

BILL ANALYSIS

Senate Research Center
79R 8373 E

C.S.S.B. 6
By: Nelson
Health and Human Services
2/27/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 6 seeks to strengthen the state's ability to protect society's most vulnerable citizens: abused children, the elderly, and the fail. 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.

C.S.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 C.S.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 C.S.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 1.09 (Section 261.301, Family Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1.33, SECTION 1.52 (Section 264.752, Family Code), SECTION 1.84 (Section 42.042, Human Resources Code), SECTION 1.87 (Section 42.04411, Human Resources Code), SECTION 1.97 (Section 42.063, Human Resources Code), SECTION 2.02 (Section 40.0323, Human Resources Code), SECTION 2.03 (Section 40.035, Human Resources Code), SECTION 2.06 (Section 48.004, Human Resources Code), SECTION 2.09 (Section 48.101, Human Resources Code), and SECTION 2.15 (Section 48.2055, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the supreme court in SECTION 3.26 (Sections 111.002 and 111.062, Government Code) 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 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, rather than the Department of Protective and Regulatory Services (DPRS), within a certain time table.

(b) Requires the Texas Education Agency 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 the Texas Education Agency 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 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 1.04. Amends Section 162.304, Family Code, by adding Subsection (f), to require the Department of Family and Protective Services (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.

SECTION 1.05. Amends Section 261.001, Family Code, by amending Subdivision (2) to redefine "department."

SECTION 1.06. Amends Section 261.002, Family Code, by adding Subsection (c), to require 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 1.07. Amends Section 261.107(a), Family Code, to provide that a person commits an offense if the person knowingly or intentionally makes a report that the person knows is false. Deletes existing text defining an offense as a report that lacks factual foundation. Redesignates an offense committed under this section as a state jail felony, rather than a Class A misdemeanor, unless it is shown on the trial of the offense that the individual has been previously convicted under this section, in which case the offense is redesignated as a felony of the third degree, rather than a state jail felony. Makes application of this section prospective.

SECTION 1.08. 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. Requires the information to include certain details.

SECTION 1.09. (a) Amends Sections 261.301(a), (d), (f), (g), and (h), Family Code, as follows:

Sec. 261.301 (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.

(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.

SECTION 1.10. 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 in each county, 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 1.11. (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 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 1.12. Amends Section 261.302(e), Family Code, to require that an interview with a child alleged to be a victim of abuse or neglect conducted by DFPS or another person, other than a law enforcement agency, under the direction of DFPS, be audiotaped or videotaped. Provides that the failure to videotape or audiotape an interview is admissible at the trial of the offense in question. Deletes existing text specifying certain types of abuse cases that must be taped and guidelines for determining good cause for not taping an interview.

SECTION 1.13. 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) Authorizes DFPS to seek assistance from certain appropriate individuals with responsibility for representing DFPS if DFPS is unable to locate a family for purposes of investigating a report of child abuse or neglect.

(b) Requires the county attorney, district attorney, or criminal district attorney from whom DFPS has requested 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 in question on a child safety check alert list. Requires the application to include a summary of certain information.

(c) Requires the court to approve the application and order the Texas Crime Information Center to place the family on a child safety check alert list if the court determines that DFPS has exhausted all means available for locating the family. 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 1.14. 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 1.15. 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 1.16. (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, including a proposed child placement resources form that instructs the parent or other person having legal custody of the child to return the form to DFPS and to identify three individuals who could be relative or designated caregivers and the informational manual required by Section 261.3071 (Informational Manual), as soon as possible after initiating an investigation of a parent or other person having legal custody of a child.

(b) Requires DFPS to also provide any information required to be provided by federal law.

(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 1.17. 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 certain details and be in both English and Spanish.

SECTION 1.18. Amends Section 261.310, Family Code, by amending Subsection (c) and adding Subsection (e), as follows:

(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.

(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 1.19. 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 1.20. 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 1.21. 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 1.22. 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 an agency that operates, licenses, certifies, or registers a facility, using information received under Subsection (b), to compile a report that includes certain information.

SECTION 1.23. 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) Sets forth requirements for conducting an investigation of the relative or other designated caregiver before a full adversary hearing under Subchapter C (Adversary Hearing).

(a-1) Defines "background."

(b) Requires DFPS to place a child only 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 required home study, only in exigent circumstances, as determined by DFPS on an individual basis. Requires DFPS to consider the child's safety to be the paramount concern in determining the placement of the child. Requires DFPS to provide a copy of the informational manual to the relative or designated caregiver at the time of the child's placement.

SECTION 1.24. (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 1.25. (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 1.26. (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 1.27. 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 1.28. 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 1.29. (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 1.30. 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 1.31. 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.

SECTION 1.32. 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 1.33. (a) Amends Section 264.106, Family Code, as follows:

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

(b) Redesignated from existing Subsection (a). Requires DFPS to assess the need for substitute care services throughout the state for children for whom DFPS has been appointed temporary or permanent managing conservator and to contract with substitute care providers for those services. Deletes text of existing Subsection (b) referring to contracting only to the necessary extent and that

referring to determinations to be made prior to contracting with a substitute care provider.

(c) Requires DFPS, in addition to contracts required by Subsection (b), to contract with substitute care providers to provide case management services for children in substitute care for whom DFPS has been appointed permanent managing conservator and attempt to contract with substitute care providers that are community-based organizations that will provide certain services.

(d) Requires DFPS to monitor services provided under this section and to ensure that the services meet certain quality standards.

(e) Redesignated from existing Subsection (d).

(f) Provides that a contract under this section does not affect the rights and duties of DFPS in the DFPS's capacity as the temporary or permanent managing conservator of a child.

(g) Prohibits DFPS, on and after September 1, 2008, from directly providing substitute care services for children for whom DFPS has been appointed temporary or permanent managing conservator, except for case management services, notwithstanding any other law. Deletes existing text defining "substitute care provider."

(b) Requires the executive commissioner to adopt a substitute care transition plan and rules to implement Section 264.106, Family Code, as amended by this section. Requires the transition plan to provide a certain timeline for implementation.

(c) Makes application of this Act prospective.

SECTION 1.34. ADOPTION OF TRANSITION PLAN. Sets forth guidelines and the timeline for the development and adoption of a substitute care services transition plan.

SECTION 1.35. SUBSTITUTE CARE SERVICES TRANSITION TASK FORCE. (a) Sets forth requirements for the substitute care services transition task force.

(b) Provides that the task force is composed of three members, appointed by certain individuals.

(c) Provides that the member appointed by the comptroller serves as the presiding officer.

(d) Requires the task force to meet at least monthly.

(e) Requires DFPS to implement recommendations or take certain steps to implement the recommendation within a specific timeframe regarding the implementation of Section 264.106 (Required Contracts for Substitute Care and Case Management Services), Family Code, as amended by this Act.

(f) Requires the task force to submit a report on at least a quarterly basis to certain legislative entities pertaining to the status of the implementation of Section 264.106, Family Code, as amended by this Act.

(g) Provides that this section expires and the task force is abolished August 31, 2008.

SECTION 1.36. Amends Section 264.1075, Family Code, as follows:

Sec. 264.1075. New heading: **ASSESSING THE NEEDS OF A CHILD.** 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 said assessment. Authorizes the procedures to include screening or participation by certain individuals.

(b) Creates subsection from existing text.

SECTION 1.37. Amends Subchapter B, Chapter 264, Family Code, by adding Section 264.1076, as follows:

Sec. 264.1076. FOSTER CARE DEVELOPMENTAL DISABILITIES ADVISORY COMMITTEE. (a) Requires the Foster Care Developmental Disabilities Advisory Committee (advisory committee) to advise DFPS on certain issues relating to the care of foster children with developmental disabilities or mental retardation.

