

BILL ANALYSIS

Senate Research Center

S.B. 6
By: Nelson
Health and Human Services
8/26/2005
Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

S.B. 6 seeks to strengthen the state's ability to protect society's most vulnerable citizens: abused children, the elderly, and the frail. The bill responds to the governor's executive orders calling for the systematic reforms of Child and Adult Protective Services. These orders came in response to numerous cases in which children and elderly persons were left in states of abuse or neglect, despite agency involvement, resulting in severe harm or even death.

S.B. 6 reforms the child protective service system in Article 1 while Article 2 reforms the adult protective service system. The testimony and input of stakeholders in legislative hearings, investigative reports, and informative meetings guided the drafting process.

Provisions in S.B. 6, Article 1 are intended to reduce caseloads by reducing unnecessary investigations, engage community service providers to prevent the escalation of abuse, make the casework process more efficient, and further utilize contracted providers. The bill also includes provisions that strengthen the protective service system's relationship with law enforcement, ensure the health and safety of foster children, and reform the divisions of Child Care Licensing and Contract Management within the agency.

Provisions in S.B. 6, Article 2, improve elder abuse and neglect investigations, reform the guardianship system, increase the coordination with and involvement of community organizations, and enhance agency accountability

RULEMAKING AUTHORITY

Rulemaking previously granted to the Department of Protective and Regulatory Services is transferred to the Department of Family and Protective Services and modified in SECTION 1.16 (Section 261.301, Family Code) and SECTION 1.27 (Section 261.310, Family Code) of this bill.

Rulemaking previously granted to the Department of Protective and Regulatory Services is modified and transferred to the executive commissioner of Health and Human Services Commission in SECTION 2.09 (Section 48.101, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1.45 (Section 264.101, Family Code), SECTION 1.46 (Section 264.106, Family Code), SECTION 1.53 (Section 264.204, Family Code), SECTION 1.62 (Sections 264.752 and 264.755, Family Code), SECTION 1.65 (Sections 266.003 and 266.006, Family Code), SECTION 1.81 (Section 40.03051, Human Resources Code), SECTION 1.94 (Section 42.042, Human Resources Code), SECTION 1.104 (Sections 42.057, Human Resources Code), SECTION 1.106 (Section 42.063, Human Resources Code), SECTION 1.123 (Sections 45.002 and 45.053, Human Resources Code), SECTION 2.02 (Section 40.0322, Human Resources Code), SECTION 2.03 (Section 40.035, Human Resources Code), SECTION 2.05 (Section 40.0527, Human Resources Code), SECTION 2.06 (Section 48.004, Human Resources Code), SECTION 2.09 (Section 48.101, Human Resources Code), SECTION 2.18, SECTION 2.20, SECTION 3.04 (Section 161.101, Human Resources Code), of this bill.

Rulemaking authority is expressly granted to the supreme court in SECTION 3.24 (Sections 111.002 and 111.042, Government Code) of this bill.

Rulemaking authority is expressly granted to the State Bar of Texas in SECTION 1.04 (Section 107.004, Family Code) of this bill.

Rulemaking authority is expressly granted to the Guardianship Certification Board in SECTION 3.27 of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CHILD PROTECTIVE SERVICES

SECTION 1.01. Amends Section 54.211, Education Code, as follows:

Sec. 54.211. EXEMPTIONS FOR STUDENTS IN FOSTER OR OTHER RESIDENTIAL CARE. (a) Creates this subsection from existing text. Provides that a student is exempt from the payment of tuition and fees authorized in this chapter if the student was in foster care or other residential care under the conservatorship of the Department of Family and Protective Services (DFPS), rather than the Department of Protective and Regulatory Services (DFPS), within a certain time table.

(b) Requires the Texas Education Agency (TEA) and the Texas Higher Education Coordinating Board to develop outreach programs to ensure that students in foster or other residential care in grades 9-12 are aware of the availability of the exemption from the payment of tuition and fees provided by this section.

SECTION 1.02. Amends Section 54.2111, Education Code, as follows:

Sec. 54.2111. EXEMPTIONS FOR ADOPTED STUDENTS FORMERLY IN FOSTER OR OTHER RESIDENTIAL CARE. (a) Creates this subsection from existing text.

(b) Requires TEA and the Texas Higher Education Coordinating Board to develop outreach programs to ensure that adopted students in grades 9-12 formerly in foster or other residential care are aware of the availability of the exemption from the payment of tuition and fees provided by this section.

SECTION 1.03. Amends Section 101.024, Family Code, as follows:

Sec. 101.024. PARENT. (a) Creates this subsection from existing text. Redefines "parent."

(b) Provides that for purposes of establishing, determining the terms of, modifying, or enforcing an order, a reference in this title to a parent includes a person ordered to pay child support under Section 154.001(a-1) (Support of Child) or to provide medical support for a child.

SECTION 1.04. (a) Amends Section 107.004, Family Code, as follows:

(a) Creates this subsection from existing text.

(b) Requires an attorney ad litem appointed for a child in a proceeding under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) or 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services) to complete at least three hours of continuing legal education relating to child advocacy as described by Subsection (c) as soon as practicable after the attorneys ad litem's appointment. Provides that an attorney ad litem is not required to comply with this subsection if the court finds that the attorney ad litem has experience equivalent to the required education.

(c) Requires the continuing legal education required Subsection (b) to serve certain purposes and to have a certain availability.

(d) Requires an attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263 to meet before each court hearing with the child, if the child is at least four years of age or with a certain individual if the child is younger than four.

(e) Provides that an attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263 is not required to comply with Subsection (d) before a hearing if the court finds at that hearing that the attorney ad litem has shown good cause why the attorney ad litem's compliance with that subsection is not feasible or in the best interest of the child.

(b) Makes application of this section prospective.

(c) Requires the State Bar of Texas to adopt rules governing the reporting of an attorney ad litem's timely completion of the continuing legal education required by Section 107.004(b), Family Code, as added by this section.

SECTION 1.05. Amends Subchapter A, Chapter 107, Family Code, by adding Section 107.0045, as follows:

Sec. 107.0045. DISCIPLINE OF ATTORNEY AD LITEM. Provides that an attorney ad litem who fails to perform the duties required by Sections 107.003 (Powers and Duties of Attorney ad Litem for Child and Amicus Attorney) and 107.004 (Additional Duties of Attorney ad Litem for Child) is subject to disciplinary action under Subchapter E, Chapter 81, Government Code (Discipline).

SECTION 1.06. Amends Section 107.013, Family Code, by adding Subsection (c), to require the court, in a suit filed by a governmental entity requesting temporary managing conservatorship of a child, to appoint an attorney ad litem to represent the interests of an indigent parent of the child who responds in opposition to the suit.

SECTION 1.07. Amends Section 107.015(c), Family Code, to delete existing text relating to the request for termination of the parent-child relationship.

SECTION 1.08. (a) Amends Section 154.001, Family Code, by adding Subsection (a-1), to authorize the court to order each person who is financially able and whose parental rights have been terminated with respect to a child in substitute care for whom the department has been appointed managing conservator to support the child in the manner specified by the order until the earliest of certain events relating to the child occurs.

(b) Makes application of this prospective.

SECTION 1.09. Amends Section 162.304, Family Code, by adding Subsection (f), to require DFPS to work with the Health and Human Services Commission (HHSC) and the federal government to develop a program to provide medical assistance under Chapter 32 (Medical Assistance Program), Human Resources Code, to children who were in DFPS conservatorship at the time of adoptive placement and need medical or rehabilitative care but do not qualify for adoption assistance, subject to the availability of funds.

SECTION 1.10 Amends Subchapter B, Chapter 231, Family Code, by adding Section 231.122, as follows:

Sec. 231.122. MONITORING CHILD SUPPORT CASE; ENFORCEMENT. Requires the Title IV-D agency to monitor each Title IV-D case from the date the agency begins providing services on the case. Requires the Title IV-D agency, if a child support obligor in a Title IV-D case becomes more than 60 days delinquent in paying child support, to expedite the commencement of an action to enforce the child support order.

SECTION 1.11. Amends Section 261.001, Family Code, by amending Subdivisions (2) and (4) to redefine "department" and "neglect."

SECTION 1.12. Amends Section 261.002, Family Code, by adding Subsection (c), to authorize DFPS to enter into agreements with other states to allow for the exchange of reports of child abuse and neglect in other states' central registry systems. Requires DFPS to use information obtained under this subsection in performing the background checks required under Section 42.056 (Required Background and Criminal History Checks), Human Resources Code. Requires DFPS to cooperate with federal agencies and to provide child abuse and neglect information and reports to the appropriate federal agency that maintains the national registry for child abuse and neglect, if a national registry exists.

SECTION 1.13. Amends the heading to Section 261.107, Family code, to read as follows:

Sec. 261.107. FALSE REPORT; CRIMINAL PENALTY; CIVIL PENALTY.

SECTION 1.14. (a) Amends Section 261.107, Family Code, by amending Subsection (a) and adding Subsections (d) and (e), as follows:

(a) Provides that a person commits an offense if, with the intent to deceive, the person knowingly makes a report as provided in this chapter that is false. Provides that an offense under this subsection, rather than section, is a state jail felony, rather than Class A misdemeanor, unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a felony of the third degree, rather than a state jail felony. Deletes existing text relating to intentionally making a false report or lacking factual evidence to make such a claim. Makes a nonsubstantive change.

(d) Requires the court to order a person who is convicted of an offense under Subsection (a) to pay any reasonable attorney's fees incurred by the person who was falsely accused of abuse or neglect in any proceeding relating to the false report.

(e) Provides that a person who engages in conduct described by Subsection (a) is liable to the state for a civil penalty of \$1,000. Requires the attorney general to bring an action to recover a civil penalty authorized by this subsection.

(b) and (c) Makes application of this section prospective.

SECTION 1.15. Amends Section 261.201, Family Code, by adding Subsection (f-1), to require DFPS to provide to a relative or other individual with whom a child is placed any information DFPS considers necessary to ensure that the individual is prepared to meet the child's needs. Authorizes the information to include certain details.

SECTION 1.16. (a) Amends Sections 261.301(a), (d), (f), (g), and (h), Family Code, as follows:

(a) Requires DFPS or designated agency, with assistance from the appropriate state or local law enforcement agency, as provided by this section, to make a prompt and thorough investigation of a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare.

(d) Requires, rather than authorizes, DFPS, by rule, to assign priorities and prescribe investigative procedures for investigations based on the severity and immediacy of the alleged harm to the child. Requires the rules to require DFPS to respond to reports of abuse and neglect within certain time periods according to priority, subject to the availability of funds.

(f) Requires an investigation of a report to DFPS that alleges that a child has been or may be the victim of conduct that constitutes a criminal offense, rather than one that is assigned the highest priority in accordance with DFPS rules adopted under Subsection (d), which poses an immediate risk of physical or sexual abuse that could result in the death of or serious harm to the child, to be jointly conducted by a peace officer from the appropriate local law enforcement agency and DFPS or the agency responsible for conducting the investigation.

(g) Provides that the inability or unwillingness of a local law enforcement agency to conduct a joint investigation under this section, rather than Subsection (f) (pertaining to joint investigations), does not constitute grounds to prevent or prohibit DFPS from performing its duties under this subtitle. Requires DFPS to document any instance in which a law enforcement agency is unable or unwilling to conduct a joint investigation under this section rather than Subsection (f).

(h) Requires DFPS and appropriate law enforcement agency to conduct an investigation, other than an investigation under Subchapter E (Investigations of Abuse, Neglect, or Exploitation in Certain Facilities), as provided by this section and Article 2.27 (Investigation of Certain Reports Alleging Child Abuse), Code of Criminal Procedure, of a report alleging that a child has or may have been the victim of conduct that constitutes a criminal offense, rather than one that is the highest priority in accordance with department rules adopted under Subsection (d), which poses an immediate risk of physical or sexual abuse that could result in the death of or serious harm to the child.

(b) Makes application of this section prospective.

(c) Requires DFPS to develop and implement an automated tracking and reporting system that enables it to track information on initial contacts to monitor compliance with the requirements of this section, relating to the timely response to reports of abuse and neglect.

(d) Requires the executive commissioner of the Health and Human Services Commission to adopt the rules as required by Section 261.301(d), Family Code, as amended by this section, not later than September 1, 2007.

SECTION 1.17. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3011, as follows:

Sec. 261.3011. JOINT INVESTIGATION GUIDELINES AND TRAINING. (a) Requires DFPS, in consultation with the appropriate law enforcement agencies, to develop guidelines and protocols for joint investigations by DFPS and the law enforcement agency under Section 261.301 (Investigation of Report). Sets forth certain requirements for the guidelines and protocol.

(b) Requires DFPS to collaborate with law enforcement agencies to provide to DFPS investigators and law enforcement officers responsible for investigating reports of abuse and neglect joint training relating to methods to effectively conduct joint investigations. Requires the training to include certain information.

SECTION 1.18. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3012, as follows:

Sec. 261.3012. COMPLETION OF PAPERWORK. Requires an employee of DFPS who responds to a report that is assigned the highest priority in accordance with DFPS rules adopted under Section 261.301(d) to identify, to the extent reasonable under the circumstances, forms and other paperwork that can be completed by members of the family of the child who is the subject of the report. Requires the DFPS employee to request the assistance of the child's family members in completing that documentation but provides that the employee remains responsible for ensuring that the documentation is completed in an appropriate manner.

SECTION 1.19. (a) Amends Section 261.3015, Family Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires DFPS, rather than the Board of Protective and Regulatory Services by rule, in assigning priorities and prescribing investigative procedures based on the severity and immediacy of the alleged harm to a child under Section 261.301(d), to establish a flexible response system to allow DFPS to make the

most effective use of, rather than allocate, resources by investigating serious cases of abuse and neglect and by screening out less serious cases if DFPS determines that the child's safety can be assured without further investigation. Authorizes DFPS to administratively close the less serious cases without providing services or making a referral to another entity for assistance. Deletes existing text relating to providing certain services in less serious cases.

(a-1) Sets forth guidelines for determining a less serious case for the purposes of Subsection (a).

(b) Requires DFPS, to ensure the safety of children, to use highly skilled caseworkers to perform the screening functions described by Section 261.3015(a), Family Code, as amended by this section, and develop standardized policy guidelines to ensure that screening guidelines do not result in the closing of cases that should not be closed.

SECTION 1.20. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3016, as follows:

Sec. 261.3016. TRAINING OF PERSONNEL RECEIVING REPORTS OF ABUSE AND NEGLECT. Requires DFPS to develop, in cooperation with local law enforcement officials and the Commission on State Emergency Communications, a training program for DFPS personnel who receive reports of abuse and neglect. Requires the training program to include certain information.

SECTION 1.21. Amends Section 261.302, Family Code, by adding Subsections (b-1) and (f) and amending Subsection (e), as follows:

(b-1) Requires DFPS, before it may transport a child as provided by Subsection (b)(3), to attempt to notify the parent or other person having custody of the child of the transport.

(e) Requires an interview with a child conducted by DFPS during the investigation stage to be audiotaped or videotaped. Requires an interview with a child alleged to be a victim of physical abuse or sexual abuse conducted by an investigating agency other than DFPS to be audiotaped or videotaped unless the investigating agency determines that good cause exists for not audiotaping or videotaping the interview in accordance with rules of the agency.

(f) Provides that a person commits an offense if the person is notified of the time of the transport of a child by DFPS and the location from which the transport is initiated and the person is present at the location when the transport is initiated and attempts to interfere with the DFPS's investigation. Provides that an offense under this subsection is a Class B misdemeanor. Provides that it is an exception to the application of this subsection that DFPS requested the person to be present at the site of the transport.

SECTION 1.22. Amends Subchapter D, Chapter 261, Family Code, by adding Sections 261.3021, 261.3022, 261.3023, and 261.3024, as follows:

Sec. 261.3021. CASEWORK DOCUMENTATION AND MANAGEMENT. Requires DFPS to complete certain tasks, subject to the appropriation of money for such purposes.

Sec. 261.3022. CHILD SAFETY CHECK ALERT LIST. (a) Requires the Department of Public Safety of the State of Texas to create a child safety check alert list as part of the Texas Crime Information Center to help locate a family for purposes of investigating a report of child abuse or neglect, subject to the availability of funds.

(b) Authorizes DFPS, if the child safety check alert list is established and DFPS is unable to locate a family for purposes of investigating a report of child abuse or neglect, after DFPS has exhausted all means available to the department for locating the family, to seek assistance under this section from the appropriate county attorney, district attorney, or criminal district attorney with responsibility for representing DFPS as provided by Section 264.009.

(c) Authorizes the county attorney, district attorney, or criminal district attorney, as applicable, if DFPS requests assistance, to file an application with the court requesting the issuance of an ex parte order requiring the Texas Crime Information Center to place the members of the family DFPS is attempting to locate on a child safety check alert list. Requires the application to include a summary of certain information.

(d) Requires the court, if the court determines after a hearing that DFPS has exhausted all means available to DFPS for locating the family, to approve the application and order the appropriate law enforcement agency to notify the Texas Crime Information Center to place the family on a child safety check alert list. Requires the alert list to include certain information.

Sec. 261.3023. LAW ENFORCEMENT RESPONSE TO CHILD SAFETY CHECK ALERT. (a) Sets forth requirements for a law enforcement officer who encounters a person listed on the Texas Crime Information Center's child safety check alert list.

(b) Authorizes an officer who determines that a child's well-being is threatened to take possession of the child without a court order if the officer is able to locate the child. Requires the officer to obtain the child's current address and other relevant information if the officer does not determine that the child's well-being is threatened and report that information to DFPS.

Sec. 261.3024. REMOVAL FROM CHILD SAFETY CHECK ALERT LIST. (a) Requires an officer who locates a child listed on the Texas Crime Information Center's child safety check alert list who is the subject of an abuse or neglect investigation to report to the Texas Crime Information Center that the child has been located.

(b) Requires DFPS to report to the Texas Crime Information Center if a child has been located through means other than information reported by a law enforcement officer.

(c) Requires the Texas Crime Information Center to remove the child and the child's family from the child safety check alert list upon receipt of notice that a child has been located.

