2 from a provider selected by the person is responsible for the cost
3 of those services.

4 (b-1) The department shall reimburse a service provider
5 selected by the parent under Subsection (a) who is not under
6 contract with the department in an amount equal to the average cost
7 for the specific service, including any virtual services, from
8 department contractors providing the service in the region where
9 the parent resides.

10 (d) The department shall:

11 (1) adopt rules relating to the manner in which
12 providers are reimbursed for services provided under this section;

13 (2) implement this section using existing resources;

14 and

15 (3) prioritize payments to providers of in-home
16 support services under Section [264.2011](#).

17 SECTION 13. Sections [264.113](#)(a), (b), and (c), Family Code,
18 are repealed.

19 SECTION 14. (a) Section 263.0022, Family Code, as added by
20 this Act, applies to a placement review hearing of a child
21 regardless of the date on which the Department of Family and
22 Protective Services is named the child's managing conservator.

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

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1 of this Act is governed by the law in effect on the date the contract
2 was entered into, and the former law is continued in effect for that
3 purpose.

4 SECTION 15. This Act takes effect September 1, 2023.