(b) Requires the executive commissioner to determine the number of individuals who serve on the committee.

(c) Requires the executive commissioner to appoint the members of the committee and determine each member's length of service and to attempt to include certain types of people when making appointments to the committee.

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

(e) Authorizes HHSC or DFPS to pay any expenses incurred by the committee.

SECTION 1.38. Amends Subchapter B, Chapter 264, Family Code, by adding Section 264.1095, as follows:

Sec. 264.1095. CHILD SUPPORT. Requires DFPS to file suit for child support for a child for whom it has been named temporary managing conservator, unless DFPS has been assigned support rights under Section 264.109 (Assignment of Support Rights in Substitute Care Cases).

SECTION 1.39. (a) Amends Subchapter B, Chapter 264, Family Code, by adding Section 264.116, as follows:

Sec. 264.116. TEXAS FOSTER GRANDPARENTS PROGRAM. (a) Requires DFPS to work with volunteer and advocacy organizations from the community to develop and implement a statewide foster grandparents program that recruits senior citizen volunteers and encourages them to serve as mentors to children residing in a residential child-care facility.

(b) Authorizes DFPS, from funds available for that purpose, to reimburse volunteers for expenses incurred while participating in the program, including travel expenses. Requires the executive commissioner, by rule, to develop guidelines for the reimbursement of expenses under the program.

(c) Provides that a volunteer who participates in the program is subject to state and national criminal background checks in accordance with current law.

(d) Requires DFPS to require foster parents or employees of residential child-care facilities to provide appropriate supervision over volunteers during their program participation.

(e) Provides that this program is subject to Chapter 2109 (Volunteers), Government Code.

(b) Requires DFPS to implement the statewide foster grandparents program added by this section not later than June 1, 2006.

SECTION 1.40. 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 1.41. 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 1.42. 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) Provides that, to receive a grant, a community organization whose grant request is approved must execute an interagency agreement or a contract with DFPS. Provides that the contract must 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 1.43. 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.

SECTION 1.44. 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 1.45. 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 1.46. 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 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 1.47. 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 1.48. 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 1.49. Amends Section 264.506, Family Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Specifies that the review team is to meet at least quarterly to review child fatality cases.

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

SECTION 1.50. Amends Section 264.511(c), Family Code, to require the members of the review team, on a majority vote, to remove from the review team any member who discloses confidential information.

SECTION 1.51. 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 1.52. (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 administer a program to achieve certain objectives.

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

Sec. 264.753. EXPEDITED PLACEMENT. Requires DFPS 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. 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. 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.

SECTION 1.53. Amends Subtitle E, Title 5, Family Code, by adding Chapter 266, as follows:

CHAPTER 266. MEDICAL CARE FOR CHILDREN IN FOSTER CARE

Sec. 266.001. DEFINITIONS. Defines "commission" and "department."

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. 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 informed consent.

(b) Authorizes certain persons to be authorized by the court to consent to medical care for a child in foster care.

(c) Sets forth requirements for providing informed consent by DFPS or an agent of DFPS.

(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 child in foster care as provided by Subsection (b).

(e) Authorizes certain guardians to petition the court for any order related to medical care of a child in foster care that DFPS or other person believes is in the best interest of the child. Requires that notice of the petition must be given to each person entitled to notice under Section 263.301(b) (individuals entitled to at least 10 days' notice of a permanency hearing).

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

(g) Prohibits a person from being authorized to consent to medical care provided to a child in foster care unless the person has completed a DFPS-approved training program related to consenting to medical care, excepting a parent whose rights have not been terminated

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

Sec. 266.004. HEALTH PASSPORTS. (a) Requires HHSC to make available to the person authorized to consent to medical care and any provider of health care to a child in foster care the most complete health history of the child available to DFPS.

(b) Requires DFPS to develop a health passport for each child in foster care. Sets forth requirements for the contents included on the health passport.

(c) Sets forth the timeline for developing and implementing the health passport.

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

Sec. 266.005. JUDICIAL REVIEW OF MEDICAL CARE. (a) Requires the court to review a summary of the medical care provided to the child since the last hearing at each hearing under Chapter 263 (Review of Placement of Children Under Care of DFPS). Requires that the summary include certain information.

(b) Requires DFPS to provide the summary of medical care to certain individuals or entities at or before each hearing.

Sec. 266.006. OVERSIGHT OF MEDICAL CARE. (a) Requires HHSC to establish a comprehensive system of oversight of medical care provided to children in foster care.

(b) Requires the oversight system to include certain provisions.

Sec. 266.0061. 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, not 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.

SECTION 1.54. 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 1.55. 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 1.56. Amends Section 411.114(a)(2), Government Code, to make conforming changes.

SECTION 1.57. (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 1.58. 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 1.59. (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 (d), 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, in coordination with the state auditor, to perform complete on-site financial audits of selected residential contractors as necessary. Requires the state auditor to select the contractors based on certain appropriate audit selection criteria. Requires the state auditor to include findings from the on-site financial audits in the annual report required by Subsection (a). Requires, in addition, the state auditor to immediately report to the governor and each person listed in Subsection (a) any findings of fraud or other misuse of state or other contract funds.

(c) Authorizes DFPS to develop an Internet-based system enabling residential contractors to review their reimbursement accounts or other pertinent financial data and reconcile their accounts.

(d) Provides that work performed under Subsection (a) by the state auditor is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c) (auditor recommended audit plan).

(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, 2005.

SECTION 1.60. (a) Amends Section 32.055, Human Resources Code, as follows:

Sec. 32.005. CATASTROPHIC CASE MANAGEMENT. (a) Defines "medically fragile child."

(b) Creates subsection from existing text. Includes medically fragile children under the conservatorship of DFPS who are placed in foster care within individuals with catastrophic health problems who are assisted through the catastrophic case management system.

(c) Redesignated from existing Subsection (b).

(d) Redesignated from existing Subsection (c). Includes education of a foster parent, as applicable, among support services that may be provided by a case manager under the catastrophic case management system.

(e) Requires HHSC, in implementing the system for medically fragile children, to coordinate with DFPS and authorizes HHSC to contract with health care providers to provide case management services to foster children.

(f) Redesignated from Subsection (d).

(b) Requires HHSC to implement the required catastrophic case management system for medically fragile children no later than January 1, 2006.

SECTION 1.61. 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 1.62. Amends the heading of Chapter 40, Human Resources Code, to read as follows:

CHAPTER 40. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

SECTION 1.63. Amends Sections 40.001(3) and (5), Human Resources Code, to redefine "department" and "family preservation."

SECTION 1.64. 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 1.65. Amends Section 40.003, Human Resources Code, to make a conforming change.

SECTION 1.66. Amends Subchapter A, Chapter 40, Human Resources Code, by adding Section 40.009, as follows:

Sec. 40.009. **QUALITY ASSURANCE PROGRAM FOR CHILD PROTECTIVE SERVICES; QUARTERLY REPORTS.** (a) Requires DFPS to develop and implement an independent quality assurance program (program) for child protective services provided by or on behalf of DFPS.

(b) Requires the program to include periodic audits of the completeness and accuracy of certain investigatory and inspection-related reports prepared or required by DFPS.

(c) Requires an audit to be conducted in accordance with professional standards and generally recognized sampling techniques.

(d) Requires DFPS to retain the results of an audit conducted under this section until at least the fifth anniversary of the date of the audit's completion.