SECTION 1.23. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3031, as follows:

Sec. 261.3031. FAILURE TO COOPERATE WITH INVESTIGATION; DEPARTMENT RESPONSE. Requires DFPS to seek assistance from the appropriate attorney with responsibility for representing DFPS if a parent or other person refuses to cooperate with DFPS's investigation of the alleged abuse or neglect of a child and the refusal poses a risk to the child's safety.

SECTION 1.24. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3032, as follows:

Sec. 261.3032. INTERFERENCE WITH INVESTIGATION; CRIMINAL PENALTY. (a) Sets forth conduct that constitutes an offense.

(b) Provides that an offense under this section is a Class B misdemeanor.

(c) Authorizes a person to be prosecuted under this section or another law if the person's conduct constitutes an offense under both.

SECTION 1.25. (a) Amends Section 261.307, Family Code, as follows:

(a) Creates this subsection from existing text and reletters existing subdivisions within subsection. Requires DFPS to provide certain information as soon as

possible after initiating an investigation of a parent or other person having legal custody of a child.

(b) Requires the child placement resources form described by Subsection (a)(2) to include information on the periods of time by which DFPS is required to complete background check.

(b) Requires DFPS to develop the proposed child placement resources form required by this section not later than November 1, 2005.

(c) Requires DFPS to provide the proposed child placement resources form required under this section to the parent or other person having legal custody of a child who is the subject of an investigation of abuse or neglect that is commenced on or after November 1, 2005.

SECTION 1.26. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3071, as follows:

Sec. 261.3071. INFORMATIONAL MANUAL. (a) Defines "relative caregiver" and "designated caregiver."

(b) Requires DFPS to develop and publish an informational manual that provides information for certain people.

(c) Requires that the information provided in the manual include, as appropriate, certain details and be in both English and Spanish.

SECTION 1.27. Amends Section 261.310, Family Code, by amending Subsections (a), (c), and (d) and adding Subsection (e), as follows:

(a) Requires DFPS by rule to develop and adopt standards, rather than voluntary standards, for persons who investigate suspected child abuse or neglect at the state or local level.

(c) Requires the professional training curriculum developed under this section to include certain information, including law-enforcement-style training, containing training relating to forensic interviewing and investigatory techniques and the collection of physical evidence and certain applicable federal laws. Makes nonsubstantive changes.

(d) Requires the standards to make certain recommendations and provide certain procedures.

(e) Requires DFPS, in conjunction with the Department of Public Safety, to provide advanced training in investigative protocols and techniques to DFPS's residential child-care facility licensing investigators.

SECTION 1.28. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3101, as follows:

Sec. 261.3101. FORENSIC INVESTIGATION SUPPORT. Requires DFPS to employ and designate certain professionals to provide forensic investigation support, subject to the availability of money.

SECTION 1.29. Amends Section 261.3125, Family Code, as follows:

Sec. 261.3125. New heading: CHILD SAFETY SPECIALISTS. (a) Requires DFPS to employ in each of its administrative regions, rather than in each region of the department for child protective services, at least one child safety specialist, rather than child protective services investigations coordinator. Makes conforming changes.

(b) Requires the duties of a child safety specialist to include certain responsibilities, including to conduct staff reviews and evaluations of cases determined to involve a high risk to the health or safety of a child to ensure that risk assessment tools are fully and correctly used.

SECTION 1.30. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3126, as follows:

Sec. 261.3126. COLOCATION OF INVESTIGATORS. (a) Sets forth guidelines and requirements for the colocation of investigators in order to improve the efficiency of child abuse investigations.

(b) Provides that a law enforcement agency is not required to comply with the colocation requirements of this section if the law enforcement agency does not have a full-time peace officer solely assigned to investigate reports of child abuse and neglect.

(c) Requires DFPS to work with a local community whose county does not have a children's advocacy center to encourage a center's development.

SECTION 1.31. Amends Subchapter E, Chapter 261, Family Code, by adding Section 261.410, as follows:

Sec. 261.410. REPORT OF ABUSE BY OTHER CHILDREN. (a) Defines "physical abuse" and "sexual abuse."

(b) Requires an agency that operates, licenses, certifies, or registers a residential child-care facility to require a facility to report each incident of physical or sexual abuse committed by a child against another child.

(c) Requires the agency that operates, licenses, certifies, or registers a facility, using information received under Subsection (b), to compile a report that includes certain information, subject to the availability of funds.

SECTION 1.32. Amends Subchapter B, Chapter 262, Family Code, by adding Section 262.1041, as follows:

Sec. 262.1041. RELEASE OF CHILD BY LAW ENFORCEMENT OR JUVENILE PROBATION OFFICER. (a) Authorizes a law enforcement or juvenile probation officer who takes possession of a child under this chapter to release the child to a certain entity or a certain person.

(b) Requires a child-placing agency or other authorized person who takes possession of a child under this section to follow certain procedures.

SECTION 1.33. Amends Subchapter B, Chapter 262, Family Code, by adding Section 262.114, as follows:

Sec. 262.114. EVALUATION OF IDENTIFIED RELATIVES AND OTHER DESIGNATED INDIVIDUALS; PLACEMENT. (a) Requires DFPS, before a full adversary hearing under Subchapter C, to perform a background and criminal history check of the relatives or other designated individuals identified as a potential relative or designated caregiver, as defined by Section 264.751, on the proposed child placement resources form provided under Section 261.307. Requires DFPS to evaluate each person listed on the form to determine the relative or other designated individual who would be the most appropriate substitute caregiver for the child and to complete a home study of the most appropriate substitute caregiver, if any, before the full adversary hearing. Requires DFPS, until it identifies a relative or other designated individual qualified to be a substitute caregiver, to continue to explore substitute caregiver options. Provides that the time frames in this subsection do not apply to a relative or other designated individual located in another state.

(b) Authorizes DFPS to place a child with a relative or other designated individual identified on the proposed child placement resources form if DFPS determines that the placement is in the best interest of the child. Authorizes DFPS to place the child with the relative or designated individual before conducting the background and criminal history check or home study required under Subsection (a). Requires DFPS to provide a copy of an informational manual required under Section 261.3071 to the relative or other designated caregiver at the time of the child's placement.

SECTION 1.34. (a) Amends Section 262.201(c), Family Code, to require the court to inform each parent, alleged father, or relative of the child before the court that the person's failure to submit the proposed child placement resources form will not delay any court proceedings relating to the child. Makes conforming changes.

(b) Makes application of this section prospective to November 1, 2005.

SECTION 1.35. Amends Section 262.2015(b), Family Code, to authorize the court to find under Subsection (a) that a parent has subjected the child to aggravated circumstances if the parent's parental rights with regard to two other children have been involuntarily terminated.

SECTION 1.36 Amends Section 263.001(a)(1), to redefine "department."

SECTION 1.37. (a) Amends Section 263.201, Family Code, by adding Subsection (c), to require the court to require each parent, alleged father, or relative of the child before the court to submit the proposed child placement resources form at the status hearing, if the form has not previously been submitted.

(b) Makes application of this Act prospective to November 1, 2005.

SECTION 1.38. (a) Amends Section 263.102, Family Code, by amending Subsection (a) and adding Subsections (d) and (e), as follows:

(a) Requires the service plan to meet certain requirements, including being written in a language that the parents understand, stating any specific skills, knowledge, or behavioral changes they must exhibit, acquire or learn in order to achieve the plan goal, and stating the actions and responsibilities that are necessary for the parents to take to ensure that the child attends school and maintains or improves academic performance.

(d) Requires DFPS to write the service plan in a clear and understandable manner in order to facilitate a parent's ability to follow the requirements of the service plan.

(e) Requires DFPS to concurrently provide certain information to the child and the child's family, regardless of whether the goal stated in a child's service plan is to return the child to the child's parents or to terminate parental rights.

(b) Amends Section 263.202(c), Family Code, to include a review of whether the parties have acquired or learned any specific skills or knowledge stated in the service plan among the service plan progress that will be reviewed at subsequent hearings.

(c) Makes application of this section prospective.

SECTION 1.39. Amends Section 263.202, Family Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Requires, except as provided in Subsection (e), a status hearing to be limited to matters related to the contents and execution of the service plan filed with the court. Makes a nonsubstantive change.

(e) Requires the court, at the status hearing, to make a finding as to whether the court has identified the individual who has the right to consent for the child under Section 266.003 (Consent for Medical Care).

SECTION 1.40. Amends Section 263.401(b), Family Code, to prohibit the court from retaining the suit on the court's docket after the time described by Subsection (a) (the first Monday after the first anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator) unless the court finds that extraordinary circumstances prevent the court from rendering a final order within that time and that continuing DFPS's appointment as temporary managing conservator is in the best interest of the child. Authorizes the court, if it makes such findings to retain the suit on the court's docket for a period not to exceed 180 days after the time described by Subsection (a). Makes a conforming change.

SECTION 1.41. (a) Amends Section 263.502(c), Family Code, to include evaluation of whether the child's current education placement is appropriate for meeting the child's academic needs, a discharge plan for a child who is at least 16 years of age, and describing efforts to provide federal adoption promotion and support services amongst the requirements for the placement review. Makes nonsubstantive changes.

(b) Requires DFPS, to the extent that funding is available, to contract with outside entities to assist in the discharge planning process.

SECTION 1.42. Amends Section 264.001, Family Code, as follows:

Sec. 264.001. New heading: DEFINITIONS. Defines "commission," "executive commissioner," and "residential child-care facility." Redefines "department."

SECTION 1.43. Amends Subchapter A, Chapter 264, Family Code, by adding Section 264.0091, as follows:

Sec. 264.0091. USE OF TELECONFERENCING AND VIDEOCONFERENCING TECHNOLOGY. Requires DFPS, in cooperation with district and county courts, to expand the use of teleconferencing and videoconferencing to facilitate participation by medical experts and other individuals in court proceedings, subject to the availability of funds.

SECTION 1.44. Amends Subchapter A, Chapter 264, Family Code, by adding Section 264.013, as follows:

Sec. 264.013. EXCHANGE OF INFORMATION WITH OTHER STATES. Requires DFPS, subject to the availability of funds, to enter into agreements with other states to allow for the exchange of information relating to a child for whom DFPS is or was the managing conservator. Authorizes the information to include the child's health passport and education passport.

SECTION 1.45. Amends Section 264.101, Family Code, by adding Subsection (d-1) as follows:

(d-1) Authorizes the executive commissioner of the HHSC (executive commissioner) to adopt rules that prescribe the maximum amount of state money that a residential child-care facility may spend on nondirect residential services, including administrative services. Requires HHSC to recover the money that exceeds the maximum amount established under this subsection.

SECTION 1.46. Amends Section 264.106, Family Code, as follows:

Sec. 264.106. New heading: REQUIRED CONTRACTS FOR SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES. (a) Defines "case management services," "independent administrator," "permanency services," "substitute care provider," and "substitute care services."

- (b) Redesignated from existing Subsection (a). Requires DFPS, in accordance with Section 45.004, Human Resources Code, to make certain assessments, contract with certain entities, and take certain actions.
- (c) Prohibits an independent administrator from providing certain services or being governed by a certain board.
- (d) Provides that administrative services to be provided by an independent administrator include certain services and training.
- (e) Redesignated from existing Subsection (b). Requires a contract with an independent administrator, rather than a substitute care provider, to include certain provisions, in addition to the requirements of Section 40.058(b) (Contracts and Agreements), Human Resources Code.
- (f) Requires a contract with an independent administrator for substitute care and case management services under Subsection(b)(2) to include certain DFPS-approved provisions.
- (g) Redesignated from Subsection (d). Makes conforming changes.
- (h) Provides that a contract under this section does not affect the rights and duties of DFPS in its capacity as the temporary or permanent managing conservator of a child.
- (i) Prohibits DFPS, on and after September 1, 2011, from directly providing substitute care and case management services for children for whom it has been appointed temporary or permanent managing conservator, except as provided by Subsections (j) and (k) and notwithstanding any other law.
- (j) Authorizes DFPS, on and after September 1, 2011, to provide substitute care and case management services in an emergency. Requires the executive commissioner to adopt rules describing the circumstances in which DFPS may provide those services.
- (k) Authorizes DFPS to provide substitute care and case management services as a provider of last resort in any region of the state in which the department or an independent administrator contracting with the department is unable to contract with a private agency to provide those services. Deletes existing Subsection (e) relating to the definition of "substitute care provider."

SECTION 1.47. Amends Subchapter B, Chapter 264, Family Code, by adding Sections 264.1062 and 264.1063, as follows:

Sec. 264.1062. EVALUATION OF INDEPENDENT ADMINISTRATORS. Requires DFPS to develop and implement a comprehensive multidisciplinary team to monitor and evaluate the performance of independent administrators. Requires the team to consist of specialized staff who can enable DFPS to measure critical dimensions of community-based organization performance, obtained through the quality assurance functions of the independent administrator including certain other measures.

Sec. 264.1063. MONITORING PERFORMANCE OF SUBSTITUTE CARE AND CASE MANAGEMENT PROVIDERS. (a) Requires DFPS, in consultation with private entities under contract with either an independent administrator or DFPS to provide substitute care or case management services, to establish a quality assurance program that uses comprehensive, multitiered assurance and improvement systems based, subject to the availability of funds, on real-time data to evaluate performance.

- (b) Requires the contract performance outcomes specified in a contract under Section 264.106 to be consistent with the fiscal goals of privatizing substitute care and case management services and to be within the contractor's authority to

deliver. Requires the contract to clearly define the manner in which the substitute care or case management provider's performance will be measured and identify the information DFPS and, if applicable, the independent administrator will use to evaluate the performance.

SECTION 1.48. Amends Section 264.107, Family Code, by adding Subsections (c) through (f), as follows:

(c) Requires the contract between DFPS and an independent administrator or other authorized entity to require, not later than September 1, 2009, the use of real-time technology in the independent administrator's or other authorized entity's placement system to screen possible placement options for a child and match the child's needs with the most qualified providers with vacancies.

(d) Requires DFPS to institute a quality assurance system in monitoring the independent administrators or other authorized entities to ensure that placement decisions are reliable and are made in a consistent manner.

(e) Requires an independent administrator or other authorized entity, in making placement decisions, to use clinical protocols to match a child to the most appropriate placement resource.

(f) Authorizes DFPS to create a regional advisory council in a region to assist DFPS and independent administrator or other authorized entity in assessments and locating certain services.

SECTION 1.49. Amends Section 264.1075, Family Code, as follows:

Sec. 264.1075. New heading: ASSESSING NEEDS OF CHILD. (a) Requires DFPS, on removing a child from the child's home, rather than before placing a child in substitute care, to use assessment services provided by a child-care facility, a child-placing agency, or the child's medical home during the initial substitute care placement. Authorizes the assessment to be used to determine the most appropriate substitute care placement for the child, if needed. Deletes existing text relating to this subsection complying with a certain section of the Human Resources Code. Makes a conforming change.

(b) Requires DFPS, as soon as possible after a child begins receiving foster care under this subchapter, to assess whether the child has a developmental disability or mental retardation. Requires HHSC to establish the procedures that DFPS must use in making an assessment under this subsection. Authorizes the procedures to include screening or participation by certain a person, authority, or provider.

SECTION 1.50. (a) Amends Subchapter B, Chapter 264, Family Code, by adding Sections 264.116, 264.117, and 264.118, as follows:

Sec. 264.116. TEXAS FOSTER GRANDPARENT MENTORS. (a) Requires DFPS to make the active recruitment and inclusion of senior citizens a priority in ongoing mentoring initiatives.

(b) Provides that an individual who volunteers as a mentor is subject to state and national criminal background checks in accordance with Sections 411.087 (Access to Criminal History Record Information Maintained by Federal Bureau of Investigation or Local Criminal Justice Agency) and 411.114 (Access to Criminal History Record Information: Department of Protective and Regulatory Services), Government Code.

(c) Require DFPS to require foster parents or employees of residential child-care facilities to provide appropriate supervision over individuals who serve as mentors during their participation in the mentoring initiative.

(d) Provides that Chapter 2109 (Volunteers), Government Code, applies to the mentoring initiative described by this section.

Sec. 264.117. NOTICE TO ATTORNEY AD LITEM. (a) Requires DFPS to notify the attorney ad litem for a child in the conservatorship of DFPS about each event involving the child that DFPS reports in the child's case file.

(b) Requires DFPS to give a child's attorney ad litem written notice at least 48 hours before the date it changes the child's residential care provider. Authorizes DFPS to change the child's residential care provider without notice if it determines that an immediate change is necessary to protect the child.

Sec. 264.118. ANNUAL SURVEY. (a) Requires DFPS to conduct an annual random survey of a sample of children from each region of the state who are at least 14 years of age and who receive substitute care services. Requires the survey to include certain questions.

(b) Provides that the identity of each child participating in a DFPS survey is confidential and not subject to public disclosure under Chapter 552 (Public Information), Government Code. Requires DFPS to adopt procedures to ensure that the identity of each child participating in a DFPS survey remains confidential.

(b) Requires DFPS to implement the provisions of Section 264.116, Family Code, as added by this section, not later than June 1, 2006.

SECTION 1.51. Amends Subchapter B, Chapter 264, Family Code, by adding Section 264.121, as follows:

Sec. 264.121. PREPARATION FOR ADULT LIVING PROGRAM. (a) Requires DFPS, through certain efforts, to address the unique challenges facing foster children in the conservatorship of DFPS who must transition to independent living.

(b) Defines "local workforce development board."

SECTION 1.52. Amends Subchapter C, Chapter 264, Family Code, by adding Section 264.2015, as follows:

Sec. 264.2015. FAMILY GROUP CONFERENCING. Authorizes DFPS to collaborate with the courts and other appropriate local entities to develop and implement family group conferencing as a strategy for promoting family preservation and permanency for children.

SECTION 1.53. Amends Subchapter C, Chapter 264, Family Code, by adding Section 264.204, as follows:

Sec. 264.204. COMMUNITY-BASED FAMILY SERVICES. (a) Requires DFPS to administer a grant program to provide funding to community organizations, including faith-based or county organizations, to respond to certain issues regarding abuse and neglect.

(b) Requires the executive commissioner to adopt rules to implement the grant program, including rules governing the submission and approval of grant requests and the cancellation of grants.