(e) Requires DFPS to file with certain elected officials each fiscal quarter a written report assessing the delivery of child protective services and examining

the outcomes for children and families served by child protection, foster care, and adoption programs, as well as related programs in the state.

(f) Sets forth certain requirements for the required quarterly report.

SECTION 1.67. (a) Amends Subchapter A, Chapter 40, Human Resources Code, by adding Section 40.010, as follows:

Sec. 40.010. PROTECTIVE SERVICES LEGISLATIVE OVERSIGHT COMMITTEE.

(a) Provides that the Protective Services Legislative Oversight Committee (committee) is created to facilitate the reformation of DFPS and to monitor the services of DFPS.

(b) Provides that the committee is composed of 14 members. Sets forth certain requirements for the appointment and makeup of the committee.

(c) Provides that the commissioner of DFPS (commissioner) is an ex officio member of the committee.

(d) Provides that a member of the committee serves at the pleasure of the appointing official.

(e) Requires the lieutenant governor and the speaker of the house of representatives to alternately designate a presiding officer for a term of one year from among their respective appointments.

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

(g) Requires the committee to perform certain duties in addition to those prescribed by Subsection (a).

(h) Authorizes the committees to request reports and other information from the HHSC, DFPS, and the attorney general relating to protective services in this state and other appropriate issues.

(i) Requires the committee to use existing staff of the senate and house of representatives to assist the committee in performing its duties under this section.

(j) Provides that Chapter 551 (Open Meetings), Government Code, applies to the committee.

(k) Requires the committee to report to the governor, the lieutenant governor, and the speaker of the house of representatives not later than November 15 of each even-numbered year. Sets forth certain requirements for the content of the report.

(b) Requires the speaker, the lieutenant governor and the governor to make appointments to the committee as soon as possible after the effective date of this section. Requires the lieutenant governor to designate the initial presiding officer of the committee. Requires the presiding officer to call the initial meeting of the committee as soon as possible after the committee members are appointed.

SECTION 1.68. 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 1.69. Amends the heading to Section 40.0305, Human Resources Code, to read as follows:

Sec. 40.0305. STRATEGIC USE OF TECHNOLOGY.

SECTION 1.70. Amends Sections 40.0305(a) and (d), 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.

SECTION 1.71. 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 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 Subchapter E (Investigation of Abuse, Neglect, or Exploitation in Certain Facilities), Chapter 261, Family Code, are not subject to investigation by the investigations division. Deletes existing text authorizing the board to allocate funds.

SECTION 1.72. (a) Amends Subchapter B, Chapter 40, Human Resources Code, by adding Section 40.0322, as follows:

Sec. 40.0322. 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 1.73. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Section 40.0323, as follows:

Sec. 40.0323. CASELOAD STANDARDS. Provides that, notwithstanding Section 531.048(d) (Caseload Standards), Government Code, in an ongoing manner, DFPS is encouraged to analyze and consider the appropriateness of hiring caseworkers for the children's protective services division in sufficient numbers to reduce those caseworkers' caseloads to the maximum number of active caseloads recommended for best practice by the Council of Accreditation for Child and Family Services and the Child Welfare League of America.

SECTION 1.74. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Section 40.035, as follows:

Sec. 40.035. 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 1.75. Amends Section 40.0525(c), Human Resources Code, to make a conforming change.

SECTION 1.76. 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 1.77. Amends Subchapter C, Chapter 40, Human Resources Code, by adding Section 40.0527, as follows:

Sec. 40.0527. 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 1.78. (a) Amends Section 40.058, Human Resources Code, by amending Subsections (b) and (c) and adding Subsections (b-1) and (f)-(i), as follows:

(b) Adds, if applicable, clearly defined performance standards that relate directly to the quality of care provided to residents of foster care facilities to the list of information required to be included in a contract for the purchase of program-related client services. Makes nonsubstantive changes.

(b-1) Requires a contract for the purchase of substitute care services, as defined by Section 264.106 (Required Contracts for Substitute Care and Case Management Services), Family Code, to be procured using certain procedures.

(c) Adds review of each foster care services contract and evaluation of the contract for compliance with the performance standards of the contract to the required monitoring activities of DFPS.

(f) Requires DFPS to terminate a contract with a foster care services provider if the contractor does not meet certain performance standards. Prohibits DFPS from awarding or renewing a foster care services contract with a contractor not meeting those performance standards.

(g) Requires HHSC to create a foster care performance team (team) to develop performance criteria for foster care services contracts. Requires the team to include certain individuals and experts. Requires the team to develop clearly defined and measurable standards for foster care services contracts that directly relate to factors within the control of the providers. Requires DFPS to adopt the clearly defined performance standards for inclusion in foster care services contracts as developed and recommended by the team. Requires the team to develop performance standards that provide measurable criteria for identification of certain foster care services providers that are not providing quality care, should not receive additional contracts, and whose contracts should be revoked.

(h) Requires HHSC to create an alternative payment plan in all foster care services contracts encouraging the reduction of the period that children are in intensive levels of care. Provides that the payment plan must provide several alternative payment mechanisms to encourage foster care services contractors to improve the quality of care, encourage efficient use of funding, or reduce the period of intensive care for children under program-related client services contracts for foster care. Prohibits the payment plan from being designed in a manner that encourages or requires a reduction in the level of care provided to medically fragile children, children with significant developmental disabilities, or other children with chronic conditions that require a constant level of care.

(i) Requires a contract for the provision of foster care services to contain a provision requiring DFPS's contract management employees to make periodic unannounced visits to the contractor's facilities in accordance with HHSC rules and to report their findings to HHSC.

(b) Makes application of the changes to this section prospective.

SECTION 1.79. (a) Amends Subchapter C, Chapter 40, Human Resources Code, by adding Section 40.071, as follows:

Sec. 40.071. MISSING CHILDREN WEBSITE. Requires DFPS to develop and implement certain information relating to any child in the foster care system who has been reported missing on the DFPS website. Authorizes DFPS to display other relevant information to efforts in locating and ensuring the safety of the child.

(b) Provides that, notwithstanding any other law, information required to be provided under this section is public information.

(c) Requires DFPS to regularly update the website.

(b) Requires the executive commissioner to adopt rules and establish standards, policies, and procedures to implement and administer Section 40.071, Human Resources Code, no later than January 1, 2006

SECTION 1.80. Amends Section 42.002, Human Resources Code, by adding Subdivision (18), to define "controlling person" and Subdivision (19) to define "residential child-care facility."

SECTION 1.81. Amends Sections 42.021(b) and (d), Human Resources Code, as follows:

(b) Requires the commissioner, rather than the executive director of DFPS, 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 1.82. 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. Makes a conforming change.

SECTION 1.83. (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 1.84. (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 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 1.85. 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 1.86. Amends Section 42.0441, Human Resources Code, as follows:

Sec. 42.0441. New heading: INSPECTION RESULTS AND EXIT CONFERENCE.

(a) Creates subsection from existing text. Requires the inspector, rather than the authorized representative of DFPS, to review the results of the monitoring inspection with a representative of the facility immediately after completing the inspection.

(b) Requires the inspector, immediately after completing a monitoring inspection, to hold an exit conference with a representative of the facility. Requires the inspector to provide certain items to the representative.

(c) Requires an inspector to provide the representative an opportunity to respond to the violations discovered during the inspection.

(d) Requires the inspector to hold another exit conference if the inspector finds additional violations in a subsequent inspection of the residential child-care facility.