(c) Requires a community organization whose grant request is approved to execute an interagency agreement or a contract with DFPS. Requires the contract to require the organization receiving the grant to perform the services as state on the approved grant request and must contain appropriate program and fiscal monitoring provisions.

(d) Requires DFPS, in areas of the state where community organizations receive grants under the program, to refer low-priority, less serious cases of abuse and neglect to a community organization receiving a grant under the program.

(e) Requires a community organization receiving a referral under Subsection (d) to make a home visit and offer family social services to enhance the parents' ability to provide a safe and stable home environment for the child. Requires a case manager from the organization to monitor the case and ensure that the services are delivered if the family chooses to use the family services.

(f) Requires the community organization to refer the case to DFPS for a full investigation if after the home visit the community organization determines that the case is more serious than DFPS indicated.

(g) Prohibits DFPS from awarding a grant to a community organization in an area of the state in which a similar program is already providing family services in the community.

(h) Sets forth guidelines for determining that a case is a less serious case of abuse or neglect for the purposes of this section.

SECTION 1.54. (a) Amends Subchapter C, Chapter 264, Family Code, by adding Section 264.2041, as follows:

Sec. 264.2041. CULTURAL AWARENESS. Requires DFPS to take certain actions and make certain efforts to promote cultural awareness.

(b) Requires HHSC and DFPS to analyze data regarding child removals and other enforcement actions taken by DFPS during state fiscal years 2004 and 2005. Requires HHSC and DFPS, based on the analysis, to determine whether enforcement actions were disproportionately initiated against any racial or ethnic group, in any area of the state, taking into account certain relevant factors.

(c) Requires the rate of enforcement actions to be deemed disproportionate for a given racial or ethnic group if it is significantly different from the rate of enforcement actions against the population as a whole, taking into account other relevant factors.

(d) Requires HHSC, not later than January 1, 2006, to report the results of the analysis to certain state elected officials and the Parental Advisory Committee created under Section 40.073, Human Resources Code, as added by this Act.

(e) Requires HHSC and DFPS, if the results of the analysis indicate that enforcement actions are initiated disproportionately against any racial or ethnic group, in any area of the state, taking into account other relevant factors, to make certain evaluations, develop and implement a certain plan, and submit a report by a certain date.

SECTION 1.55. Amends Section 264.203(c), Family Code, to authorize the court to impose appropriate sanctions in order to protect the health and safety of a child as specified by Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child)) if the person ordered to participate in the services fails to follow the court's order. Deletes existing text relating to community service as a sanction.

SECTION 1.56. Amends Section 264.502(b), Family Code, to include a child abuse prevention specialist amongst the additional committee members that the members of the child fatality review team committee (committee) are required to select. Makes nonsubstantive changes.

SECTION 1.57. Amends Section 264.503, Family Code, by amending Subsections (b)-(f) and adding Subsections (d-1) and (g), as follows:

(b) Makes a conforming change.

(c) Requires DFPS to work cooperatively with the committee and with individual child fatality review teams. Deletes existing text specifying duties required of DFPS regarding the committee.

(d) Requires the Department of State Health Services to provide certain services in an effort to assist the committee in carrying out its duties.

(d-1) Creates this subsection from existing text. Makes a conforming change.

(e) Makes conforming changes.

(f) Requires the committee to issue a report for each preventable child death. Sets forth requirements for report contents. Requires the committee, not later than December 1 of each year, to publish a compilation of the reports published during the year, submit a copy of the compilation to certain authorities, and make the compilation available to the public. Requires DFPS, not later than June 1, of each year, to submit a written response on the compilation from the previous year to certain authorities describing which of the committee's recommendations regarding the operation of the child protective services system DFPS will implement and the methods of implementation. Deletes existing text relating to an annual report related to the committee's activities and purpose.

(g) Requires the committee to perform the functions and duties required of a citizen review panel under 42 U.S.C. Section 510a(c)(4)(A).

SECTION 1.58. Amends Section 264.504(c), Family Code, to require the committee members, on a majority vote, to remove from the committee any member who discloses information described by this subsection in a public meeting.

SECTION 1.59. Amends Section 264.505(c), Family Code, to include a child abuse prevention specialist amongst the individuals that are authorized to be included on a child fatality review team (review team).

SECTION 1.60. Amends Section 264.509(b), Family code, to include that there be no cost to the review team for providing deceased child records, by a custodian of those records, on request of the presiding officer of the review team.

SECTION 1.61. Amends Section 264.602, Family Code, by adding Subsection (e), to require DFPS, in cooperation with the statewide organization with which the attorney general contracts under Section 264.603 (Administrative Contracts) and other interested agencies, to support the expansion of court-appointed volunteer advocate programs into counties in which there is a need for the programs. Requires a program to work to ensure the independence of the program by establishing community support and accessing private funding from the community for the program.

SECTION 1.62. (a) Amends Chapter 264, Family Code, by adding Subchapter I, as follows:

SUBCHAPTER I. RELATIVE AND OTHER DESIGNATED CAREGIVER PLACEMENT PROGRAM

Sec. 264.751. DEFINITIONS. Defines "designated caregiver," "relative," and "relative caregiver."

Sec. 264.752. RELATIVE AND OTHER DESIGNATED CAREGIVER PLACEMENT PROGRAM. (a) Requires DFPS to develop and procure a program to achieve certain objectives.

(b) Requires DFPS, to the extent permitted by federal law, to use federal funds available under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), to administer the program under this subchapter.

(c) Requires the executive commissioner to adopt certain rules necessary to implement this subchapter.

Sec. 264.753. EXPEDITED PLACEMENT. Requires DFPS or other authorized entity to expedite the completion of the background and criminal history check, the home study, and any other administrative procedure to ensure that the child is placed with a qualified relative or caregiver not later than two weeks after the date the caregiver is identified.

Sec. 264.754. INVESTIGATION OF PROPOSED PLACEMENT. Requires DFPS to conduct an investigation to determine whether the proposed placement of a child is in the child's best interest before placing the child with a relative or other designated caregiver.

Sec. 264.755. CAREGIVER ASSISTANCE AGREEMENT. (a) Requires DFPS, subject to the availability of funds, enter into a caregiver assistance agreement with each relative or other designated caregiver to provide monetary assistance and additional support services to the caregiver. Requires the monetary and support services to be based on a family's need, as determined by rules adopted by the executive commissioner.

(b) Requires the monetary assistance provided under this section to include a one-time cash payment of not more than \$1,000 to the caregiver on the initial placement of a child or sibling group. Requires the cash payment to be provided to assist the caregiver in purchasing essential child-care items such as furniture and clothing.

(c) Authorizes the monetary assistance and support services to include certain provisions.

Sec. 264.756. ASSISTANCE WITH PERMANENT PLACEMENT. Requires DFPS to collaborate with the State Bar of Texas and local community partners to identify legal resources to assist relatives and other designated caregivers in obtaining conservatorship, adoption, or other permanent legal status for the child.

Sec. 264.757. COORDINATION WITH OTHER AGENCIES. Requires DFPS to coordinate with other health and human services agencies to provide assistance and services under this chapter.

Sec. 264.758. FUNDS. Requires DFPS and other state agencies to actively seek and use federal funds available for the purposes of this subchapter.

(b) Requires the executive commissioner of the Health and Human Services Commission, not later than December 1, 2005, to adopt rules for implementing and administering the relative and other designated caregiver placement program under Subchapter I, Chapter 264, Family Code, as added by this section.

(c) Requires DFPS, not later than March 1, 2006, to implement the relative and other designated caregiver placement program in accordance with Subchapter I, Chapter 264, Family Code, as added by this section.

(d) Requires DFPS, as soon as possible after the effective date of this Act, to take all necessary actions to apply for a federal waiver under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), to use federal funds available under that title to implement the relative and other designated caregiver placement program under Subchapter I, Chapter 264, Family Code, as added by this section.

SECTION 1.63. Amends Chapter 264, Family Code, by adding Subchapter J, as follows:

SUBCHAPTER J. FAMILY DRUG COURT PROGRAM

Sec. 264.801. FAMILY DRUG COURT PROGRAM DEFINED. Defines "family drug court program."

Sec. 264.802. AUTHORITY TO ESTABLISH PROGRAM. Authorizes the commissioners court of a county to establish a family drug court program for certain persons.

Sec. 264.803. OVERSIGHT. Sets forth oversight procedures for the family drug court programs.

Sec. 264.804. PARTICIPANT PAYMENT FOR TREATMENT AND SERVICES. Authorizes a family drug court program to require a participant to pay the cost of all treatment and services received while participating in the program, based on the participant's ability to pay.

Sec. 264.805. FUNDING. Requires a county creating a family drug court under this chapter to explore the possibility of using court improvement project funds to finance the family drug court in the county. Requires the county to also explore the availability of federal and state matching funds to finance the court.

SECTION 1.64. Amends Chapter 265, Family Code, by adding Section 265.004, as follows:

Sec. 265.004. USE OF EVIDENCE-BASED PROGRAMS FOR AT-RISK FAMILIES.

(a) Requires DFPS, to the extent that money is appropriated for the purpose, to fund evidence-based programs offered by community-based organizations that are designed to prevent or ameliorate child abuse and neglect.

(b) Requires DFPS to place priority on programs that target children whose race or ethnicity is disproportionately represented in the child protective services system.

(c) Requires DFPS to periodically evaluate the evidence-based abuse and neglect prevention programs to determine the continued effectiveness of the programs.

SECTION 1.65. (a) Amends Subtitle E, Title 5, Family Code, by adding Chapter 266, as follows:

CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR CHILDREN IN FOSTER CARE

Sec. 266.001. DEFINITIONS. Defines "commission," "department," "executive commissioner," "foster child," and "medical care."

Sec. 266.002. CONSTRUCTION WITH OTHER LAW. Provides that this chapter does not limit the right to consent to medical, dental, psychological, and surgical treatment under Chapter 32 (Consent to Treatment of Child by Non-Parent or Child).

Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT VICTIMS. (a) Requires HHSC to collaborate with health care and child welfare professionals to design a comprehensive, cost-effective medical services delivery model, either directly or by contract, to meet the needs of children served by DFPS. Requires the medical services delivery model to include functions.

(b) Requires HHSC to collaborate with certain entities and social services programs to maximize services and benefits available under this section.

(c) Requires the executive commissioner to adopt rules necessary to implement this chapter.

Sec. 266.004. CONSENT FOR MEDICAL CARE. (a) Prohibits medical care from being provided to a child in foster care unless the person authorized by this section has provided consent.

(b) Authorizes the court to authorize certain persons to consent to medical care for a foster child, except as provided by Section 266.010.

(c) Requires DFPS, if the person authorized by the court to consent to medical care is DFPS or an agent of DFPS, to file with the court and each party the name of the individual who will exercise the duty and responsibility of providing informed consent on behalf of DFPS, not later than the fifth business day after the date the court provides authorization. Requires DFPS, if that individual changes, to file notice of the change with the court and each party not later than the fifth business day after the date of the change.

(d) Authorizes a physician or other provider of medical care acting in good faith to rely on the representation by a person that the person has the authority to consent to the provision of medical care to a foster child as provided by Subsection (b).

(e) Authorizes DFPS or certain persons to petition the court for any order related to medical care for a foster child that the department or other person believes is in the best interest of the child. Requires notice of the petition to be given to each person entitled to notice under Section 263.301(b) (Notice).

(f) Authorizes the physician, if a physician who has examined or treated the foster child has concerns regarding the medical care provided to the foster child, to file a letter with the court stating the reasons for the physician's concerns. Requires the court to provide a copy of the letter to each person entitled to notice under Section 263.301(b).

(g) Authorizes the court, on its own motion or in response to a petition under Subsection (e) or Section 266.010, to issue any order related to the medical care of a foster child that the court determines is in the best interest of the child.

(h) Prohibits a person from being authorized to consent to medical care provided to a foster child unless the person has completed a DFPS-approved training program related to informed consent and the provision of all areas of medical care as defined by Section 266.001, notwithstanding Subsection (b). Provides that this subsection does not apply to a parent whose rights have not been terminated unless the court orders the parent to complete the training.

(i) Requires the person authorized under Subsection (b) to consent to medical care of a foster child to participate in each appointment of the child with the provider of the medical care.

(j) Provides that nothing in this section requires the identity of a foster parent to be publicly disclosed.

Sec. 266.005. PARENTAL NOTIFICATION OF SIGNIFICANT MEDICAL CONDITIONS. (a) Defines "significant medical condition."

(b) Requires DFPS to make reasonable efforts to notify the child's parents within 24 hours of a significant medical condition involving a foster child, except as provided by Subsection (c).

(c) Provides that DFPS is not required to provide notice under Subsection (b) to a certain parent.

Sec. 266.006. HEALTH PASSPORT. (a) Requires HHSC, in conjunction with DFPS, and with the assistance of physicians and other health care providers experienced in the

care of foster children and children with disabilities and with the use of electronic health records, to develop and provide a health passport for each foster child. Requires the passport to be maintained in an electronic format and use the commission's and the department's existing computer resources to the greatest extent possible.

(b) Requires the executive commissioner of HHSC to adopt rules specifying the information required to be included in the passport. Authorizes the required information to include certain information.

(c) Requires the system used to access the health passport to be secure and maintain the confidentiality of the child's health records.

(d) Requires health passport information to be part of DFPS's record for the child as long as the child remains in foster care.

(e) Requires HHSC to provide training or instructional materials to foster parents, physicians, and other health care providers regarding use of the health passport.

(f) Requires DFPS to make health passport information available in printed and electronic formats to certain individuals when a child is discharged from foster care.

Sec. 266.007. JUDICIAL REVIEW OF MEDICAL CARE. (a) Requires the court, at each hearing under Chapter 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services), or more frequently if ordered by the court, to review a summary of the medical care provided to the foster child since the last hearing. Requires the summary to include certain information.

(b) Requires DFPS, at or before each hearing under Chapter 263, to provide the summary of medical care described by Subsection (a) to the court and certain persons.

(c) Requires the foster child, at each hearing under Chapter 263, to be provided the opportunity to express to the court the child's views on the medical care being provided to the child.

Sec. 266.008. EDUCATION PASSPORT. (a) Requires HHSC to develop an education passport for each foster child. Requires HHSC, in conjunction with DFPS, to determine the format of the passport. Authorizes the passport to be maintained in an electronic format. Requires the passport to contain educational records of the child, including certain information.

(b) Requires DFPS to maintain the passport as part of its records for the child as long as the child remains in foster care.

(c) Requires DFPS to make the passport available to the person authorized to consent to medical care for the foster child and to a provider of medical care to the foster child if access to the foster child's educational information is necessary to the provision of medical care and is not prohibited by law.

(d) Requires DFPS and HHSC to collaborate with TEA to develop policies and procedures to ensure that the needs of foster children are met in every school district.

Sec. 266.009. PROVISION OF MEDICAL CARE IN EMERGENCY. (a) Provides that consent or court authorization for the medical care of a foster child otherwise required by this chapter is not required in an emergency during which it is immediately necessary to provide medical care to the foster child to prevent the imminent probability of death or substantial bodily harm to the child or others, including certain circumstances.

(b) Requires the physician providing the medical care or designee to notify the person authorized to consent to medical care for a foster child about the decision to provide medical care without consent or court authorization in an emergency not later than the second business day after the date of the provision of medical care under this section. Requires this notification to be documented in the foster child's health passport.

(c) Provides that this section does not apply to the administration of medication under Subchapter G (Administration of Medication to Patient Under Order for Inpatient Mental Health Services), Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

Sec. 266.010. CONSENT TO MEDICAL CARE BY FOSTER CHILD AT LEAST 16 YEARS OF AGE. (a) Provide that a foster child who is at least 16 years of age may consent to the provision of medical care, except as provided by Chapter 33 (Notice of Abortion), if the court with continuing jurisdiction determines that the child has the capacity to consent to medical care. Requires the form, if the child provides consent by signing a consent form, to be written in language the child can understand.

(b) Authorizes a court with continuing jurisdiction to make the determination regarding the foster child's capacity to consent to medical care during a hearing under Chapter 263 or to hold a hearing to make the determination on its own motion. Authorizes the court to issue an order authorizing the child to consent to all or some of the medical care as defined by Section 266.001. Authorizes a foster child who is at least 16 years of age, or the foster child's attorney ad litem, to file a petition with the court for a hearing. Authorizes the court, if the court determines that the foster child lacks the capacity to consent to medical care, to consider whether the foster child has acquired the capacity to consent to medical care at subsequent hearings under Section 263.503 (Placement of Review Hearings; Procedure).

(c) Requires the person authorized by the court under Section 266.004, if the court determines that a foster child lacks the capacity to consent to medical care, to continue to provide consent for the medical care of the foster child.

(d) Authorizes DFPS or the private agency, if a foster child who is at least 16 years of age and who has been determined to have the capacity to consent to medical care refuses to consent to medical care and DFPS or private agency providing substitute care or case management services to the child believes that the medical care is appropriate, to file a motion with the court requesting an order authorizing the provision of the medical care.

(e) Requires the motion under Subsection (d) to include certain information.

(f) Requires the court, if a motion is filed under Subsection (d), to appoint an attorney ad litem for the foster child if one has not already been appointed. Requires the foster child's attorney ad litem to discuss and review certain information, and advocate to the court on behalf of the child's expressed preferences regarding the medical care.

(g) Requires the court to issue an order authorizing the provision of the medical care in accordance with a motion under Subsection (d) to the foster child only if the court finds, by clear and convincing evidence, after the hearing that the medical care is in the best interest of the foster child and makes certain rulings.

(h) Requires the court, in making a decision under this section regarding whether a foster child has the capacity to consent to medical care, to make certain considerations.

- (i) Requires the court to make certain considerations in determining whether the medical care is in the best interest of the foster child.
- (j) Provides that this section does not apply to emergency medical care. Provides that an emergency relating to a foster child who is at least 16 years of age, other than a child in an inpatient mental health facility, is governed by Section 266.009.
- (k) Provides that this section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.
- (l) Requires DFPS or the private agency providing substitute care or case management services to the foster child, before a foster child reaches the age of 16, to advise the foster child of the right to a hearing under this section to determine whether the foster child may consent to medical care. Requires DFPS or the private agency providing substitute care or case management services to provide the foster child with training on informed consent and the provision of medical care as part of the Preparation for Adult Living Program.

Sec. 266.011. STUDY OF INCENTIVES TO PRESCRIBE PSYCHOTROPIC DRUGS.

(a) Requires DFPS to study the level of care system DFPS uses to determine a child's foster care needs to ascertain whether the system creates incentives for prescribing psychotropic medications to children in foster care.

(b) Requires DFPS, no later than October 1, 2006, to report the results of the study to the legislature. Requires the report to include DFPS's proposed changes to the level of care system.

(c) Provides that this section expires January 1, 2007.

(b) Requires DFPS, not later than September 1, 2007, to implement the health passport required by Section 266.006, Family Code, as added by this section.

(c) Provides that HHSC is required to develop and implement the education passport program required by Section 266.008, Family Code, as added by this section, if the legislature appropriates money specifically for that purpose. Authorizes HHSC, if the legislature does not appropriate money specifically for that purpose, but is not required to, to develop and implement the education passport program using other appropriations available for that purpose. Authorizes HHSC to develop and implement the education passport program required by Section 266.008, Family Code, as added by this section, only if technology necessary to ensure privacy is available.

(d) Requires HHSC, if it develops and implements the education passport program required by Section 266.008, Family Code, as added by this section, to finalize the form and content of the passport not later than March 1, 2006.

SECTION 1.66. Amends Section 51.961, Government Code, as follows:

Sec. 51.961. FAMILY PROTECTION FEE. (a) Requires, rather than authorizes, the commissioners court of a county to adopt a family protection fee in an amount not to exceed \$30, rather than \$15.

(b) and (c) Makes no changes to these subsections.

(d) Requires the clerk to pay one-half of the fee, rather than a fee, collected under this section to the appropriate officer of the county in which the suit is filed for deposit in the county treasury to the credit of the family protection account.

(e) Authorizes a service provider who receives funds under Subsection (d) to provide certain services to families that are at risk of experiencing or that have

experienced family violence, including programs related to child abuse prevention and family strengthening.

(f) Makes no changes to this subsection.

(g) Requires the clerk to pay one-half of the fee collected under this section to the comptroller, who is required to deposit the money to the credit of the child abuse and neglect prevention trust fund account.

SECTION 1.67. Amends Section 101.061, Government Code, to require the clerk of a district court to collect an additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6 (Suit for Dissolution of Marriage), Family Code, if authorized by the county commissioners court (Sec. 51.961 (Family Protection Fee), Government Code) not to exceed \$30, rather than \$15.

SECTION 1.68. Amends Section 102.021, Government Code, to require a person convicted of certain child sexual assault and related offenses to pay \$100, in addition to all other costs, fees and court costs, for child abuse prevention programs (Art. 102.0186, Code of Criminal Procedure).

SECTION 1.69. Amends Section 411.114(a)(2), Government Code, to make conforming changes.

SECTION 1.70. (a) Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.078, as follows:

Sec. 531.078. POOLED FUNDING FOR FOSTER CARE PREVENTIVE SERVICES.

(a) Requires HHSC and DFPS to develop and implement a plan to combine their funds with funds of other state agencies and local governmental entities to provide certain types of services designed to prevent children from being placed in foster care.

(b) Requires the plan to provide for specifications and procedures for funding distribution and a reporting mechanism to ensure appropriate use of the funds.

(c) Authorizes HHSC, for the purposes of this section, to request and accept certain funding from an entity or individual for use in providing services designed to prevent the placement of children in foster care. Requires HHSC to use the amounts received from specific entities in the geographical areas required by the terms of their funding.

(b) Requires HHSC to provide the governor and the Legislative Budget Board a report on the status and progress of the preventative services funding plan, required by Section 531.078, as added by this section, no later than November 1, 2006.

SECTION 1.71. Amends Section 651.004, Government Code, by adding Subsection (e), to provide that DFPS is not required to comply with management-to-staff ratio requirements of this section with respect to caseworker supervisors, program directors, and program administrators.

SECTION 1.72. (a) Amends Subchapter C, Chapter 2155, Government Code, by adding Section 2155.1442, as follows:

Sec. 2155.1442. FOSTER CARE RESIDENTIAL CONTRACT MANAGEMENT. (a) Requires the state auditor, subject to Subsection (e), to conduct a management review of the residential contract management employees of HHSC and DFPS and to make recommendations regarding the organization of, and skills and educational requirements for, those employees. Requires the state auditor to make additional recommendations regarding the implementation of financial accountability provisions and processes to ensure effective and efficient expenditure of state and other contract funds. Requires the state auditor to report annually to the governor, the lieutenant governor, the speaker of the house of representatives, and the comptroller on the auditor's recommendations and HHSC's and DFPS's implementation of each recommendation.

(b) Requires HHSC to contract with the state auditor to perform on-site financial audits of selected residential contractors as necessary. Requires the state auditor, in consultation with HHSC, to select the contractors to audit based on the contract's risk assessment rating, allegations of fraud or misuse of state or other contract funds, or other appropriate audit selection criteria. Requires the residential contractors selected to be audited to be included in the audit plan and approved by the legislative audit committee under Section 321.013 (Powers and Duties of the State Auditor).

(c) Requires DFPS to require that all files related to contracts for residential care of foster children be completed and maintained in a certain manner.

(d) Authorizes DFPS to develop an Internet-based system to enable residential contractors to review their reimbursement accounts or other pertinent financial data and reconcile their accounts, subject to the availability of funds appropriated for the purpose.

(e) Provides that work performed under Subsections (a) and (b) by the state auditor is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

(b) Makes application of this section prospective.

(c) Requires the state auditor to complete and publish the required management review report no later than December 1, 2005. Provides that this subsection only applies if the auditor's work is approved by the legislative audit committee in time to meet this deadline.

(d) Requires HHSC, in coordination with the state auditor, to begin required on-site review of selected contractors no later than October 1, 2011.

SECTION 1.73. Amends the heading to Subtitle D, Title 2, Human Resources Code, to read as follows:

SUBTITLE D. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES; CHILD
WELFARE AND PROTECTIVE SERVICES

SECTION 1.74. Amends the heading of Chapter 40, Human Resources Code, to read as follows:

CHAPTER 40. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

SECTION 1.75. Amends Sections 40.001(3) and (5), Human Resources Code, to redefine "department" and "family preservation."

SECTION 1.76. Amends Section 40.002(b), Human Resources Code, to include child-placing agency administrators amongst the individuals for whom DFPS is required to license, register, and enforce applicable regulations.

SECTION 1.77. Amends Section 40.003, Human Resources Code, to make a conforming change.

SECTION 1.78. Amends Section 40.030, Human Resources Code, as follows:

Sec. 40.030. ADVISORY COMMITTEES. Authorizes the executive commissioner of HHSC or the executive commissioner's designee, rather than the Board of Protective and Regulatory Services (board), to appoint advisory committees in accordance with Chapter 2110 (State Agency Advisory Committees), Government Code, rather than Article 6252-33, Revised Statutes.

SECTION 1.79. Amends the heading to Section 40.0305, Human Resources Code, to read as follows:

Sec. 40.0305. STRATEGIC USE OF TECHNOLOGY.

SECTION 1.80. Amends Sections 40.0305(a), (d), and (e), Human Resources Code, as follows:

(a) Requires DFPS to continually explore the strategic use of technology as a means to meet certain goals related to DFPS operations. Requires DFPS to develop strategic plans and seek funding to implement technology enhancements that DFPS determines are feasible and cost-effective. Deletes text relating to the strategic technology steering committee.

(d) Requires DFPS, in cooperation HHSC to consider certain factors in evaluating major information technology project proposals. Makes a conforming change.

(e) Requires DFPS, to the extent that funds are appropriated for these specific purposes, to implement certain technology projects.

SECTION 1.81. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Section 40.03051, as follows:

Sec. 40.03051. PAPERLESS INFORMATION EXCHANGE PILOT PROGRAM. (a) Requires DFPS to develop and implement a pilot program to allow the paperless exchange of information between the department and courts with jurisdiction over child protective services cases.

(b) Requires the pilot program to include certain courts and be designed in a certain manner.

(c) Requires the executive commissioner to adopt rules necessary to implement this section.

(d) Provides that notwithstanding any other provision of this section, DFPS is not required to implement the pilot program unless funds are appropriated for that purpose.

(e) Requires DFPS to, not later than December 1, 2006, submit a report to certain state elected officials regarding the preliminary results of the pilot program. Requires the report to include certain information.

(f) Provides that this section expires September 1, 2009.

SECTION 1.82. Amends Section 40.031, Human Resources Code, as follows:

Sec. 40.031. DIVISIONS OF DEPARTMENT. (a) Makes a conforming change.

(b) Requires the executive commissioner to establish an investigations division to oversee and direct the investigations functions of the child protective services program.

(c) Requires the commissioner of DFPS (commissioner) to designate a person with law enforcement experience as the director of the investigations division.

(d) Requires the investigations division, as appropriate, to refer children and families in need of services to other DFPS divisions or to other persons or entities with whom DFPS contracts for the provision of the needed services.

(e) Provides that reports of alleged child abuse or neglect investigated under Section 261.401 (Agency Investigation) or 261.404 (Investigations in Facilities under Department of Mental Health and Mental Retardation), Family Code, are

not subject to investigation by the investigations division. Deletes existing text authorizing the board to allocate funds.

SECTION 1.83. (a) Amends Subchapter B, Chapter 40, Human Resources Code, by adding Section 40.0324, as follows:

Sec. 40.0324. CASEWORKER REPLACEMENT PROGRAM. Requires DFPS, to the extent that funding is available, to develop a program to provide for the timely replacement of caseworkers with trainees hired in anticipation of vacancies.

(b) Requires the turnover rate of caseworkers in the region to be considered when developing the program.

(b) Requires DFPS to develop the caseworker replacement program by December 31, 2005, unless sufficient funds are not available.

SECTION 1.84. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Section 40.036, as follows:

Sec. 40.036. ENHANCED TRAINING OF CHILD PROTECTIVE SERVICES CASEWORKERS. Requires DFPS to take certain actions to improve the quality and consistency of training provided to child protective services caseworkers.

SECTION 1.85. Amends Section 40.0525(c), Human Resources Code, to make a conforming change.

SECTION 1.86. Amends Subchapter C, Chapter 40, Human Resources Code, by adding Section 40.0526, as follows:

Sec. 40.0526. BUILDING COMMUNITY PARTNERSHIPS TO SUPPORT CHILDREN AND FAMILIES. (a) Requires DFPS to develop a statewide strategy to build alliances and networks at the local level that support the detection and treatment of child abuse and neglect and enhance the coordination and delivery of services to children and families.

(b) Sets forth requirements for strategy contents.

(c) Authorizes DFPS to employ specialized staff, to the extent that funds are available, to serve as certain support figures.

(d) Provides that an agreement made in accordance with this section for the joint location of DFPS personnel with other local officials is not subject to Chapter 2167 (Lease of Space for State Agencies), Government Code.

SECTION 1.87. Amends Subchapter C, Chapter 40, Human Resources Code, by adding Section 40.0528, as follows:

Sec. 40.0528. COMPREHENSIVE STAFFING AND WORKLOAD DISTRIBUTION PLAN FOR CHILD PROTECTIVE SERVICES. (a) Requires DFPS to develop and implement a staffing and workload distribution plan for the child protective services program to achieve certain goals.

(b) Requires DFPS to take certain actions in developing and implementing the plan, subject to available funds.

SECTION 1.88. Amends Section 40.058, Human Resources Code, by adding Subsection (b-1), to require a contract for the purchase of substitute care services, as defined by Section 264.106 (Contracts for Substitute Care Services), Family Code, to be procured using certain procedures.

SECTION 1.89. Amends Subchapter C, Chapter 40, Human Resources Code, by adding Sections 40.071, 40.072, and 40.073, as follows:

Sec. 40.071. DRUG-ENDANGERED CHILD INITIATIVE. Requires DFPS to establish a drug-endangered child initiative aimed at protecting children who are exposed to methamphetamine or to chemicals and other hazardous materials used in the illicit manufacture of methamphetamine.

Sec. 40.072. DUTY TO REPORT; DEPARTMENT RECORDS. (a) Requires the Department of Public Safety and each local law enforcement agency, to the extent that reporting does not interfere with an ongoing criminal investigation, to report to DFPS on discovering the presence of a child in a location where methamphetamine is manufactured.

(b) Requires DFPS to maintain a record of reports received under this section and shall include in the record information regarding actions taken by the department to ensure the child's safety and well-being.

Sec. 40.073. PARENTAL ADVISORY COMMITTEE. (a) Requires the Parental Advisory Committee to advise DFPS on policies affecting parents and their involvement with DFPS, including certain investigations, procedures, and standards.

(b) Sets forth the terms and procedures for the committee.

(c) Provides that Chapter 2110 (State agency Advisory Committees), Government Code, does not apply to the committee.

(d) Prohibits a committee member from receiving compensation for serving on the committee but provides that a member is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

SECTION 1.90. Amends Section 42.002, Human Resources Code, by adding Subdivisions (18) and (19), to define "controlling person" and "residential child-care facility."

SECTION 1.91. Amends Sections 42.021(b) and (d), Human Resources Code, as follows:

(b) Requires the commissioner, rather than the executive director of DPRS, to appoint as director of a division designated under Subsection (a) and a person who meets the qualifications set by the executive commissioner, rather than the board.

(d) Makes a conforming change.

SECTION 1.92. Amends Sections 42.023(a) and (b), Human Resources Code, to require the annual report required under this section to include a report by regions of applications for licensure or certification, of initial, rather than provisional, license issued, denied, or revoked; and a report of trends in licensing violations on a statewide and regional basis and DFPS's plans to address those trends through the provision of technical assistance. Makes a conforming change.

SECTION 1.93. (a) Amends Section 42.041(c), Human Resources Code, as follows:

(c) Authorizes a single license that lists addresses and the appropriate facilities to be issued to a child-care institution that operates noncontiguous facilities that are across the street from, in the same city block as, or on the same property as one another, rather than nearby, and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(b) Makes application of this section prospective.

SECTION 1.94. (a) Amends Section 42.042, Human Resources Code, by adding Subsections (h-1) and (q), as follows:

(h-1) Requires the executive commissioner to adopt rules governing certain child-placing agency issues.

(q) Requires each residential child-care facility to notify DFPS and the appropriate law enforcement agency immediately on determining that a child is missing from the facility.

(b) Requires the executive commissioner, as soon as possible after the effective date of this Act, to adopt rules and establish standards, policies, and procedures to implement and administer Sections 42.042(h-1) and (g), Human Resources Code, as added by this section, no later than January 1, 2006.

SECTION 1.95. Amends Section 42.0426, Human Resources Code, as follows:

(a) Creates this subsection from existing text.

(b) Requires a residential child-care facility to implement a behavior intervention program approved by DFPS for the benefit of a child served by the facility who needs assistance in managing the child's conduct. Requires the program to include functions.

SECTION 1.96. Amends Section 42.044, Human Resources Code, by adding Subsections (e) and (f), as follows:

(e) Requires DFPS to periodically conduct inspections of a random sample of agency foster homes and agency foster group homes. Requires DFPS to use the inspections to monitor and enforce compliance by a child-placing agency with rules and standards established under Section 42.042 (Rules and Standards).

(f) Requires DFPS to use an inspection checklist that includes a list of all required items for inspection in conducting a monitoring inspection under this section.

SECTION 1.97. Amends the heading to Section 42.0441, Human Resources Code, to read as follows:

Sec. 42.0441. INSPECTION RESULTS FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES.

SECTION 1.98. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.04411, as follows:

Sec. 42.04411. INSPECTION RESULTS AND EXIT CONFERENCE FOR RESIDENTIAL CHILD-CARE FACILITIES. (a) Requires the inspector, on completion of an inspection of a residential child-care facility under Section 42.044 (Inspections), to hold an exit conference with a representative of the inspected facility. Requires the inspector to provide to the representative a copy of the inspection checklist used by the inspector.

(b) Requires the inspector to provide the representative an opportunity to communicate regarding potential violations.

SECTION 1.99. Amends Section 42.046, Human Resources Code, by adding Subsection (e), to authorize DFPS to deny an application under certain circumstances.

SECTION 1.100. Amends Sections 42.0461(f) and (g), Human Resources Code, as follows:

(f) Specifies that an agency home is an agency foster home and that an agency group home is an agency foster group home.

(g) Authorizes DFPS to invalidate the verification of an agency foster home or agency foster group home that was not verified using the proper procedures on or after September 1, 1997. Makes conforming changes.

SECTION 1.101. Amends Section 42.051, Human Resources Code, as follows:

Sec. 42.051. New heading. INITIAL LICENSE. Replaces the term provisional license with the term initial license in the heading and throughout the text of the section.

SECTION 1.102. Amends Section 42.054(b), Human Resources Code, to make conforming changes.

SECTION 1.103. (a) Amends Section 42.056, Human Resources Code, by adding Subsections (a-1) and (d)-(f) and amending Subsection (b), as follows:

(a-1) Requires, in accordance with rules adopted by the executive commissioner, the director, owner or operator of a residential child-care facility to submit to DFPS the names of certain prospective employees for use in conducting background and criminal history checks.

(b) Includes the information provided under Subsection (a-1) in the information DFPS is required to use when conducting background and criminal history checks.

(d) Prohibits certain individuals from providing direct care or having direct access to a child in a residential child-care facility before completion of the individual's background and criminal history check.

(e) Authorizes the facility, if the residential child-care facility does not receive the results of the background or criminal history check within two working days, to obtain that information for certain facility's employees directly from the Department of Public Safety. Authorizes the facility, if the information obtained verifies that the person does not have a criminal record, to allow the person to have unsupervised client contact until DFPS has performed the department's own criminal history check and notified the facility.

(f) Requires DFPS, as a part of the background check under this section, to provide any relevant information available in DFPS's records regarding an individual's previous employment in a residential child-care facility to the individual submitting the request.

(b) Requires the director, owner, or operator of a residential child-care facility to begin providing information to DFPS as required by Section 42.056(a-1), Human Resources Code, as added by this section, as soon as possible after the effective date of this section and not later than January 1, 2006.

SECTION 1.104. (a) Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.057, as follows:

Sec. 42.057. DRUG TESTING. (a) Requires residential child-care facility to establish a drug testing policy for employees. Authorizes residential child-care facilities to adopt the model employee drug testing policy adopted by the executive commissioner or another approved by the executive commissioner.