SECTION 1.87. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.04411, as follows:

Sec. 42.04411. INFORMAL DISPUTE RESOLUTION. (a) Requires the executive commissioner, by rule, to establish an informal dispute resolution process under which a disinterested individual is authorized to resolve a dispute between the department and a

residential child-care facility regarding a proceeding under this chapter. Requires the process to be composed of certain elements.

(b) Requires the executive commissioner to adopt rules to resolve disputes under the informal dispute resolution process. Sets forth requirements for rules.

(c) Prohibits HHSC from delegating the responsibility to administer the informal dispute resolution process to another state agency.

SECTION 1.88. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.04431, as follows:

Sec. 42.04431. RESIDENTIAL CHILD-CARE INSPECTION INFORMATION DATABASE. (a) Requires DFPS to establish a computerized database containing inspection information on residential child-care facilities and child placing agencies inspected under Section 42.044.

(b) Sets forth requirements for making the information collected by DFPS available to other state entities.

(c) Requires DFPS to categorize information regarding violations of minimum standards collected under this section in a certain manner.

(d) Requires DFPS to use the information to meet certain objectives.

SECTION 1.89. Amends Section 42.046, Human Resources Code, by amending Subsection (c) and adding Subsection (e), as follows:

(c) Requires DFPS to investigate an applicant and the plan of care for children after receiving an application for a license to operate a residential child-care facility. Requires DFPS to require the applicant to provide certain information as part of the investigation

(e) Authorizes DFPS to deny an application under certain circumstances.

SECTION 1.90. 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 1.91. 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 1.92. Amends Section 42.054(b), Human Resources Code, to make conforming changes.

SECTION 1.93. (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) Requires DFPS to provide the results of a background or criminal history check conducted under this section regarding a prospective employee to a director, owner, or operator of a residential child-care 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 1.94. (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. Provides that the policy must be designed to ensure the safety of resident children through appropriate drug testing of employees while protecting the rights of employees. Provides that the model policy must require random, unannounced drug testing and at least one scheduled drug test each year of each employee who has direct contact with a resident child in the residential child-care facility.

(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 1.95. (a) Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.061, as follows:

Sec. 42.061. RISK ASSESSMENT. (a) Requires DFPS to perform a risk assessment of any employee or volunteer at a residential child-care facility who has been convicted of a

crime, before the individual is allowed access to a child in the facility. Requires DFPS to perform a similar risk assessment of a person who is at least 14 years of age and who will regularly or frequently be staying at the facility while children are being provided care.

(b) Requires the executive commissioner, by rule, to develop and maintain risk assessment criteria to ensure the safety and well-being of a child's physical or mental health or welfare.

(b) Requires the executive commissioner of HHSC to adopt rules required by Section 42.061, Human Resources Code, as added by this section no later than January 1, 2006.

SECTION 1.96. 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(c-1) or who has been denied a license under Section 42.046 (Application for License, Listing, or Registration).

SECTION 1.97. 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 must be provided.

SECTION 1.98. (a) Amends Section 42.0705, Human Resources Code, to require the executive commissioner, by rule, to establish gradations of penalties in accordance with the relative seriousness of the violation. Requires the rules to prescribe the violations or number of violations that will result in automatic revocation of a facility's license, certification, or registration. Requires DFPS, in determining the penalty to impose, to consider any matter that justice may require, including certain pertinent information. Makes nonsubstantive changes.

(b) Requires the executive commissioner of HHSC, not later than December 31, 2005, to establish the gradations of penalties requires under Section 42.0705, Human Resources Code, as amended by this section.

SECTION 1.99. Amends Section 42.072, Human Resources Code, by adding Subsection (c-1), to require DFPS, notwithstanding Subsection (c), to refuse to issue a license or certification for the operation of a residential child-care facility to a person who previously held more than 20 percent ownership interest in or served as an officer, director, board member, or administrator of a residential child-care facility at the time of the occurrence of conduct resulting in certain licensure loss or revocation or closure of the facility.

SECTION 1.100. 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 an residential child-care facility is valid for 30 days after the effective date of the order.

SECTION 1.101. 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 1.102. (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 DFPS, 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 1.103. 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 1.104. 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 1.105 (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 1.106 (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 this section prospective.

SECTION 1.107. (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 1.108. 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 1.109. (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 1.110. 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 1.111. (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.

(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 1.112. 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 1.113. 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 1.114. 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 1.115. Amends Article 56.01(3), Code of Criminal Procedure, to redefine "victim."

SECTION 1.116. (a) Amends Section 22.04, Penal Code, by amending Subsection (b), (c), (d), (e), (f) , and (g) and adding Subsection (a-1), 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 1.117. AT-RISK PREVENTION SERVICES TASK FORCE. (a) Defines "department," "executive commissioner," "prevention service," and "task force."

(b) Provides that the at-risk prevention services task force (task force) is established to create a strategic plan to improve the availability and provision of prevention services in this state.

(c) Provides that the task force is composed of seven members appointed by the governor.

(d) Requires each member of the task force to have demonstrated experience in the prevention of child abuse or neglect and juvenile crime.

(e) Requires the task force to take certain steps pertaining to prevention services in the state.

(f) Requires DFPS, to the extent that money is appropriated for this purpose, to establish and administer a child abuse and neglect prevention grant program that addresses gaps and strategies recommended by the task force. Requires the grant program to fund evidence-based programs offered by community-based or county organizations that are designed to prevent or ameliorate child abuse and neglect. Requires the task force to advise DFPS in the evaluation of the evidence-based abuse and neglect prevention programs to determine the continued effectiveness of the programs.

(g) Requires DFPS to provide administrative support and services to the task force.

(h) Requires the task force, not later than September 1, 2006, to present DFPS and the executive commissioner of HHSC (executive commissioner) with a strategic plan that would result in the extension of prevention services to more at-risk families in Texas.

(i) Requires the executive commissioner, not later than the 90th day after the date on which the task force presents the strategic plan, to submit to certain individuals a written report concerning the strategic plan of the task force. Requires the report to include certain recommendations pertaining to implementation of and modifications to the strategic plan.

(j) Provides that this section expires and the task force is abolished June 1, 2007.

SECTION 1.118. THINK TANK MEETING ON CHILD ABUSE AND NEGLECT INVESTIGATIONS. Requires DFPS, not later than January 1, 2006, to conduct a meeting with DFPS employees and law enforcement professionals responsible for investigating reports of child abuse and neglect to explore certain standards relating to training and investigation protocols and coordination.

SECTION 1.119. CASEWORKER FUNCTION STUDY. (a) Requires DFPS to conduct a study on the merits of revising the functions performed by DFPS caseworkers. Requires DFPS to explore the benefits of using one caseworker to coordinate efforts on the behalf of the child and the child's parents.

(b) Requires DFPS to report the results of the study conducted under Subsection (a) of this section to the lieutenant governor and the speaker of the house of representatives not later than January 1, 2006.

SECTION 1.120. USE OF LOCAL CASEWORKERS. Requires DFPS to consider using a caseworker from the region in which a child is placed to conduct home visits for the child, if DFPS places a child in a home located in a different administrative region than the child's caseworker.

SECTION 1.121. Repealers in the Human Resources Code: Section 40.001(1) (defining "board"); Section 40.028 (General Duties of the Board; Delegation); Section 40.029 (Rules); Section 40.0305(b),(c), and (e) (pertaining to the Strategic Technology Steering Committee); and Section 43.010(c) (License Revocation, Suspension, or Refusal; Reprimand or Probation).

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 and to immediately notify the appropriate law enforcement agency upon making a determination that criminal conduct may have occurred. Requires DFPS, not later than the 30th day after the date a law enforcement agency is notified by an investigator, to, if feasible, provide the unit information regarding the disposition of the agency's investigation of the conduct that was the subject of the notice.

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

Sec. 40.0323. QUALIFICATIONS FOR ADULT PROTECTIVE SERVICES PERSONNEL. (a) Requires the commissioner, in hiring department 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 an incentive program to encourage each department employee whose duties include the duties described by Subsection (a) to obtain professional credential described by that subsection if the employee does not have those credentials.

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 Section 48.002(a)(4), Human Resources Code, to redefine "neglect."

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.

(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 DFPS 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 self-neglect, mental health, or 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) Amends Subchapter D, Chapter 48, Human Resources Code, by adding Section 48.1521, as follows:

Sec. 48.1521. INVESTIGATION OF COMPLEX CASES. (a) Defines "local aging and disabled authority."

(b) 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 self-neglect, mental health, or financial exploitation.

(c) Requires each local aging and disabled authority to appoint individuals to serve as standing members of a special task unit to monitor cases that arise in the authority's local service region and require monitoring as provided by Subsection (b). Sets forth certain requirements for the individuals to comprise the standing members of each special task unit.

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

(e) Requires DFPS to develop and make available to each local aging and disabled authority a manual to assist the authority in establishing and operating the special task unit required by this section. Sets forth certain requirements for the manual.

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

(c) Requires DFPS to develop the manual required by Section 48.1521(d), Human Resources Code, as added by Subsection (a) of this section, or Section 48.1521(e), Human Resources Code, as added by Subsection (b) 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.

(d) Provides that Section 48.1521, Human Resources Code, as added by Subsection (a) of this section takes effect only if neither Senate Bill 194 nor House Bill 470, as proposed by the 79th Legislature, Regular Session, 2005, relating to the local delivery of aging, disability, behavioral health, and mental retardation services, is enacted and becomes law. If Senate Bill 194 or House Bill 470 is enacted and becomes law, Subsection (a) of this section has no effect and Section 48.1521, Human Resources Code, as added by Subsection (b) of this section, takes effect. If neither bill is enacted or becomes law, Subsection (b) of this section has no effect.

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

Sec. 48.1522. MANAGEMENT REVIEW FOLLOWING CERTAIN INVESTIGATIONS. Requires the adult protective services supervisor to take certain steps if DFPS receives an 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 2.12. Amends Subchapter D, Chapter 48, Human Resources Code, by adding Section 48.158, as follows:

Sec. 48.158. STATUS REPORT OF INVESTIGATION. (a) Requires DFPS, notwithstanding any other law, on written request, to provide to a person who makes a report of alleged abuse, neglect, or exploitation under Section 48.051(a) information on the status of the investigation conducted with respect to the report, unless DFPS determines that providing the information would jeopardize the investigation or endanger the safety or welfare of the person who is the subject of the report.

(b) Requires information provided under Subsection (a) to include information relating to whether DFPS is providing protective services to the person.

(c) Requires the information provided under Subsection (a) to include information relating to whether protective services are being provided to the person who was the subject of the report.

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. (a) 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.

(b) Requires DFPS to ensure that an internal review of a completed investigation is conducted before the investigation is closed or before the case results in the delivery of protective services.

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 DFPS 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 Subchapter E, Chapter 48, Human Resources Code, by adding Section 48.2055, as follows:

Sec. 48.2055. TEMPORARY EMERGENCY SHELTERS. (a) Requires DFPS, in conjunction with the Department of Aging and Disability Services (DADS) and the Department of State Health Services (DSHS), to develop and implement a program to provide temporary shelter to an elderly or disabled individual for whom DFPS obtains an emergency order requiring that the person be moved to safer surroundings.

(b) Requires DFPS, DADS, and DSHS to enter into a memorandum of understanding to clearly define the responsibilities of each agency under this section.

(c) Prohibits temporary emergency shelter from being provided for more than 30 days and requires it to be provided in a community-based facility that is the least restrictive environment, if possible.

(d) Requires DFPS, if temporary emergency shelter is not available in a least restrictive community-based setting, and the individual is placed in certain other institutional shelter, to ensure that the individual is evaluated for community based services through DADS to enable the person to leave the institution and receive community-based services.

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

SECTION 2.11. Amends Section 48.208, Human Resources Code, by amending Subsections (c) and (e) and adding Subsections (c-1), (c-2), and (c-3), as follows:

(c) Requires the required medical report be signed by certain medical professionals, subject to Subsection (c-3), to contain information required by Subsection (c-1), rather than specifically stating that the person is suffering from abuse, neglect, or exploitation presenting a threat to physical safety and stating that the person is physically or mentally

incapable of consenting to services. Includes a psychological report that has been signed by a licensed psychologist or a licensed master social worker that contains information required by Subsection (c-2) in the necessary information for a petition for an emergency order to offer protective services

(c-1) Requires a medical report obtained from certain medical professionals under Subsection (c) (4) to state that the individual is reported to be suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety, is physically or mentally incapable of consenting to services and whether the individual has provided the individual's medical history to the medical professional, as applicable.

(c-2) Requires a psychological report obtained from a licensed psychologist or licensed master social worker under Subsection (c) (4) to state that the individual is reported to be suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety and is believed to be mentally incapable of consenting to services.

(c-3) Requires DFPS to determine whether a medical or psychological report required is most appropriate, considering the circumstances of the individual, and is required to obtain that report from a physician assistant, registered nurse or advanced nurse practitioner only if a physician is not available.

(e) Authorizes an emergency order to be renewed for not more than 30, rather than 14, additional days.

SECTION 2.17. Amends Chapter 48, Human Resources Code, by adding Subchapter J, as follows:

SUBCHAPTER J. OPTION FOR LOCAL PROVISION OF SERVICES

Sec. 48.451. DEFINITION. Defines "local entity."

Sec. 48.452. PRELIMINARY INFORMATION PROVIDED BY DEPARTMENT. Requires DFPS, on the request of the commissioners court of a county or the commissioners court of two or more counties that want to explore forming a cooperative for purposes of this subchapter, to provide sufficient information to the commissioners court or courts, as applicable, to enable an assessment of whether one or more functions and duties of DFPS under this chapter could be performed by the county or counties directly, through contracts with local entities, or both, in a more effective and efficient manner in which the functions and duties are performed by DFPS.

Sec.48.453. PROVISION OF SERVICES BY COUNTIES AUTHORIZED. (a) Authorizes a county or a cooperative of counties, subject to the requirements of this subchapter, to opt to perform one or more functions and duties of DFPS under this chapter if the county or counties, as applicable, determine that those functions and duties could be performed more efficiently and effectively in the manner described by Section 48.452.

(b) Sets forth functions and duties of DFPS that a county or counties may opt to perform.

(c) Requires a county or cooperative that opts to provide functions and duties described by Subsection (b) to ensure the division of certain activities.

Sec. 48.454. FORMATION OF COUNTY COOPERATIVE. Authorizes two or more counties to form a cooperative to perform the functions and duties of DFPS as authorized by Section 48.453. Sets forth certain requirements for counties to form a cooperative.

Sec. 48.455. LOCAL ADULT PROTECTIVE SERVICES PLAN. Requires the county or cooperative, before performing one or more of the DFPS functions authorized by

Section 48.453, to submit to DFPS for approval a local adult protective services plan under which the county or cooperative will assume and provide for the performance of those functions and duties.

(b) Requires a county or cooperative, if the county or cooperative intends to perform all or part of those functions and duties through contracts with local entities, to solicit and accept proposals from local entities for performing those functions and duties.

(c) Sets forth certain requirements for a local adult protective services plan required under this section.