(b) Requires the executive commissioner, by rule, to adopt a model employee drug testing policy for use by a residential child-care facility. Requires the policy to be designed to ensure the safety of resident children through appropriate drug testing of employees while protecting the rights of employees. Requires the model policy to include certain drug testing requirements.

(c) Requires DFPS to require a drug test of an individual who directly cares for or has access to a child in a residential child-care facility within 24 hours after the department receives notice of an allegation that the person has abused drugs.

(d) Prohibits an employee from providing direct care or having direct access to a child in a residential child-care facility before completion of the initial drug test.

(e) Requires a residential child-care facility to pay any fee or cost associated with performing the drug test for an employee.

(b) Requires the executive commissioner of HHSC to adopt the model drug testing policy required by Section 42.057, Human Resources Code, as added by this section no later than December 1, 2005.

(c) Requires each residential child-care facility to adopt a drug testing policy required by Section 42.057, Human Resources Code, as added by this section no later than January 1, 2006.

SECTION 1.105. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.062, as follows:

Sec. 42.062. CERTAIN EMPLOYMENT PROHIBITED. Prohibits a residential child-care facility from employing an individual who is not eligible to receive a license or certification for the operation of a residential child-care facility under Section 42.072(g) or who has been denied a license under Section 42.046 (Application for License, Listing, or Registration).

SECTION 1.106. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.063, as follows:

Sec. 42.063. REPORTING OF INCIDENTS AND VIOLATIONS. Defines "serious incident." Requires certain individuals who deal with foster children to report serious incidents and suspected abuse or neglect involving those children to certain appropriate entities. Requires the executive commissioner, by rule, to prescribe procedures governing reporting under this section and the manner in which a report under this section must be provided. Requires DFPS to implement this section using existing appropriations.

SECTION 1.107. Amends Section 42.072, Human Resources Code, by amending Subsection (c) and adding Subsection (g), as follows:

(c) Prohibits DFPS from issuing a license, listing, registration, or certification to a person whose license, listing, registration, or certification is revoked or whose application for a license, listing, registration, or certification is denied for a substantive reason under this chapter before a certain date. Deletes existing text related to the prohibition for any license, listing, registration under this chapter.

(g) Authorizes DFPS to refuse to issue a license, listing, registration, or certification to certain persons, notwithstanding Subsection (c).

SECTION 1.108. Amends Section 42.073(c), Human Resources Code, to provide that an order is valid for 10 days after the effective date of the order, except that an order relating to a residential child-care facility is valid for 30 days after the effective date of the order.

SECTION 1.109. Amends Section 42.077, Human Resources Code, by adding Subsection (d-1), as follows:

(d-1) Requires, if DFPS determines that the license of a residential child-care facility should be revoked or suspended, the facility to mail notification of the action or proposed action by certified mail to a parent of each child served by the facility, if the person's parental rights have not been terminated, and to the child's managing conservator, as

appropriate. Requires the residential child-care facility to mail the notification not later than the fifth day after the date the facility is notified of DFPS's determination that revocation or suspension of the license is appropriate.

SECTION 1.110. (a) Amends Section 42.078, Human Resources Code, by amending Subsections (a)-(i) and (l)-(n) and adding Subsection (a-1) as follows:

(a) Authorizes DFPS to impose an administrative penalty against a facility or family home licensed or registered under this chapter that violates this chapter or a rule or order adopted under this chapter. Authorizes DFPS to impose an administrative penalty against a residential child-care facility or a controlling person of such a facility if the facility or controlling person takes certain actions.

(a-1) Makes nonsubstantive changes.

(b) Provides that each day a violation continues or occurs is a separate violation for penalty purposes. Prohibits the penalty for a violation from exceeding a certain limit based on the maximum number of children for whom the facility or family home was authorized to provide care or the number of children under the care of the child-placing agency when the violation occurred, rather than receiving care at the facility or family home at the time of the violation. Sets forth maximum penalties for violations that occur in a facility other than a residential child care facility and for violations that occur in a residential child-care facility.

(c) Requires, in addition to the number of children, the amount of the penalty to be based on certain information.

(d) Prohibits monetary penalties from being assessed for violations that are a result of clerical errors. Deletes text pertaining to standards which do not clearly apprise the facility or family home of the action required by standard.

(e) Authorizes DFPS, rather than the executive director, if it, rather than the executive director, determines that a violation has occurred to issue a recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(f) Requires DFPS, rather than the executive director, within 14 days after the date the recommendation is issued, to give written notice of the recommendation to the person owning or operation the facility or family home, or to the controlling individual, if applicable.

(g) through (i) and (l) through (n) Makes conforming changes.

(b) Makes application of this section prospective.

SECTION 1.111. Amends the heading to Chapter 43, Human Resources Code, to read as follows:

CHAPTER 43. REGULATION OF CHILD-CARE AND CHILD-PLACING AGENCY ADMINISTRATORS

SECTION 1.112. Amends Section 43.001, Human Resources Code, by amending Subdivision (1), and adding Subdivisions (3) and (4), to redefine "child-care institution," and define "child-placing agency" and "child-placing agency administrator."

SECTION 1.113. (a) Amends Section 43.003, Human Resources Code, by adding Subsection (c), to prohibit an individual from serving as a child-placing agency administrator without a license issued by DFPS under this chapter.

(b) Makes application of this section prospective to January 1, 2006.

SECTION 1.114. (a) Amends Section 43.004, Human Resources Code, as follows:

Sec. 43.004. QUALIFICATIONS FOR LICENSE. (a) Creates this subsection from existing text. Sets forth certain requirements for a child-care administrators license. Deletes text pertaining to good moral character, ethical commitment, and sound physical and emotional health in addition to text referring to an associate degree and a high school diploma.

(b) Sets forth certain requirements for an individual to be eligible for a child-placing agency administrator's license.

(c) Requires DFPS to conduct a criminal history and background check of an applicant utilizing certain information prior to issuing a license under this chapter.

(b) Makes application of Subsection (a) of this section prospective, except as provided by Subsection (c).

(c) Provides that a person who is qualified for a license under Paragraph (C) or (D), Subdivision (4), Section 43.004 (Qualification for License), Human Resources Code, as that section existed prior to the effective date of this section, and who is licensed or has applied for a license as a child-care administrator prior to the effective date of this section is eligible for a child-care administrator license under Subsection (a), Section 43.004, Human Resources Code, as amended by this section, or license renewal.

SECTION 1.115. (a) Amends Section 43.0041, Human Resources Code, by adding Subsection (c) to prohibit a person who fails an examination three times from submitting a new application for a license until after the first anniversary of the date the person last failed the examination.

(b) Makes application of this section prospective.

SECTION 1.116. Amends Section 43.0081(a), Human Resources Code, to authorize DFPS to issue a provisional child-care administrator's license to an applicant licensed in another state who applies for a license in this state.

SECTION 1.117. (a) Amends Section 43.009(a), Human Resources Code, to require that to be eligible for license renewal, a license holder is required to present evidence to DFPS of participation in a program of continuing education for 15, rather than approximating 15 actual, hours of formal study each year during the two-year period before the renewal.

(b) Makes application of this section prospective to September 1, 2007.

SECTION 1.118. Amends the heading to Section 43.010, Human Resources Code, to read as follows:

Sec. 43.010. LICENSE DENIAL, REVOCATION, SUSPENSION, OR REFUSAL TO RENEW; REPRIMAND OR PROBATION.

SECTION 1.119. (a) Amends Sections 43.010(a), (b) and (d), Human Resources Code, as follows:

(a) Authorizes, rather than requires, DFPS to deny, revoke, suspend, or refuse to renew a license, or place on probation or reprimand a license holder for certain actions. Deletes text pertaining to an individual whose license has been suspended and pertaining to a license holder who is convicted of certain offenses or addicted to a dangerous drug.

(b) Provides that a person whose license is revoked under Subsection (a) is not eligible to apply for another license under this chapter for a period of five years after the date the license was revoked.

(d) Authorizes DFPS to make certain requirements of a license holder if the license holder is placed on probation, rather than if a license suspension is probated.

(b) Makes application of this section prospective.

SECTION 1.120. Amends Section 43.0105, Human Resources Code, to authorize DFPS to revoke the probation of a license holder if the license holder violates the terms of the conditions of probation. Deletes text pertaining to a license holder whose license is suspended.

SECTION 1.121. Amends Section 43.0106, Human Resources Code, as follows:

Sec. 43.0105. New heading: ADMINISTRATIVE HEARING. (a) Creates this subsection from existing text. Entitles the individual, if DFPS denies a license or proposes to suspend, revoke, or refuse to renew the individual's license, to a hearing conducted by the State Office of Administrative Hearings. Prohibits rules and practice adopted by the executive commissioner, rather than the board, under Section 2001.004 (Requirement to Adopt Rules of Practice and Index Rules, Orders, Decisions), Government Code, applicable to the proceedings for a disciplinary action from conflicting with rules adopted by the State Office of Administrative Hearings.

(b) Prohibits an individual from continuing to operate as a licensed child-care administrator or child-placing agency administrator during the appeal process if DFPS determines that the individual is an immediate threat to the health or safety of a child.

(c) Requires DFPS to notify the individual, and if applicable, the governing body of the facility that employs the person, of its determination under Subsection (b).

SECTION 1.122. Amends Section 43.012, Human Resources Code, to provide that a person who serves as a child care or child-placing agency administrator without the license required by this chapter commits a Class C misdemeanor.

SECTION 1.123. Amends Subtitle D, Title 2, Human Resources Code, by adding Chapter 45, as follows:

CHAPTER 45. PRIVATIZATION OF SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 45.001. DEFINITIONS. Defines "case management services," "commission," "department," "executive commissioner," "family-based safety services," "independent administrator," "performance-based contracting," "permanency services," "placement assessment," "privatize," "psychotropic medication," "substitute care provider," and "substitute care services."

Sec. 45.002. PRIVATIZING SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES; DEPARTMENT DUTIES. Sets forth the duties of privatized substitute care case management services.

Sec. 45.003. HIRING PREFERENCE. Requires a substitute care or case management services provider that contracts with DFPS to provide substitute care or case management services to give and ensure certain preferences in hiring and when providing contracts.

Sec. 45.004. INDEPENDENT ADMINISTRATORS; DEPARTMENT DUTIES. (a) Requires DFPS to research and develop a comprehensive strategy for contracting for management support services from independent administrators on a regional basis. Requires DFPS, if it determines that an independent administrator could manage and procure substitute care and case management services contracts with private agencies and conduct placement assessments in a more cost-beneficial manner, to implement a

transition plan to transfer the procurement, management, and oversight of substitute care and case management services from DFPS to an independent administrator, as well as responsibility for placement assessments. Provides that if DFPS determines that contracting for management support from an independent administrator is not cost beneficial, the privatization of substitute care and case management services will occur as provided by Section 45.002(b).

(b) Requires the comprehensive strategy, at a minimum, to use certain persons to procure and manage substitute care and case management providers in a certain region and require certain persons to contract with private agencies that will follow certain procedures.

(c) Requires DFPS to enhance existing data systems to include contract performance information and implement a certain contracting system, subject to the appropriation of funds.

[Reserves Sections 45.005-45.050 for expansion.]

SUBCHAPTER B. DEPARTMENT DUTIES

Sec. 45.051. REORGANIZING STAFF RESPONSIBILITIES. Requires DFPS, not later than March 1, 2006, to develop a plan for reorganizing the department's operation to support future procurement of, contracting with, and monitoring of private contractors and enforcement of the licensing of facilities. Requires the plan to include certain provisions.

Sec. 45.052. FINANCING. Requires DFPS to create financing and payment arrangements that provide incentives for an independent administrator and substitute care and case management providers to achieve safety, permanency, and well-being outcomes and improved system performance. Requires DFPS to examine certain procedures in developing this financing arrangement.

Sec. 45.053. ADOPTION OF TRANSITION PLAN. (a) Requires HHSC and DFPS, not later than September 30, 2005, to submit to the legislature a plan for the development of the transition plan, including the planning structure and process, engagement of stakeholders, and access to experienced consultation and technical assistance.

(b) Requires HHSC and DFPS, in consultation with private entities under contract to provide substitute care services, including members of the boards of directors of the private entities and other community stakeholders, to develop and adopt a substitute care and case management services transition plan consistent with the requirements of Subchapter C, not later than March 1, 2006,.

(c) Requires the executive commissioner to adopt rules to implement the privatization of substitute care and case management services in this state.

Sec. 45.054. REGIONAL IMPLEMENTATION. (a) Requires DFPS to implement the privatization of substitute care and case management services on a regional basis in accordance with the transition plan. Requires the transition plan to include a schedule with deadlines for implementation of the plan. Requires statewide implementation of the plan to be completed not later than September 1, 2011, subject to the requirements of Subsections (c), (d), and (e). Requires HHSC to propose the first three regions of the state for implementation of privatization based on state demographics and to consider including a rural region, a metropolitan region, and a region including border areas of the state.

(b) Requires the transition plan to include a schedule with certain deadlines for implementation of the plan:

(c) Requires DFPS, not later than the first anniversary of the date DFPS enters into the first contract for substitute care and case management services under this

section, to contract with a qualified, independent third party to evaluate each phase of the privatization of substitute care and case management services. Requires each evaluation to make certain assessments, determinations, and meet a certain standard.

(d) Requires the independent third party with whom DFPS contracts under Subsection (c) to submit its reports and recommendations to a certain state legislative health committee.

(e) Requires DFPS to continue to implement the transition plan for the second and third regions only after certain reporting procedures are followed.

(f) Prohibits DFPS from implementing the transition plan for the second and third regions before September 1, 2009.

(g) Requires DFPS to continue to implement the transition plan for the remaining regions of the state only after certain procedures are followed.

(h) Provides that nothing in this chapter, including the deadlines for implementing this section, precludes DFPS from immediately converting from an open-enrollment system to a statewide competitive procurement system for substitute care.

[Reserves Sections 45.055-45.100 for expansion.]

SUBCHAPTER C. TRANSITION PLAN

Sec. 45.101. GOALS FOR PRIVATIZATION. Requires the transition plan adopted under Section 45.053 to provide for a new structural model for the community-centered delivery of substitute care and case management services that is based on a goal of improving protective services, achieving timely permanency for children in substitute care, including family reunification, placement with a relative, or adoption, and improving the overall well-being of children in substitute care consistent with federal and state mandates.

Sec. 45.102. TRANSITION PLAN REQUIREMENTS. Sets forth the transition plan requirements.

[Reserves Sections 45.103-45.150 for expansion.]

SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Sec. 45.151. PROHIBITION ON CERTAIN CONTRACTS. (a) Prohibits DFPS from accepting accept a bid under this chapter from a person or awarding to a person a contract under this chapter that includes proposed financial participation by the person if there are certain factors present.

(b) Prohibits DFPS from accepting a bid under this chapter from or awarding a contract under this chapter to an individual or business entity that is barred from participating in state contracts under Section 2155.077 (Barring Vendor from Participation in State Contracts), Government Code.

(c) Prohibits DFPS from accepting a bid under this chapter from or awarding a contract under this chapter to an individual or business entity that was awarded a contract valued at \$1 billion or more during the four-year period immediately before the date of the issuance of relevant requests for proposals under Section 45.054.

(d) Authorizes DFPS, if it determines that an individual or business entity holding a contract under this chapter was ineligible to have the contract accepted

or awarded under Subsection (a), (b), or (c), to immediately terminate the contract without further obligation to the vendor.

Sec. 45.152. SUBCONTRACTOR PAYMENT. Provides that the existence of a dispute between DFPS and a contractor regarding a contract under this chapter does not justify nonpayment of a subcontractor for work completed by the subcontractor under the contract if the subcontractor has completed the work in a satisfactory manner and the work has been approved by DFPS and the contractor.

Sec. 45.153. EXPIRATION. Provides that this chapter expires September 1, 2012.

SECTION 1.124. Amends Section 21.01, Penal Code, by adding Subdivision (4), to define "spouse."

SECTION 1.125. (a) Amends Section 22.04, Penal Code, by adding Subsection (a-1) and amending Subsections (b) through (g), as follows:

(a-1) Provides that an individual commits an offense if the person is an owner, operator, or employee of certain institutional group home or care facilities and the individual intentionally, knowingly, recklessly, or with criminal negligence by omission causes certain harm to a child, elderly individual, or disabled individual who is a resident of that group home or facility.

(b) Provides that an omission that causes serious bodily injury; serious mental deficiency, impairment, or injury; bodily injury; or exploitation is conduct constituting an offense under this section under certain circumstances.

(c) Includes the definition of "exploitation."

(d) Provides that for the purposes of an omission that causes serious bodily injury; serious mental deficiency, impairment, or injury; bodily injury, the actor has assumed care, custody, or control if he has by act, words or course of conduct acted so as to cause a reasonable person to conclude that he has accepted responsibility for protection, food, shelter and medical care for a child, elderly individual, or disabled individual. Provides that for the purposes of an omission that causes serious bodily injury; serious mental deficiency, impairment, or injury; bodily injury, the actor acting during the actor's capacity as owner, operator, or employee of a group home or facility described by Subsection (a-1) is considered to have accepted responsibility for protection, food, shelter, and medical care for the child, elderly individual, or disabled individual who is a resident of the group home or facility.

(e) Provides that an offense under Subsection (a)(1) or (2) or (a-1)(1) or (2) pertaining to serious bodily injury or serious mental deficiency, impairment or injury is a felony of the first degree when the conduct is committed intentionally or knowingly. Provides that when the conduct is engaged in recklessly, the offense is a felony of the second degree. Makes a nonsubstantive change.

(f) Provides that an offense under Subsection (a)(3) or (a-1)(3) or (4) pertaining to bodily injury or exploitation is a felony of the third degree when the conduct is committed intentionally or knowingly. Provides that when the conduct is engaged in recklessly, the offense is a state jail felony. Makes a nonsubstantive change.

(g) Provides that an offense under Subsection (a) (pertaining to causing serious bodily injury; serious mental deficiency, impairment, or injury; bodily injury to a child, elderly individual, or disabled individual) is a state jail felony when the individual acts with criminal negligence. Provides that an offense under Subsection (a-1) is a state jail felony when the individual, with criminal negligence and by omission, causes serious bodily injury; serious mental deficiency, impairment, or injury; bodily injury; or exploitation.