(d) Requires DFPS to evaluate the local adult services plan submitted under Subsection (c) and, not later than the 60th day after the plan is submitted, approve or disapprove the plan in writing. Requires DFPS to take certain steps if during the 60-day period DFPS determines that additional information is needed to adequately assess the plan.

Sec. 48.456. DEPARTMENT CONTRACT WITH COUNTY OR COOPERATIVE.

(a) Requires DFPS, not later than the 30th day after the date DFPS approves a local adult protective services plan under Section 48.455, to enter into a contract with the county or cooperative, as applicable, under which the county or cooperative, either directly or through contracts with the local entities whose proposals were included in the plan, performs DFPS's functions and duties that are specified in the plan.

(b) Prohibits DFPS from paying less under the terms of a contract under this section for the performance of the functions and duties specified in the contract than DFPS would otherwise spend in directly performing those functions and duties in the county or counties included in the cooperative.

(c) Sets forth certain requirements for a contract under Subsection (a) between DFPS and a county or cooperative.

(d) Requires DFPS to ensure that, under a contract entered into with a county or cooperative under this section, DFPS's function and duties under this chapter are performed in accordance with all applicable laws. Requires DFPS to monitor and enforce the terms of the contract, including the fiscal accountability measures. Requires DFPS to include a provision in the contract that allows DFPS to terminate the contract and resume performing the functions and duties specified in the contract if, under the contract between DFPS and the county or cooperative or under a contract between the county or cooperative and a local entity, the functions and duties are not performed in accordance with all applicable laws or the terms of the local contract.

Sec. 48.457. COUNTY OR COOPERATIVE CONTRACTS WITH LOCAL ENTITIES.

(a) Authorizes a county or cooperative to contract with a local entity whose proposal was included in the county's or cooperative's local adult protective services plan to perform one or more of DFPS's functions and duties specified in the plan. Authorizes the county or cooperative to contract with any other local entity to perform one or more of those functions and duties with the department's written approval.

(b) Requires a contract under this section to require the local entity to provide the county or cooperative with information as needed to enable the county or cooperative to comply with reporting requirements. Requires the contract to specify that DFPS is authorized to monitor the local entity's performance of functions and duties specified in the contract and require the entity to cooperate with that monitoring.

Sec. 48.458. DEPARTMENT PROHIBITED FROM DIRECT PROVISION OF CERTAIN SERVICES.

Prohibits DFPS, except as provided by Section 48.456(d) and notwithstanding any other provision of this chapter, beginning on the 91st day after the

date DFPS enters into a contract with a cooperative, from directly performing the functions and duties specified in the contract. Provides that the county or cooperative and any local entities with which the county or cooperative contracts under Section 48.457 have all powers and privileges granted to and duties imposed on DFPS under this chapter with respect to those functions and duties at that time.

SECTION 2.18. (a) Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0551, as follows:

Sec. 531.0551. MEMORANDUM OF UNDERSTANDING ON SERVICES FOR CERTAIN ELDERLY OR DISABLED PERSONS NEEDING MULTIAGENCY SERVICES. (a) Defines "disabled person," "elderly person," and "protective services."

(b) Requires HHSC and each health and human services agency to adopt a joint memorandum of understanding to implement a system of local level interagency staffing groups to coordinate services for an elderly or disabled person who needs multiagency services in addition to receiving protective services from or on behalf of DFPS.

(c) Sets forth certain requirements for the memorandum.

(d) Requires the agencies that participate in the formulation of the memorandum of understanding to consult with and solicit input from advocacy and consumer groups.

(e) Requires each agency to adopt the memorandum of understanding and all its revisions. Requires each agency to review and update the memorandum by no later than the last month of each fiscal year. Requires the agencies to develop revisions as necessary to reflect major agency reorganizations or statutory changes affecting the agencies.

(f) Requires the agencies to ensure that a state-level interagency staffing group provides certain individuals with a biennial report. Sets forth certain requirements for the content of the report.

(b) Requires DFPS, HHSC, DADS, DHS, and the Department of Assistive and Rehabilitative Services to adopt a joint memorandum of understanding as prescribed by Section 531.0551, Government Code, as added by this section no later than March 1, 2006.

SECTION 2.19. Amends the heading of Section 531.055, Government Code, to read as follows:

Sec. 531.055. MEMORANDUM OF UNDERSTANDING ON SERVICES FOR CERTAIN PERSONS NEEDING MULTIAGENCY SERVICES.

SECTION 2.20. Amends Sections 531.055(a), (b), and (e), Government Code, to provide that the memorandum of understanding adopted under this section will apply to individuals, other than elderly or disabled person served through the local-level interagency staffing groups established under Section 531.0551. Makes conforming and nonsubstantive changes.

SECTION 2.21. IMPLEMENTATION MONITORING; REPORT. (a) Defines "caseload."

(b) Sets forth actions required of the Legislative Budget Board (LBB) relating to the implementation of this article.

SECTION 2.22. 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.

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 the heading to Section 48.209, Human Resources Code, to read as follows:

Sec. 48.209. SUBMISSION OF INFORMATION TO PROBATE COURT.

SECTION 3.03. Amends Sections 48.209(a), (b), and (c), Human Resources Code, as follows:

(a) Requires DFPS, at least six month before the individual's 18th birthday, to submit to the appropriate court having probate jurisdiction an information letter about a certain individual who is a minor. Requires the information letter to satisfy the requirements of Section 683A (Information Letter), Texas Probate Code. Requires DFPS, if a less restrictive alternative to guardianship is available, to pursue that alternative before submitting the information letter. Requires DFPS, on exhausting the alternative and determining that no other less restrictive alternative to guardianship is available, to inform the appropriate court that a guardianship may be necessary for the individual by submitting the letter under this section. Deletes text pertaining to Section 682 (Application; Contents) or 875 (Temporary Guardian--Procedure), Texas Probate Code, and text pertaining to applying for appointment as a guardian.

(b) Requires DFPS to submit to the appropriate court having probate jurisdiction an information letter about certain elderly or disabled individuals. Sets forth certain requirements for the information letter. Deletes text pertaining to a representative of DFPS taking the oath required by the Texas Probate Code and DFPS informing the court of an individual's willingness and ability.

(c) Provides that DFPS is not required to pay any cost or fee otherwise required by the Texas Probate Code, including a fee associate with the appointment of a guardian ad litem or an attorney ad litem. Deletes text pertaining to DFPS contracting with political subdivisions.

SECTION 3.04. Amends Section 161.071, Human Resources Code, to include serving as a last resort as the guardian or the person or estate, or both, of an incapacitated individual under Chapter XIII (Guardianship), Texas Probate Code, among the responsibilities of DADS.

SECTION 3.05. Amends Subchapter D, Chapter 161, Human Resources Code, by adding Section 161.074, as follows:

Sec. 161.074. GUARDIANSHIP AS LAST RESORT. Requires a representative of DADS to take the oath required by the Texas Probate Court on behalf of DADS if DADS is appointed guardian of the person or estate, or both, of a ward under Chapter XIII of that code.

(b) Provides that DADS is not requires to post a bond or pay any cost associated with a guardianship proceeding under the Texas Probate Code, including any fee associated with the appointment of a guardian ad litem or attorney ad litem.

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

(d) Requires DADS to review each of DADS's pending guardianship cases at least annually to determine whether a more suitable individual, including a guardianship program or private professional guardian, is willing and would be more suitable to serve as successor guardian for a ward of DADS. Requires DADS, if DADS becomes aware of any individual's willingness and ability to serve as successor guardian, to notify the court in which the guardianship is pending.