(b) Makes application of this section prospective.

SECTION 1.126. Amends Subdivision (3), Article 56.01, Code of Criminal Procedure, to redefine "victim."

SECTION 1.127. (a) Amends Subchapter A, Chapter 102, Code of Criminal Procedure, by adding Article 102.0186, as follows:

Art. 102.0186. ADDITIONAL COSTS ATTENDANT TO CERTAIN CHILD SEXUAL ASSAULT AND RELATED CONVICTIONS. (a) Requires a person convicted of an offense under certain sections of the Penal Code, to pay \$100 on conviction of the offense.

(b) Provides that costs imposed under this article are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or receives deferred adjudication for the offense.

(c) Requires the clerks of the respective courts to collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county child abuse prevention fund. Authorizes a fund designated by this subsection to be used only to fund child abuse prevention programs in the county where the court is located.

(d) Requires the county child abuse prevention fund to be administered by or under the direction of the commissioners court.

(b) Makes application of this section prospective.

SECTION 1.128. TRAINING FOR CHILD PROTECTIVE SERVICES. (a) Defines "commission," "health and human services agencies," and "training for child protective services."

(b) Requires HHSC to study the feasibility of providing a financial incentive to individuals to assist the individuals in receiving training for child protective services.

(c) Sets forth the requirements of the study.

(d) Authorizes HHSC, in conducting the study under Subsection (b) of this section, to cooperate as necessary with any appropriate state agency.

(e) Requires HHSC, not later than September 1, 2006, to report the results of the study to certain legislative standing with primary jurisdiction over health and human services programs or appropriations.

SECTION 1.129. Repealer: Section 40.001(1) (defining "board"); Section 40.028 (General Duties of the Board; Delegation); Section 40.029 (Rules); Sections 40.0305(b) and (c) (pertaining to the Strategic Technology Steering Committee); and Section 43.010(c) (License Revocation, Suspension, or Refusal; Reprimand or Probation), Human Resources Code.

ARTICLE 2. ADULT PROTECTIVE SERVICES

SECTION 2.01. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Section 40.0315, as follows:

Sec. 40.0315. INVESTIGATION UNIT FOR ADULT PROTECTIVE SERVICES. Requires the adult protective services division (APSD) of DFPS to maintain an investigation unit to investigate allegation of abuse, neglect, and exploitation of elderly and disabled individuals reported to the division. Requires an investigator in the unit to make a determination regarding the report made under Section 48.051(a) and to immediately notify the appropriate law enforcement agency upon making a determination that criminal conduct may have occurred.

SECTION 2.02. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Sections 40.0322 and 40.0323, as follows:

Sec. 40.0322. QUALIFICATIONS FOR ADULT PROTECTIVE SERVICES PERSONNEL; RECRUITMENT. (a) Requires the commissioner, in hiring DFPS employees whose duties include providing services as a part of, or relating to, the provision of adult protective services directly to an elderly or disabled person, to ensure that DFPS gives preference to applicants with professional credentials related to adult protective services, including applicants who are licensed master social workers or licensed professional counselors.

(b) Requires the executive commissioner, by rule, to develop and requires DFPS to implement a recruiting program designed to attract and retain for employment in the adult protective services division persons with professional credentials described by Subsection (a).

(c) Requires the executive commissioner, by rule, to develop and DFPS to implement an incentive program to encourage each DFPS employee in which certain duties are included to obtain professional credentials described by those duties if the employee does not have those credentials, subject to the availability of funds.

Sec. 40.0323. COORDINATION REGARDING RECRUITMENT FOR AND CURRICULUM OF CERTAIN CERTIFICATE OR DEGREE PROGRAMS. Requires DFPS and the Texas Higher Education Coordinating Board jointly to develop certain strategies, subject to availability of funds.

SECTION 2.03. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Section 40.035, as follows:

Sec. 40.035. TRAINING PROGRAM FOR ADULT PROTECTIVE SERVICES; CONTINUING EDUCATION. (a) Requires DFPS to develop and implement a training program that each newly hired or assigned DFPS employee must complete prior to engaging in certain protective service investigations and activities.

(b) Requires the training program to provide the individual with certain appropriate and comprehensive material.

(c) Requires DFPS to at least annually provide comprehensive case management training to supervisors of department employees who conduct investigations for elderly and disabled individuals. Provides that the training must be designed to enable the supervisors to provide guidance on investigations of complex or unique reports of alleged abuse, neglect, or exploitation.

(d) Requires DFPS to develop and implement appropriate continuing education programs for employees of APSD who have completed initial training under this section. Requires the continuing education programs to include nationally recognized best practices to the maximum extent possible and to be designed to provide an annual update regarding certain changes pertaining to policies, procedures, and applicable law.

(e) Provides that a DFPS employee required to participate in a continuing education program under this section must complete the program at least once each calendar year.

(f) Requires DFPS to make training and continuing education curriculum readily available in written form to DFPS employees and to periodically revise a training or continuing education program as necessary to satisfy training needs identified by DFPS or its employees.

(g) Requires certain circumstances specified under Subsection (b) under which an employee should consult a supervisor regarding a case to be consistent with the risk management criteria developed under Section 48.004 that require consultation with a supervisor.

(h) Requires the executive commissioner, by rule, to provide policies and procedures by which DFPS incorporates examples of actual cases investigated by DFPS in the training programs under this section for use as training tools.

(i) Requires DFPS, in implementing the training program and continuing education programs under this section, to contract, to the extent possible, with individuals who are not DFPS employees to conduct the programs.

SECTION 2.04. (a) Amends Subchapter C, Chapter 40, Human Resources Code, by adding Section 40.0515, as follows:

Sec. 40.0515. QUALITY ASSURANCE PROGRAM FOR ADULT PROTECTIVE SERVICES. (a) Requires DFPS to develop and implement a quality assurance program for adult protective services provided by or on behalf of DFPS.

(b) Requires DFPS, in developing the program, to establish certain measures, standards, and procedures to assess compliance with said standards.

(c) Requires DFPS to promptly address an individual's or work department's failure to meet minimum job performance standards through corrective or disciplinary action.

(d) Provides that a performance review conducted under Subsection (b) is considered a performance evaluation for the purposes of Section 40.032(c) (pertaining to performance evaluations). Requires DFPS to ensure that disciplinary or other corrective action is taken against a supervisor or other managerial employee who is required to conduct a performance evaluation under Section 40.032(c) or a performance review under Subsection (b) and fails to do so in a timely manner.

(e) Sets forth certain requirements for the annual performance evaluation required under Section 40.032(c) of the performance of a supervisor in APSD.

(f) Requires a summary of the findings of outcome measures established and performance reviews conducted under this section to be reported to regional directors and other senior management employees of the APSD.

(g) Requires DFPS to file a quarterly report with the governor and the presiding officer of each house of the legislature that includes certain information pertaining to the performance of APSD.

(b) Requires DFPS to submit the initial report required under Section 40.0515, Human Resources Code, as added by this section, not later than October 1, 2005.

SECTION 2.05. Amends Subchapter C, Chapter 40, Human Resources Code, by adding Section 40.0527, as follows:

Sec. 40.0527. PUBLIC AWARENESS. (a) Requires the executive commissioner by rule to develop and DFPS to implement a statewide public awareness campaign designed to educate the public regarding the abuse, neglect, and exploitation of elderly and disabled persons, subject to the availability of funds.

(b) Authorizes DFPS to use mass communications media, the Internet, publications, or other means of public education in conducting the campaign.

(c) Requires a public awareness strategy implemented for the program to include certain provisions and practices.

(d) Requires DFPS to enlist the support and assistance of civic, philanthropic, and public service organizations in the performance of the duties imposed under this section.

SECTION 2.06. Amends Subchapter A, Chapter 48, Human Resources Code, by adding Section 48.004, as follows:

Sec. 48.004. RISK ASSESSMENT. Requires the executive commissioner, by rule, to develop and maintain risk assessment criteria for use by DFPS personnel in determining whether an elderly or disabled person is in imminent risk of or in a state of abuse, neglect, or exploitation and needs protective services. Sets forth certain requirements for the criteria.

SECTION 2.07. Amends Subchapter A, Chapter 48, Human Resources Code, by adding Sections 48.005 and 48.006, as follows:

Sec. 48.005. MAINTENANCE OF RECORDS. Requires DFPS, notwithstanding Chapter 441 (Libraries and Archives), Government Code, or any other law, to maintain in an electronic format a summary of all records related to investigations of reports made under Section 48.051 (Report) that includes only critical information with respect to those investigations that will enable DFPS to research the history of an individual's involvement in the investigated cases.

Sec. 48.006. COMMUNITY SATISFACTION SURVEY. (a) Requires DFPS to develop a community satisfaction survey that solicits information regarding DFPS's performance with respect to providing investigative and adult protective services. Requires DFPS to send the survey to certain entities at least annually, subject to the availability of funds.

(b) Requires DFPS to send the results of each regions survey to certain entities.

(c) Prohibits DFPS from including any confidential information in the results of the survey unless ordered by a court.

SECTION 2.08. Amends Section 48.051, Human Resources Code, by adding Subsection (e), to require, if an individual who makes a report under this section chooses to give self-identifying information, the caseworker who investigates the report to contact the individual if necessary to obtain any additional information required to assist the person who is the subject of the report.

SECTION 2.09. Amends Section 48.101, Human Resources Code, by amending Subsections (d) and (e) and adding Subsections (d-1), (e-1), (g), and (g-1), as follows:

(d) Requires the executive commissioner to adopt rules providing for the release, on request, to a person who is the subject of a report of abuse, neglect, or exploitation or to that person's legal representative of otherwise confidential information relating to that report. Deletes text pertaining to DPRS or investigating state agency.

(d-1) Requires the executive commissioner, subject to Subsection (e-1), to adopt rules providing for the release, on request by DFPS or an investigating state agency of otherwise confidential information relating to a person who is the subject of a report or investigation of abuse, neglect, or exploitation or to whom DFPS has provided protective services, to certain entities.

(e) Authorizes the executive commissioner, rather than DFPS or the investigating state agency to adopt rules relating to the release of information by the department or investigating agency that is contained in the record of a deceased individual who was the subject of an investigation conducted by DFPS or an investigating state agency or to whom DFPS has provided protective services. Requires the executive commissioner to

adopt rules, subject to Subsection (e-1), that provide for the release, on request, of otherwise confidential information in the deceased individual's record to the personal representative appointed for the person's estate.

(e-1) Prohibits information released by DFPS or an investigating state agency under Subsection (d-1) or to a personal representative under Subsection (e) from including the identity of the person who made the report of abuse, neglect, or exploitation.

(g) Authorizes DFPS to establish procedures to exchange with a community service provider or local governmental entity necessary confidential information relating to a report made under Section 48.051(a). Provides that an exchange of information under this subsection does not affect whether the information is subject to disclosure under Chapter 552, Government Code.

(g-1) Requires the executive commissioner, by rule, to provide policies and procedures that are designed to guard against the unauthorized release or dissemination of confidential information that is exchanged under Subsection (g).

SECTION 2.10. (a) Amends Subchapter D, Chapter 48, Human Resources Code, by adding Section 48.1521, as follows:

Sec. 48.1521. INVESTIGATION OF COMPLEX CASES. (a) Requires DFPS to develop and implement a system to ensure that to the greatest extent possible, certain steps are taken in investigations conducted by DFPS that involve especially complex issues of abuse, neglect, or exploitation, such as issues associated with identity theft and certain other forms of financial exploitation.

(b) Requires each county with a population of 250,000 or more to appoint individuals to serve as standing members of a special task unit to monitor cases that arise in the county and require monitoring as provided by Subsection (a). Requires the standing members of each special task unit to include certain individuals.

(c) Requires, in addition to the standing members, certain other individuals to be included on the special task unit.

(d) Requires DFPS to develop and make available to each county described by Subsection (b) a manual to assist the county in establishing and operating the special task unit required by this section. Sets forth certain requirements for the manual.

(e) Requires the special task unit, prior to making a recommendation that a guardian be appointed for a person in a case being monitored by the unit, to thoroughly consider all less-restrictive alternatives for legal intervention in the case.

(b) Requires DFPS to develop the manual required by Section 48.1521(d), Human Resources Code, as added by Subsection (a) of this section, as soon as possible after the effective date of this article. Requires DFPS, in developing the manual, to use Wisconsin's Elder Abuse Interdisciplinary Team (I-Team) Manual as a model.

SECTION 2.11. Amends Subchapter D, Chapter 48, Human Resources Code, by adding Section 48.1522, as follows:

Sec. 48.1522. REPORTS OF CRIMINAL CONDUCT TO LAW ENFORCEMENT AGENCY. Provides that if during the course of DFPS's or another state agency's investigation of reported abuse, neglect, or exploitation a caseworker of DFPS or other state agency, as applicable, or the caseworker's supervisor has cause to believe that the elderly or disabled person has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, the caseworker or supervisor shall immediately notify an appropriate law

enforcement agency and provide it with a investigation report of DFPS or other state agency, as applicable, in a timely manner.

SECTION 2.12. Amends Subchapter D, Chapter 48, Human Resources Code, by adding Section 48.1523, as follows:

Sec. 48.1523. MANAGEMENT REVIEW FOLLOWING CERTAIN INVESTIGATIONS. Requires the adult protective services supervisor to take certain steps if DFPS receives and investigates a report made under Section 48.051 (Report), the subject of which is a person with respect to whom DFPS received and investigated two previous reports under that section and closed those investigations.

SECTION 2.13. Amends Subchapter D, Chapter 48, Human Resources Code, by adding Section 48.159, as follows:

Sec. 48.159. INTERNAL REVIEW OF DEPARTMENT INVESTIGATION. Requires DFPS to establish procedures for conducting an internal review of completed investigations conducted by DFPS under this chapter to determine whether they meet certain requirements.

SECTION 2.14. Amends Section 48.202, Human Resources Code, as follows:

(a) Creates this subsection from existing text. Includes whether the individual needs legal intervention to resolve the individual's abuse, neglect, or exploitation, and, if so, what type of intervention is needed amongst the required determinations to be made by DFPS or a state agency in an investigation. Makes nonsubstantive and conforming changes.

(b) Requires DFPS or the state agency, if it or the state agency, as appropriate, determines under Subsection (a) that a person needs protective services, to, in determining how those services can be provided, determine whether the person is eligible for community-based long-term care services and whether those services are available. Requires DFPS or the state agency, if the individual is eligible for those services, but the services are not immediately available, to ensure that the individual is placed on an appropriate waiting list for the services and that the person's abuse, neglect, or exploitation is resolved before DFPS closes the case.

SECTION 2.15. Amends Sections 48.205(a) and (b), Human Resources Code, as follows:

(a) Requires, rather than authorizes, DFPS to provide certain services or contract for the provision, rather than provisions, of those services, subject to the availability of funds.

(b) Require DFPS, if it does not have existing resources to provide direct protective services to elderly or disabled persons, to contract with protective services agencies for the provision of those services, especially to elderly or disabled persons residing in rural or remote areas of this state or not previously served by DFPS, subject to the availability of funds.

SECTION 2.16. Amends Section 48.208, Human Resources Code, by amending Subsection (e) and adding Subsections (c-1), (c-2), (c-3), (c-4), (c-5), (d-1), (e-1), and (e-2), as follows:

(c-1) Authorizes the petition, in lieu of a medical report described by Subsection (c)(4) (Emergency Order for Protective Services), to include certain assessments, if DFPS determines, after making a good faith effort, that a physician from whom DFPS may obtain the medical report is unavailable, notwithstanding Subsection (c)(4). Requires DFPS to ensure that the person who performs an assessment of the elderly or disabled person's health or psychological status has training and experience in performing the applicable assessment.

(c-2) Requires an assessment of the elderly or disabled person's health status to be performed by a physician assistant or advanced practice nurse. Requires the person

performing the assessment to sign a report stating certain information, except as provided by Subsection (c-4).

(c-3) Requires an assessment of the elderly or disabled person's psychological status to be performed by a licensed psychologist or master social worker who has training and expertise in issues related to abuse, neglect, and exploitation. Requires the person performing the assessment to sign a report stating certain information.

(c-4) Authorizes a registered nurse to perform a nursing assessment of the elderly or disabled person's health status. Requires the registered nurse, if the registered nurse, based on the registered nurse's professional nursing judgment, determines that the elderly or disabled person is likely to be suffering from abuse, neglect, or exploitation, which may present a threat to the person's life or physical safety, to report that assessment to a physician. Requires the physician, after the registered nurse reports the assessment, to sign a written opinion stating certain information.

(c-5) Authorizes the physician to use the registered nurse's assessment of the elderly or disabled person's health status as the basis of the physician's professional opinion under Subsection (c-4).

(d-1) Requires the court, if the court renders an order that is based on a petition including an assessment under Subsection (c-2) or (c-3) or a medical opinion under Subsection (c-4), to order that the elderly or disabled person be examined by a physician not later than 72 hours after the time the provision of protective services begins. Requires the physician, after performing the examination, to sign and submit to the court a medical report stating the physician's opinion whether the elderly or disabled person is suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety; and physically or mentally incapable of consenting to services.

(e) Provides that the emergency order expires at the end of 72 hours from the time the order is rendered unless there are certain factors, including the emergency order terminates as provided by Subsection (e-1); and the court extends the order as provided by Subsection (e-2).

(e-1) Provides that an emergency order that was rendered based on a petition that included an assessment under Subsection (c-2) or (c-3) or a medical opinion under Subsection (c-4) immediately terminates if the medical report issued under Subsection (d-1) states the physician's opinion that the elderly or disabled person is not suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety; or is physically or mentally capable of consenting to services.

(e-2) Authorizes the court to extend an emergency order issued under this section for a period of not more than 30, rather than 14 additional, days. Deletes existing text relating to the authorization of a renewal. Makes a conforming change.

SECTION 2.17. Amends Section 531.0162, Government Code, by adding Subsections (c) and (d), as follows:

(c) Requires HHSC to use technology whenever possible in connection with the adult protective services program of DFPS to take certain actions, subject to available appropriations.