(e) Prohibits the number of wards of DADS from exceeding 1,500 at any one time.

SECTION 3.06. Amends Section 601, Texas Probate Code, by amending Subdivisions (13), (21), and (24), to redefine "guardianship program," "person," and "private professional guardian," and by adding Subdivision (12-a) to define "Guardianship Alliance Officer."

SECTION 3.07. Amends Section 625, Texas Probate Code, to prohibit the county clerk from posting any information contained in a person's case file on the Internet. Makes a nonsubstantive change.

SECTION 3.08. Amends the heading to Subpart J, Part 2, Chapter XIII, Texas Probate Code, to read as follows:

SUBPART J. LIABILITY OF GUARDIAN

SECTION 3.09. Amends the heading to Section 673, Texas Probate Code, to read as follows:

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

SECTION 3.10. 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 3.11. Amends Section 677, Texas Probate Code, by adding Subsection (f), as follows:

(f) Requires, if there is no eligible individual willing and able to serve as guardian, the court to determine whether it is in the adult individual's best interests to appoint as guardian, a guardianship program, a private professional guardian, or, as a last resort, DADS. Requires the court, before appointing DADS as guardian, to enter a specific finding that DADS is most suitable to serve as guardian and that the appointment is in the best interest of the proposed ward.

SECTION 3.12. 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 D, Chapter 111, Government Code, in the required information for an application for the appointment of a guardian.

SECTION 3.13. Amends Section 683, Texas Probate Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires, if a court has probable cause to believe that a person domiciled or found in the county in which the court is located is an incapacitated person, including receipt of an information letter about a person submitted under Section 48.4409, Human Resources Code, and the person does not have a guardian in this state, the court, except as provided by Subsection (a-1) of this section, to appoint a guardian ad litem or court investigator to investigate and file an application for the appointment of a guardian of the person or estate, or both, of the person believed to have been incapacitated.

(a-1) Authorizes the court in a county that does not have a statutory probate court, in lieu of appointing a guardian ad litem under Subsection (a) of this section, to appoint DFPS, subject to availability of funds, to investigate and file a report with the court as to whether a guardian may be necessary or whether a less restrictive alternative to guardianship might meet the needs of the proposed ward. Requires the court, if after considering the report filed under this subsection it determines that a guardianship may be necessary, to appoint as guardian ad litem, the county attorney, the district attorney, or a guardianship program, to file an application for the appointment of a suitable individual to serve as guardian for the proposed ward.

SECTION 3.14 Amends Section 684, Texas Probate Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires the court, before appointing a guardian and except as provided by Subsection (b-1) of this section, to make certain findings by a preponderance of the evidence and to include amongst these findings that the individual to be appointed guardian is eligible to act as guardian and is entitled to appointment, or, if no eligible individual entitled to appointment applies, that the individual appointed is the most suitable individual to serve as guardian for the proposed ward.

(b-1) Requires the court to make certain findings, before appointing DADS as guardian, in addition to making the findings required by Subsection (a) of this section.

SECTION 3.15. Amends Subpart A, Part 3, Chapter XIII, Texas Probate Code, by adding Sections 691 and 691A, as follows:

Sec. 691. STATE AS GUARDIAN OF LAST RESORT. (a) Prohibits the court, except as a last resort, from appointing DADS to serve as guardian of the individual or estate, or both, of an incapacitated individual.

(b) Prohibits this section from being construed to permit the appointment of a state entity other than DADS as a guardian under this chapter.

Sec. 691A. AGREEMENTS FOR APPOINTMENT AS PUBLIC GUARDIANS. (a) Authorizes a county to enter into an agreement with an individual operating a guardianship program located in the county or in an adjacent county or with a private professional guardian located in the county or an adjacent county regarding the willingness and ability of the parties to provide guardianship and related services to certain incapacitated individuals.

(b) Authorizes consideration for an agreement under Subsection (a) of this section to be monetary or in-kind.

(c) Requires the county, on execution of the agreement, to provide a copy of the agreement to the Guardianship Alliance Office (GAO) and to each of the courts having probate jurisdiction over a county participating in the agreement.

(d) Authorizes a county that enters into an agreement under Subsection (a) of this section to determine that the county or each other party may not be the individual most suitable to serve as guardian for an incapacitated individual residing in that county. Requires the county, if the court appoints DADS as guardian of last resort for that incapacitated individual, to reimburse DADS for a portion of the costs incurred in providing guardianship services to the incapacitate individual if the individual's estate is insufficient to pay for the services.

(e) Authorizes an individual, including the court, to infer that a county, by failing to enter into or submit a copy of an agreement to the court under this section, has made a determination that the state may be more suitable than the county to

provide guardianship and related services to residents of the county described by Subsection (a) of this section. Requires the county, if, as a last resort, DADS is appointed guardian of an incapacitated person residing in the county, to reimburse DADS for a portion of the costs incurred in providing guardianship services to the incapacitated individual if the individual's estate is insufficient to pay for the services.

(f) Requires the amount to be reimbursed to DADS under Subsection (d) or (e) of this section to be a reasonable amount as determined jointly by DADS and the Guardianship Alliance Office, and requires the amount to be approved by the judge of the court having jurisdiction over the guardianship proceedings. Requires reimbursements paid to DADS by a county to be paid from funds budgeted by the commissioners court of the county for that purpose.

(g) Requires DADS to deposit all amounts received from a county under Subsection (d) or (e) of this section to the credit of the guardianship services account in the general revenue fund. Authorizes money in that account to be appropriated only to DADS for the provision of guardianship services, as a last resort, to wards of DADS.

(h) Provides that a county or guardianship program that enters into an agreement under this section remains eligible to receive supplemental funds from the Guardianship Alliance Office (GAO) under Section 111.048 (Funding for Guardianship and Related Services), Government Code, to provide guardianship and related services to incapacitated individuals.

SECTION 3.16. Amends Section 693, Texas Probate Code, by adding Subsection (f) to require an order appointing DADS as guardian to specify that DADS is the most suitable individual to serve as guardian for the proposed ward and that the appointment is in the best interest of the proposed ward.

SECTION 3.17. Amends Section 695A, Texas Probate Code, by adding Subsection (a-1) and (d), 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.

(d) Authorizes DADS, or the court, on the court's own motion, if the court finds under Subsection (a-1) of this section that the proposed successor guardian for a ward is eligible to be appointed as the ward's successor guardian and that the appointment is in the ward's best interests, to file an application to appoint the guardianship program or private professional guardian as the ward's successor guardian. Requires service of notice on an application filed under this subsection to be made as directed by the court.

SECTION 3.18. 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 3.19. 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 3.20. 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 GAO, rather than 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 3.21. Amends Subpart A, Part 3, Texas Probate Code, by adding Sections 697A and 697B, as follows:

Sec. 697A. LIST OF 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 DADS is appointed to serve as guardian of last resort for one or more incapacitated individuals residing in the county, to submit annually to the county clerk certain information 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 GAO the information received under Subsection (a) of this section during the preceding year.

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

(b) Requires an individual whose certification has expired to obtain a new certification under Subchapter D, 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 GAO if the court becomes aware of an individual who is not complying with the terms of a certification issued under Subchapter D, 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 3.22. 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 3.23. 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 3.24. 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 3.25. 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 D, Chapter 111, Government Code, within the requirements for an application for the appointment of a temporary guardian. Makes a conforming change.