(d) Requires HHSC to include representatives of the private sector in the technology planning process used to determine appropriate technology for the adult protective services program of DFPS.

SECTION 2.18. (a) Amends Section 531.048, Government Code, by adding Subsection (g), as follows:

(g) Requires the executive commissioner to develop and implement a caseload management reduction plan to reduce caseloads for caseworkers employed by the

adult protective services division of DFPS to a level that does not exceed professional caseload standards by more than five cases per caseworker, not later than January 1, 2011, and subject to the availability of funds. Requires the plan to provide specific annual targets for caseload reduction.

(b) Requires the executive commissioner to adopt rules, not later than January 1, 2006, establishing the caseload management reduction plan as provided by Subsection (g), Section 531.048, Government Code, as added by this section.

(c) Requires the executive commissioner, not later than December 31 of each even-numbered year, to prepare a certain report. Requires the report to include an assessment of the effect of the plan on reducing caseloads and the amount of funding necessary to fully implement the plan during the next biennium. Requires the executive commissioner to submit the report to certain state elected officials and standing committees having jurisdiction over adult protective services.

SECTION 2.19. LOCAL ADULT PROTECTIVE SERVICES BOARDS. (a) Requires the standing committee of the senate having jurisdiction over adult protective services to conduct a study regarding the feasibility of establish a system by which adult protective services are provided through a statewide network of local adult protective services boards. Sets forth certain guidelines for each local adult protective services board.

(b) Requires the standing committee of the senate having jurisdiction over adult protective services to include the results of the study conducted under this section and recommendations regarding implementation of the local adult protective services board system in the committee's interim report to the 80th Legislature.

SECTION 2.20. PILOT PROGRAM FOR MONITORING CERTAIN UNLICENSED LONG-TERM CARE FACILITIES. (a) Defines "disabled person," "elderly person," and "long-term care facility."

(b) Requires the executive commissioner by rule to develop and implement a pilot program in which local task forces composed of health care providers, representatives from governmental entities, and local government officials are created to take certain action.

(c) Requires the executive commissioner, not later than January 1, 2006, to implement the pilot program in at least one rural area and one urban area of this state.

(d) Requires HHSC, not later than January 1, 2007, to submit a report on the status and progress of the pilot program to certain state elected officials having jurisdiction over adult protective services. Requires the report to include a recommendation regarding the advisability of expanding the pilot program statewide.

(e) Provides that this section expires September 1, 2007.

SECTION 2.21. REPEALER. Repealer: Section 48.157 (Report to Law Enforcement Agency), Human Resources Code.

ARTICLE 3. GUARDIANSHIP AND RELATED SERVICES

SECTION 3.01. Amends the heading to Subchapter E, Chapter 48, Human Resources Code, to read as follows:

SUBCHAPTER E. PROVISION OF SERVICES; EMERGENCY PROTECTION

SECTION 3.02. Amends Section 48.209, Human Resources Code, as follows:

Sec. 48.209. New heading: REFERRAL FOR GUARDIANSHIP SERVICES. (a) Requires DFPS to refer an individual to the Department of Aging and Disability Services

(DADS) for guardianship services under Subchapter E, Chapter 161, if the individual meets certain criteria.

(b) Requires DFPS, if a less restrictive alternative to guardianship is appropriate and available for the individual, to pursue that alternative instead of making a referral to DADS for guardianship.

(c) Require DFPS and DADS to enter into a memorandum of understanding that sets forth in detail the roles and duties of each agency regarding the referral for guardianship services under Subsection (a) and the provision of guardianship services to individuals under Subchapter E, Chapter 161.

(d) Requires nothing in this section to prohibit DFPS from also making a referral of an individual to a court having probate jurisdiction in the county where the individual is domiciled or found, if the court has requested the department to notify the court of any individuals who may be appropriate for a court-initiated guardianship proceeding under Section 683 (Court's Initiation of Guardianship Proceedings), Texas Probate Code. Requires DFPS, in making a referral under this subsection and if requested by the court, to the extent allowed by law, to provide the court with all relevant information in DFPS's records relating to the individual. Prohibits the court, as part of this process, from requiring the DFPS to perform certain duties and gather certain information.

(e) Prohibits DFPS from being appointed to serve as temporary or permanent guardian for any individual. Deletes existing Subsections (a) through (f) relating to the appointing of a guardian.

SECTION 3.03. Amends Section 161.071, Human Resources Code, to include serving as guardian of the person or estate, or both, of an incapacitated individual under Chapter XIII (Guardianship), Texas Probate Code, among the responsibilities of DADS.

SECTION 3.04. Amends Chapter 161, Human Resources Code, by adding Subchapter E, as follows:

SUBCHAPTER E. GUARDIANSHIP SERVICES

Sec. 161.101. GUARDIANSHIP SERVICES. (a) Requires DADS to file an application under Section 682 (Hearing for Appointment of Guardian; Right to Jury Trial) or 875 (Temporary Guardian--Procedure), Texas Probate Code, to be appointed guardian of the person or estate, or both, of a minor referred to DADS under Section 48.209(a)(1) for guardianship services if DADS determines that there are certain circumstances.

(b) Requires DADS to conduct a thorough assessment of the conditions and circumstances of an elderly or disabled person referred to DADS under Section 48.209(a)(2) for guardianship services to determine whether a guardianship is appropriate for the individual. Authorizes DADS, in determining whether a guardianship is appropriate, to consider the resources and funds available to meet the needs of the elderly or disabled person. Requires the executive commissioner of HHSC (executive commissioner) to adopt rules for the administration of this subsection.

(c) Requires DADS, if after conducting an assessment of an elderly or disabled person under Subsection (b) it determines that a guardianship is appropriate for the elderly or disabled person, to file an application under Section 682 or 875, Texas Probate Code, to be appointed guardian of the person or estate, or both, of the individual. Requires DADS, if after conducting the assessment it determines that a less restrictive alternative to guardianship is available for the elderly or disabled person, to pursue the less restrictive alternative instead of applying for appointment as the person's guardian.

(d) Prohibits DADS from being required by a court to file an application for guardianship, and from being appointed as permanent guardian for any individual unless it files an application to serve or otherwise agrees to serve as the individual's guardian of the person or estate, or both.

(e) Prohibits a guardianship created for an individual as a result of an application for guardianship filed under Subsection (a) from taking effect before the individual's 18th birthday.

Sec. 161.102. REFERRAL TO GUARDIANSHIP PROGRAM, COURT, OR OTHER PERSON. (a) Requires DADS, if it becomes aware of a guardianship program, private professional guardian, or other person willing and able to provide the guardianship services that would otherwise be provided by DADS to an individual referred to DADS by the DFPS under Section 48.209, to refer the individual to that person or program for guardianship services.

(b) Requires DADS, if requested by a court, to notify the court of any referral made to DADS by the DFPS relating to any individual who is domiciled or found in a county where the requesting court has probate jurisdiction and who may be appropriate for a court-initiated guardianship proceeding under Section 683, Texas Probate Code. Requires DADS, in making a referral under this subsection and if requested by the court, to the extent allowed by law, to provide the court with all relevant information in DADS's records relating to the individual. Prohibits the court, as part of this process, from requiring DADS to perform certain duties and gather certain information.

Sec. 161.103. CONTRACT FOR GUARDIANSHIP SERVICES. Authorizes DADS, if appropriate, to contract with a political subdivision of this state, a guardianship program as defined by Section 601 (Definitions), Texas Probate Code, a private agency, or another state agency for the provision of guardianship services under this section.

Sec. 161.104. QUALITY ASSURANCE PROGRAM. Requires DADS to develop and implement a quality assurance program for guardianship services provided by or on behalf of the department. Requires DADS, if it enters into a contract with certain entities under Section 161.103, to establish a monitoring system as part of the quality assurance program to ensure the quality of guardianship services for which DADS contracts under that section.

Sec. 161.105. OATH. Requires a representative of DADS to take the oath required by the Texas Probate Code on behalf of DADS if it is appointed guardian of the person or estate, or both, of a ward under Chapter XIII of that code.

Sec. 161.106. GUARDIANSHIP POWERS AND DUTIES. Provides that in serving as guardian of the person or estate, or both, for an incapacitated individual, DADS has all the powers granted and duties prescribed to a guardian under Chapter XIII, Texas Probate Code, or any other applicable law.

Sec. 161.107. EXEMPTION FROM GUARDIANSHIP BONDS, CERTAIN COSTS, FEES, AND EXPENSES. (a) Provides that DADS or a political subdivision of this state or state agency with which DADS contracts under Section 161.103 is not required to post a bond or pay any cost or fee associated with a bond otherwise required by the Texas Probate Code in guardianship matters.

(b) Provides that DADS is not required to pay certain costs or fees otherwise imposed for court proceedings or other services.

(c) Prohibits DADS from being required to pay fees associated with the appointment of a guardian ad litem or attorney ad litem.

(d) Provides that a political subdivision of this state or state agency with which DADS contracts under Section 161.103 is not required to pay any cost or fee otherwise required by the Texas Probate Code.

(e) Provides that if DADS is appointed guardian, it is not liable for funding services provided to DADS's ward, including long-term care or burial expenses.

Sec. 161.108. SUCCESSION GUARDIAN. Requires DADS to review each of its pending guardianship cases at least annually to determine whether a more suitable person, including a guardianship program or private professional guardian, is willing and able to serve as successor guardian for a ward of the department. Requires DADS, if it becomes aware of any person's willingness and ability to serve as successor guardian, to notify the court in which the guardianship is pending as required by Section 695A (Successor Guardians for Wards of Guardianship Programs or Governmental Entities), Texas Probate Code.

Sec. 161.109. ACCESS TO RECORDS OR DOCUMENTS. (a) Requires DADS to have access to all of the records and documents concerning an individual referred for guardianship services under this subchapter that are necessary to the performance of the department's duties under this subchapter, including client-identifying information and medical, psychological, educational, or residential information.

(b) Provides that DADS is exempt from certain payments if the request for a record is made in the course of an assessment for guardianship services conducted by DADS.

(c) Authorizes DADS, if it cannot obtain access to a record or document that is necessary to properly perform a duty under this subchapter, to petition the probate court or the statutory or constitutional court having probate jurisdiction for access to the record or document.

(d) Requires the court with probate jurisdiction to, on good cause shown, order the person or entity who denied access to a record or document to allow DADS to have access to the record or document under the terms and conditions prescribed by the court.

(e) Provides that a person or entity is entitled to notice of and a hearing on the petition for access as described by this section.

(f) Provides that access to, or disclosure of, a confidential record or other confidential information under this section does not constitute a waiver of confidentiality for other purposes or as to other persons.

Sec. 161.110. LEGAL REPRESENTATION OF DEPARTMENT. (a) Requires the prosecuting attorney representing the state in criminal cases in the county court to represent DADS in any proceeding under this subchapter unless the representation would be a conflict of interest, except as provided by Subsection (b), (c), or (f).

(b) Requires the attorney general, if the attorney representing the state in criminal cases in the county court is unable to represent DADS in an action under this subchapter because of a conflict of interest, to represent DADS in the action.

(c) Requires the attorney general, if the attorney general is unable to represent DADS in an action under this subchapter, to deputize an attorney who has contracted with DADS under Subsection (d) or an attorney employed by DADS under Subsection (e) to represent the department in the action.

(d) Authorizes DADS to contract with a private attorney to represent it in an action under this subchapter, subject to the approval of the attorney general.

(e) Authorizes DADS to employ attorneys to represent DADS in an action under this subchapter.

(f) Requires the prosecuting attorney representing the state in civil cases in the county court, in a county having a population of more than 2.8 million, to represent DADS in any proceeding under this subchapter unless the representation would be a conflict of interest. Requires the attorney general, if such attorney is unable to represent the department in an action under this subchapter because of a conflict of interest, to represent DADS in the action.

Sec. 161.111. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION. (a) Provides that certain information used or developed by DADS in the performance of duties relating to the assessment for or the provision of guardianship services to an individual referred for guardianship services under this subchapter is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

(b) Authorizes confidential information to be disclosed only for a purpose consistent with this subchapter, as required by other state or federal law, or as necessary to enable the department to exercise its powers and duties as guardian of the person or estate, or both, of an individual.

(c) Authorizes a court to order disclosure of confidential information only if certain procedures are followed.

(d) Requires DADS to establish a policy and procedures for the exchange of information with certain governmental entities, to properly execute its respective duties and responsibilities to provide guardianship services or other needed services to meet the needs of the ward under this subchapter or other law. Provides that an exchange of information under this subsection does not constitute a release for purposes of waiving the confidentiality of the information exchanged.

Sec. 161.112. INDEMNIFICATION FOR LEGAL EXPENSES. Authorizes DADS, if a present or former employee of DADS who was involved in activities related to the provision of guardianship services under this subchapter is criminally prosecuted for conduct related to the person's misfeasance or nonfeasance in the course and scope of the person's employment and is found not guilty after a trial or appeal or if the complaint or indictment is dismissed without a plea of guilty or nolo contendere being entered, to indemnify the person or the person's estate for the reasonable attorney's fees incurred in defense of the prosecution up to a maximum of \$10,000.

Sec. 161.113. IMMUNITY. (a) Defines "volunteer."

(b) Provides that a DADS employee or an authorized volunteer who performs a DADS duty or responsibility under this subchapter is immune from civil or criminal liability for any act or omission that relates to the duty or responsibility if the person acted in good faith and within the scope of the person's authority.

SECTION 3.05. Amends Section 601, Texas Probate Code, by amending Subdivisions (13) and (24), to redefine "guardianship program," and "private professional guardian," and by adding Subdivision (12-a) to define "Guardianship Certification Board."

SECTION 3.06. Amends the heading to Subpart J, Part 2, Chapter XIII, Texas Probate Code, to read as follows:

SUBPART J. LIABILITY OF GUARDIAN

SECTION 3.07. Amends the heading to Section 673, Texas Probate Code, to read as follows:

Sec. 673. LIABILITY OF GUARDIAN FOR CONDUCT OF WARD.

SECTION 3.08. Amends Subpart J, Part 2, Chapter XIII, Texas Probate Code, by adding Section 674, as follows:

Sec. 674. IMMUNITY OF GUARDIANSHIP PROGRAM. Provides that a guardianship program is not liable for civil damages arising from action taken or omission made by a person while providing guardianship services to a ward on behalf of the guardianship program, except under certain circumstances.

SECTION 3.09. Amends Section 682, Texas Probate Code, to include, if applicable, that the individual whom the applicant desires to have appointed as a guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, in the required information for an application for the appointment of a guardian.

SECTION 3.10. Amends Section 695A, Texas Probate Code, by adding Subsection (a-1), as follows:

(a-1) Requires DADS, if, while serving as a guardian for a ward under this chapter, DADS becomes aware of a guardianship program or private professional guardian willing and able to serve as the ward's successor guardian and DADS is not aware of a family member or friend of the ward or any other interested individual who is willing and able to serve as the ward's successor guardian, to notify the court in which the guardianship is pending of the guardianship program's or private professional guardian's willingness and ability to serve.

SECTION 3.11. Amends Section 696, Texas Probate Code, to include that a court is prohibited from appointing a private professional guardian to serve as a guardian or permitting a private professional guardian to continue to serve as a guardian under this code if the private professional guardian is not certified as provided by Section 697B of this code.

SECTION 3.12. Amends Subpart A, Part 3, Texas Probate Code, by adding Sections 696A and 696B, as follows:

Sec. 696A. APPOINTMENT OF PUBLIC GUARDIANS. (a) Requires an individual employed by or contracting with a guardianship program to be certified as provided by Section 697 B of this code to provide guardianship services to a ward of the guardianship program.

(b) Requires an employee of DADS to be certified as provided by Section 697B of this code to provide guardianship services to a ward of DADS.

Sec. 696B. APPOINTMENT OF FAMILY MEMBERS OR FRIENDS. Provides that a family member or friend of an incapacitated individual is not required to be certified under Subchapter D, Chapter 111, Government Code, or any other law to serve as the person's guardian.

SECTION 3.13. Amends Sections 697(a), (c) and (e), Texas Probate Code, as follows:

(a) Requires a private professional guardian to apply annually to the clerk of the county having venue over the proceeding for the appointment of a guardian for a certificate of registration, rather than certification.

(c) Makes a conforming change.

(e) Requires the clerk, not later than February 1 of each year, to submit to the Guardianship Certification Board and HHSC the names and business addresses of private professional guardians who have satisfied the registration, rather than certification, requirements under this section during the preceding year.

SECTION 3.14. Amends Subpart A, Part 3, Texas Probate Code, by adding Sections 697A and 697B, as follows:

Sec. 697A. LIST OF CERTAIN PUBLIC GUARDIANS MAINTAINED BY COUNTY CLERKS. Requires each guardianship program operating in a county to submit annually to the county clerk a statement containing certain information about each individual employed by or volunteering or contracting with the program to provide guardianship services to a ward or proposed ward of the program.

(b) Requires DADS, if it files an application for and is appointed to serve as guardian for one or more incapacitated persons residing in the county by Subchapter E, Chapter 161, Human Resources Code, to submit annually to the county clerk the information required under Subsection (a) of this section for each DADS employee who is or will be providing guardianship services in the county on DADS's behalf.

(c) Requires the county clerk, not later than February 1 of each year, to submit to the Guardianship Certification Board the information received under this section during the preceding year.

Sec. 697B. CERTIFICATION REQUIREMENT FOR PRIVATE PROFESSIONAL GUARDIANS. (a) Requires certain individuals to be certified under Subchapter C, Chapter 111, Government Code.

(b) Requires an individual whose certification has expired to obtain a new certification under Subchapter C, Chapter 111, Government Code, to be allowed to provide or continue to provide guardianship services to a ward under this code.

(c) Requires the court to notify the Guardianship Certification Board if the court becomes aware of an individual who is not complying with the terms of a certification issued under Subchapter C, Chapter 111, Government Code, or with the standards or rules adopted under that subchapter.

(d) Provides that an individual volunteering with a guardianship program is not required to be certified as provided by this section to provide guardianship services on the program's behalf.

SECTION 3.15. Amends Sections 698(a) and (c), Texas Probate Code, as follows:

(a) Includes amongst information required to be obtained by the clerk of the county having venue over the proceeding for the appointment of a guardian information pertaining to an individual employed by or volunteering or contracting with a guardianship program to provide guardianship services to a ward of the program on the program's behalf and information regarding an employee of DADS who is or will be providing guardianship services to a ward of DADS.

(c) Requires the court to use the information obtained under this section only in determining whether to appoint, remove, or continue the appointment of a private professional guardian, a guardianship program, or DADS.

SECTION 3.16. Amends Section 700(b), Texas Probate Code, to require a representative of DADS, rather than DFPS, to take the required oath if DADS is appointed guardian.

SECTION 3.17. Amends Section 767(a), Texas Probate Code, to provide that the guardian of an individual is entitled to take charge of the individual of the ward and that the duties of the guardian correspond with the rights of the guardian. Includes amongst these rights and duties, the duty to provide care, supervision, and protection for the ward. Deletes text pertaining to control. Makes nonsubstantive changes.

SECTION 3.18. Amends Sections 875(c) and (j), Texas Probate Code, to include, if applicable, that the proposed temporary guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, within the requirements for an application for the appointment of a temporary guardian. Makes a conforming change.

SECTION 3.19. Amends Subdivisions (3) and (5), Section 531.121, Government Code, to redefine "guardianship program" and " private professional guardian."

SECTION 3.20. Amends the heading to Section 531.122, Government Code, to read as follows:

Sec. 531.122. ADVISOR BOARD; MEMBERSHIP.

SECTION 3.21. Amends Sections 531.122(a), (b), and (d), Government Code, to make conforming changes

SECTION 3.22. Amends Section 531.1235, Government Code, as follows:

Sec. 531.1235. New heading: ADVISORY BOARD; DUTIES; STATEWIDE GUARDIANSHIP SYSTEM. Requires the advisory board to advise HHSC in administering HHSC's duties under this subchapter. Deletes existing text relating to certain performing duties. Makes conforming changes.

SECTION 3.23. Amends Section 531.124, Government Code, as follows:

Sec. 531.124. New heading: COMMISSION DUTIES. Sets forth the duties of HHSC relating to guardianship. Deletes existing text relating to certain duties.

SECTION 3.24. Amends Title 2, Government Code, by adding Subtitle J, as follows:

SUBTITLE J. GUARDIANSHIPS

CHAPTER 111. GUARDIANSHIP CERTIFICATION BOARD

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. DEFINITIONS. Defines "administrative director," "board," "corporate fiduciary," "director," "guardian," "guardianship program," "incapacitated person," "Office of Court Administration," "private professional guardian," and "ward."

Sec.111.002. RULES. Authorizes the supreme court to adopt rules consistent with this chapter, including rules governing the certification of individuals providing guardianship services.

Sec. 111.003. SUNSET PROVISION. Provides that the Guardian Certification Board (board) is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that, unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2015.

[Reserves Sections 111.004-111.010 for expansion.]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 111.011. BOARD. Sets forth the composition of the board, appointment procedures, and terms.

Sec. 111.012. ADMINISTRATIVE ATTACHMENT. (a) Provides that the board is administratively attached to the Office of Court Administration.

(b) Sets forth certain requirements of the Office of Court Administration, notwithstanding any other law.

Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. Sets forth public eligibility requirements.

Sec. 111.014. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) Defines "Texas trade association."

(b) Prohibits certain individuals from being members of the board or from being employees of the board.

(c) Prohibits an individual from being a member of the board if the individual is required to register as a lobbyist because of the person's activities for compensation on behalf of a profession related to the operation of board.

Sec. 111.015. GROUND FOR REMOVAL FROM BOARD. (a) Sets forth grounds for removal from the board.

(b) Provides that the validity of an action of the board is not affected by the fact that it is taken when ground for removal of a board member exists.

(c) Requires the director of the board, if the director has knowledge that a potential ground for removal exists, to notify the presiding officer of the board of the potential ground. Requires the presiding officer to then notify certain individuals that a potential ground for removal exists. Requires the director, if the potential ground or removal involves the presiding officer, to notify the next highest ranking officer of the board, who is then required to notify certain individuals that a potential ground for removal exists.

Sec. 111.016. POWERS AND DUTIES OF BOARD. (a) Provides that the board is charged with the executive functions necessary to carry out the purposes of this chapter under rules adopted by the supreme court.

(b) Sets forth certain actions required of the board.

(c) Authorizes the board to appoint any necessary or proper subcommittee.

(d) Requires the board to maintain certain records.

Sec. 111.017. TRAINING. (a) Prohibits an individual who is appointed to and qualified for office as a member of the board from voting, deliberating, or being counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) Sets forth certain content requirements for the training.

Sec. 111.018. USE OF TECHNOLOGY. Requires the Office of Court Administration to research and propose appropriate technological solutions to improve the board's ability to perform its functions. Sets forth certain requirements for the technological solutions.

Sec. 111.019. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires the board to develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) Sets forth requirements for the procedures relating to alternative dispute resolution under this section.

Sec. 111.020. PUBLIC ACCESS. Requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the office.

Sec. 111.021. DIRECTOR. Sets forth the election, terms, and procedures of the director.

Sec. 111.022. DIVISION OF RESPONSIBILITIES. Requires the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the director.

Sec. 111.023. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. Requires the director to provide to the members of the board as often as necessary, information regarding the requirements for office under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

[Reserves Sections 111.024-111.040 for expansion.]

SUBCHAPTER C. REGULATION OF CERTAIN GUARDIANS

Sec. 111.041. STANDARDS FOR CERTAIN GUARDIANSHIPS AND ALTERNATIVES TO GUARDIANSHIP. (a) Requires the board to adopt minimum standards for certain services.

(b) Requires the board to design the standards to protect the interests of an incapacitated person or another person needing assistance making decisions concerning the person's own welfare or financial affairs.

Sec. 111.042. CERTIFICATION REQUIRED FOR CERTAIN GUARDIANS. (a) Requires certain individuals to hold a certificate issued under this section in order to provide guardianship services in this state.

(b) Sets forth certain requirements for an applicant for a certificate under this section.

(c) Authorizes the supreme court to adopt rules and procedures for issuing a certificate and for renewing, suspending, or revoking a certificate issued under this section. Sets forth certain requirements for rules adopted by the supreme court under this section.

(d) Sets forth certain requirements for the board if the requirements for issuing a certificate under this section include passage of an examination covering guardianship education requirements.

(e) Authorizes the board, in lieu of the certification requirements imposed under this section, to issue a certificate to an individual to engage in business as a guardian or to provide guardianship services in this state if the individual meets certain requirements.

(f) Provides that an employee of DADS who is applying for a certificate under this section to provide guardianship services to a ward of DADS is exempt from payment of an application fee required by this section.

(g) Requires an application fee or other fee collected under this section to be deposited to the credit of the guardianship certification account in the general revenue fund and appropriated only to the Office of Court Administration for the administration and enforcement of this chapter.

(h) Requires the Texas Department of Licensing and Regulation to advise and assist the board as necessary in administering the certification process established under this section.

Sec. 111.043. INFORMATION FROM PRIVATE PROFESSIONAL GUARDIANS. Authorizes the director to require a private professional guardian or a person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian to submit, in addition to the information submitted under Section 697(e) (pertaining to names and business addresses of private professional guardians), information considered necessary to monitor the person's compliance with applicable standards adopted under Section 111.041 or with the certification requirements of Section 111.042.

Sec. 111.044. ANNUAL DISCLOSURE. Requires each guardianship program and private professional guardian, not later than January 31 of each year, to provide to the board a report containing certain information for the preceding year.

SECTION 3.25. TRANSFERS TO THE DEPARTMENT OF AGING AND DISABILITY SERVICES. (a) Provides that on September 1, 2005, certain powers and functions are transferred from DFPS to DADS

(b) Requires DADS to administer a contract of DFPS transferred under this section until the contract expires or is otherwise lawfully terminated.

(c) Prohibits a court, to effectuate a smooth and orderly transfer of existing guardianship status from requiring DFPS or the DADS to comply with certain provisions concerning resignation of a guardian and appointment of a successor guardian, with respect to guardianship cases of DFPS transferred to DADS under this section and Section 3.26 of this article.

(d) Provides that a reference in a legal document, including a certain letter of guardianship, to DFPS as guardian in an existing guardianship or application for guardianship that is pending on the effective date of this Act is considered to be a reference to DADS.

(e) Provides that a public entity, a private entity, or any other person, including a bank, a service provider, law enforcement personnel, or medical personnel, is required to accept the DADSs' authority as guardian in the same manner the entity or person would have accepted DFPSs' authority as guardian of a particular ward.

(f) Prohibits DADS from being required to take a certain oath of guardianship, with respect to a guardianship case transferred to it from DFPS under this section and Section 3.26 of this article.

SECTION 3.26. TRANSITION PLAN. Requires the executive commissioner of HHSC to establish a plan to transfer the guardianship cases of DFPS to DADS on or before the period prescribed by the executive commissioner.

SECTION 3.27. PROPOSED RULES AND PROCEDURES. Requires, not later than March 1, 2006, the Guardianship Certification Board, established under Chapter 111, Government Code, as added by this Act, to develop rules and procedures for consideration by the supreme court as required by Chapter 111, Government Code, as added by this Act.

SECTION 3.28. APPOINTMENT OF BOARD MEMBERS. (a) Requires, as soon as practicable after the effective date of this Act, the presiding judge of the statutory probate court to appoint 11 members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this article. Requires, in making the initial appointment, the presiding judge to designate three members for terms expiring February 1, 2007, four members for terms expiring February 1, 2009, and four members for terms expiring February 1, 2011.

(b) Requires, as soon as practicable after the effective date of this Act, the supreme court to appoint four members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this article. Requires, in making the initial appointment, the supreme court to designate two members for terms expiring February 1, 2007, one member for a term expiring February 1, 2009, and one member for a term expiring February 1, 2011.

SECTION 3.29. EFFECTIVE DATE OF CERTIFICATION. Provides that a person is not required to hold a certificate issued under Subchapter C, Chapter 111, Government Code, as added by this Act, to provide or continue guardianship services to a ward before September 1, 2007.

ARTICLE 4. CERTAIN REQUIREMENTS AND LIMITATIONS RELATING TO MARRIAGE; PROVIDING CRIMINAL PENALTIES

SECTION 4.01. Amends Article 38.10, Code of Criminal Procedure, to provide that the privilege of a person's spouse not to be called as a witness for the state does not apply in a proceeding in which the person is charged with an offense under Section 25.01 (Bigamy), Penal Code.

SECTION 4.02. Amends Sections 22.011(e) and (f), Penal Code, as follows:

(e) Sets forth affirmative defenses to prosecution under Subsection (a)(2), including that the victim was not a person whom, the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) Provides that an offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

SECTION 4.03. Amends Sections 25.01(c) and (e), Penal Code, as follows:

(c) Provides that it is a defense to prosecution under Subsection (a)(1) that the actor reasonably believed at the time of the commission of the offense that the actor and the person whom the actor married or purported to marry or with whom the actor lived under the appearance of being married were legally eligible to be married because the actor's prior marriage was void or had been dissolved by death, divorce, or annulment. Provides that for purposes of this subsection, an actor's belief is reasonable if the belief is substantiated by a certified copy of a death certificate or other signed document issued by a court. Makes a nonsubstantive change.

(e) Provides that an offense under this section is a felony of the third degree, if at the time of the commission of the offense, the person whom the actor marries or purports to marry or with whom the actor lives under the appearance of being married meets certain criteria.

SECTION 4.04. Amends Sections 25.02(a) and (c), Penal Code, as follows:

(a) Provides that a person, rather than an individual, commits an offense if the person engages in sexual intercourse or deviate sexual intercourse with another person the actor knows to be, without regard to legitimacy, if the actor has certain relations to the child.

(c) Provides that an offense under this section is a felony of the third degree, unless the offense is committed under Subsection (a)(6) in which event the offense is a felony of the second degree.

SECTION 4.05. Amends Section 2.004, Family Code, by amending Subsection (b), and adding Subsections (c) and (d), as follows:

(b) Sets forth specific text and certain other information the marriage license application is required to contain.

(c) Provides that an applicant commits an offense if the applicant knowingly provides false information under Subsection (b)(1), (2), (3), or (4). Provides that an offense under this subsection is a Class C misdemeanor.

(d) Provides that an applicant commits an offense if the applicant knowingly provides false information under Subsection (b)(5) or (6). Provides that an offense under this subsection is a Class A misdemeanor.

SECTION 4.06. Amends Section 2.005, Family Code, by adding Subsection (c), to provide that a person commits an offense if the person knowingly provides false, fraudulent, or otherwise

inaccurate proof of an applicant's identity or age under this section. Provides that an offense under this subsection is a Class A misdemeanor.

SECTION 4.07. Amends Sections 2.007, Family Code, to set forth the information the affidavit of an absent applicant is required to include.

SECTION 4.08. Amends Sections 2.009(a) and (b), Family Code, as follows:

(a) Prohibits the county clerk from issuing a marriage license if either applicant is under 16, rather than 14, and has not been granted a court order as provided by Section 2.103 (Court Order for Underage Applicant) and is 16, rather than 14, years of age or older but under age 18 of age and has not presented certain parental consent, documents, or a court order, except as provided by Subsections (b) and (d).

(b) Modifies a specific statement relating to marriage.

SECTION 4.09. Amends Section 2.102, Family Code, by amending Subsection (a) and adding Subsections (g) and (h), as follows:

(a) Makes a conforming change.

(g) Provides that a person commits an offense if the person knowingly provides parental consent for an underage marriage applicant under this section and the person is not a parent or a judicially designated managing conservator or guardian of the applicant. Provides that an offense under this subsection is a Class A misdemeanor.

(h) Provides that a parent or judicially designated managing conservator or guardian of an applicant commits an offense if the parent, managing conservator, or guardian knowingly provides parental consent under this section for an applicant who is younger than 16 years of age or who is presently married to a person other than the person the applicant desires to marry. Provides that an offense under this subsection is a felony of the third degree.

SECTION 4.10. Amends Section 2.202, Family Code, by adding Subsections (c) and (d), as follows:

(c) Provides that a person commits an offense if the person knowingly conducts a marriage ceremony without authorization under this section, except as provided by Subsection (d). Provides that an offense under this subsection is a Class A misdemeanor.

(d) Provides that a person commits an offense if the person knowingly conducts a marriage ceremony of a minor whose marriage is prohibited by law or of a person who by marrying commits an offense under Section 25.01, Penal Code. Provides that an offense under this subsection is a felony of the third degree.

SECTION 4.11. Amends Section 2.302, Family Code, to provide that the validity of a marriage is not affected by the lack of authority of the person conducting the marriage ceremony under are certain circumstances, including that neither party to the marriage meets certain criteria.

SECTION 4.12. Amends Section 2.401, Family Code, by adding Subsection (d), to prohibit a person from being a party to an informal marriage or execute a declaration of an informal marriage if the person is presently married to a person who is not the other party to the informal marriage or declaration of an informal marriage, as applicable.

SECTION 4.13. Amends Section 2.402(b), Family Code, to require the declaration of informal marriage to contain certain information including a current or former stepchild or stepparent; or a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption.

SECTION 4.14. Amends Section 2.403, Family Code, as follows:

Sec. 2.403. New heading: PROOF OF IDENTITY AND AGE; OFFENSE. (a) Creates this subsection from existing text.

(b) Provides that a person commits an offense if the person knowingly provides false, fraudulent, or otherwise inaccurate proof of the person's identity or age under this section. Provides that an offense under this subsection is a Class A misdemeanor.

SECTION 4.15. Amends Section 6.101, Family Code, to make conforming changes.

SECTION 4.16. Amends Section 6.102(a), Family Code, to make a conforming change.

SECTION 4.17. Amends Subchapter C, Chapter 6, Family Code, by adding Sections 6.205 and 6.206, as follows:

Sec. 6.205. MARRIAGE TO MINOR. Provides that a marriage is void if either party to the marriage is younger than 16 years of age.

Sec. 6.206. MARRIAGE TO STEPCHILD OR STEPPARENT. Provides that a marriage is void if a party is a current or former stepchild or stepparent of the other party.

SECTION 4.18. Provides that under the terms of Section 22.109(b) (Rules of Evidence in Criminal Cases), Government Code, Rule 504(b)(1), Texas Rules of Evidence, is disapproved to the extent that the rule conflicts with Article 38.10 (Exceptions to the spousal adverse testimony privilege), Code of Criminal Procedure, as amended by this Article.

SECTION 4.19. Makes application of Article 38.10, Code of Criminal Procedure, and Sections 22.011, 25.01, and 25.02, Penal Code, as amended by this Act, prospective.

SECTION 4.20. Makes application of Sections 2.004, 2.005, 2.007, 2.009 and 2.102, Family Code, as amended by this Act, prospective.

SECTION 4.21. Makes application of Sections 2.202 and 2.302, Family Code, as amended by this Act, prospective.

SECTION 4.22. Provides that Section 2.401(d), Family Code, as added by this article, applies to an informal marriage or a declaration of an informal marriage regardless of when the informal marriage was entered into or the declaration was executed.

SECTION 4.23. Makes application of Sections 2.402(b) and 2.403, Family Code, as amended by this Act, prospective.

SECTION 4.24. Makes application of Sections 6.101 and 6.102(a), Family Code, and the enactment of Sections 6.205 and 6.206, Family Code, as amended by this Act, prospective.

ARTICLE 5. REPORT; EFFECTIVE DATE

SECTION 5.01. (a) Requires HHSC, not later than the 180th day after the effective date of this Act, and every six months after that date, to provide a detailed progress report on the implementation of the provisions of this Act to certain state elected officials.

(b) Sets forth the items required to be addressed in the progress report.

(c) Authorizes the state auditor, in accordance with Chapter 321 (State Auditor), Government Code, to conduct financial and compliance audits related to the implementation of this Act as specified in an audit plan. Requires the state auditor to coordinate an audit performed under this subsection with HHSC, DFPS, and DADS internal auditors and the commission's office of inspector general to avoid duplication of effort.

(d) Provides that except as provided by this subsection, this section expires September 1, 2010. Provides that Subsections (a) and (b) of this section expire September 1, 2009.

SECTION 5.02. Effective date: September 1, 2005.