SECTION 3.26. Amends Title 2, Government Code, by adding Subtitle J, as follows:

SUBTITLE J. GUARDIANSHIPS

CHAPTER 111. GUARDIANSHIP ALLIANCE OFFICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. DEFINITIONS. Defines "administrative director," "board," "corporate fiduciary," "guardian," "guardianship program," "incapacitated person," "office," "Office of Court Administration," "private professional guardian," "statutory probate court," 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 office (GAO) is subject to Chapter 325(Texas Sunset Act), Government Code. Provides that, unless continued in existence as provided by that chapter, GAO is abolished and this chapter expires September 1, 2015.

[Reserves Sections 111.004-111.010 for expansion.]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 111.011. GUARDIANSHIP ALLIANCE OFFICE; ADMINISTRATIVE ATTACHMENT. (a) Provides that GAO 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. 111.012. BOARD. (a) Sets forth requirements for the composition of the Guardianship Alliance Board (board).

(b) Requires the presiding judge of the statutory probate courts to appoint certain members from the different geographical areas of the state.

(c) Authorizes the supreme court, in making appointments nominated by the governor, to reject one or more of the nominees on the list submitted by the governor and request a new list of different nominees. Authorizes the supreme court, in making appointments nominated by the commissioner of aging and disability services, to reject one or more of the nominees on the list submitted by the commissioner of aging and disability services and request a new list of different nominees.

(d) Requires an individual to have demonstrated certain types of work experience to be eligible for appointment to the board other than as a public member.

(e) Requires appointments to the board to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) Sets forth the timeline of service of members of the board. Provides that board members receive no compensation, but are entitled to reimbursement of actual and necessary expenses incurred in the performance of their duties.

(g) Requires the board to elect from among its members a presiding officer and other officers considered necessary.

(h) Requires the board to meet at least quarterly at the call of the presiding officer.

(i) Requires any action taken by the board to be approved by a majority vote of members present.

Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. Prohibits certain individuals from being eligible for appointment as public members of the board.

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 GAO.

(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 the office.

Sec. 111.015. GROUNDS 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 GAO, 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.

(c) Entitles an individual appointed to the board to reimbursement, as provided by the General Appropriations Act, for travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 111.018. USE OF TECHNOLOGY. Requires the Office of Court Administration to research and propose appropriate technological solutions to improve the board's and GAO'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 office'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 OF OFFICE. Authorizes the administrative director to hire a director and staff to perform the administrative duties of GAO.

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

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

Sec. 111.024. STRATEGIC PLAN. (a) Requires GAO to develop a comprehensive, long-range strategic plan for its operations. Requires, each even numbered year, GAO to issue a plan covering five fiscal years beginning with the next odd-numbered fiscal year.

(b) Requires the strategic plan to include measurable goals and a system of performance measures. Sets forth requirements for the goals and measures.

(c) Requires GAO, not later than December 15 of each year, to report to certain entities and individuals the performance measures included in the strategic plan under this section.

(d) Sets forth certain requirements of the administrative director in preparing the budget for the Office of Court Administration.

[Reserves Sections 111.025-111.040 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 111.041. GENERAL POWERS AND DUTIES OF OFFICE REGARDING GUARDIANSHIP MATTERS. Sets forth certain requirements of GAO.

Sec. 111.042. REGISTRY OF GUARDIANSHIP PROGRAMS. Requires GAO to establish and maintain a central registry of all guardianship programs operating in this state.

Sec. 111.043. REGISTRY OF PRIVATE PROFESSIONAL GUARDIANS. Requires GAO to establish and maintain a central registry of all private professional guardians registered with county clerks under Section 697 (Registration of Private Professional Guardians), Texas Probate Code.

Sec. 111.044. COLLECTION OF GUARDIANSHIP STATISTICS. (a) Requires the Texas Judicial Council to collect, maintain, and publish statistics by county relating to the guardianship proceedings of incapacitated persons, other than minors, in the form and manner prescribed in Section 71.035 (Statistics; Enforcement by Mandamus).

(b) Sets forth certain reporting requirements for the Texas Judicial Council.

Sec. 111.045. DIRECTORY. (a) Requires GAO to compile, in the most cost-efficient form, a directory of guardianship programs and private professional guardians operating in this state.

(b) Requires GAO to update the directory at least annually and to provide access to the directory on the Internet website of the Office of Court Administration or in another written form.

Sec. 111.046. GUARDIANSHIP RESOURCE ACCOUNT. (a) Provides that the guardianship resource account is created as a dedicated account in the general revenue fund. Authorizes money in that fund to be appropriated only to provide funding for purposes consistent with this chapter.

(b) Requires the administrative director to deposit in the guardianship resource account all funds collected for GAO or appropriated to the Office of Court Administration for the purposes of GAO.

(c) Requires GAO, each fiscal quarter, to set aside an amount of funds from the guardianship resource account sufficient to pay anticipated expenses and claims on the guardianship resource account.

Sec. 111.047. DONATIONS. Authorizes GAO to accept and solicit gifts or grants of property from public or private sources for the purposes of this chapter. Requires funds under this section to be deposited in the guardianship resource account.

Sec. 111.048. FUNDING FOR GUARDIANSHIP AND RELATED SERVICES. Requires GAO to develop and implement a plan for the distribution of state and other funds received for purposes of this chapter to guardianship programs and other providers of services that are considered alternatives to guardianship. Sets forth certain required provisions of the plan.

Sec. 111.049. INFORMATIONAL BROCHURE. (a) Requires GAO to develop and update as necessary an informational brochure describing various types of less restrictive alternatives to guardianship that are available to elderly or disabled persons. Requires certain options be included in the brochure.

(b) Require the board to prescribe the form and contents of the informational brochure.

(c) Authorizes GAO, instead of publishing the informational brochure in written form, to distribute the informational brochure to DADS for the purposes of displaying the brochure's contents on the DADS website.

[Reserves Sections 111.050-111.060 for expansion.]

SUBCHAPTER D. REGULATION OF CERTAIN GUARDIANS

Sec. 111.061. 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. 111.062. 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 GAO 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) Requires an application or other fee collected under this section to be deposited in the guardianship resource account.

Sec. 111.063. INFORMATION FROM PRIVATE PROFESSIONAL GUARDIANS. Authorizes GAO 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 111.061 or with the certification requirements of Section 111.062.

SECTION 3.27. Amends Section 118.011(a), Local Government Code, to require a county clerk to collect a fee of \$4.00, rather than \$3.00, for the first page of a Real Property Records Filing.

SECTION 3.28. Amends Section 118.013, Local Government Code, by adding Subsection (e), to require a county clerk who collects a fee under this section to deposit \$1 of the total amount of that fee to be sent to the comptroller for deposit in the guardianship resource account established under Section 111.046, Government Code.

SECTION 3.29 Amends Section 3, Texas Probate Code, by adding Subsection (nn), to define "Guardianship Alliance Office."

SECTION 3.30. Amends the heading of Chapter X, Texas Probate Code, to read as follows:

CHAPTER X. PAYMENT OF ESTATES TO GUARDIANSHIP RESOURCE
ACCOUNT

SECTION 3.31. Amends Sections 427, 430, and 431, Texas Probate Code, as follows:

Sec. 427. New heading: WHEN ESTATES TO PAID TO GUARDIANSHIP RESOURCE ACCOUNT. (a) Creates this subsection from existing text.

(b) Requires the comptroller to deposit funds received under this section to the credit of the guardianship resource account established under Section 111.046, Government Code.

Sec. 430. New heading: RECEIPT.

Sec. 431. New heading : PENALTY FOR FAILURE TO MAKE PAYMENTS.

SECTION 3.32. Amends Sections 433(a) and (c), Texas Probate Code, as follows:

(a) Makes a nonsubstantive change.

(c) Requires the plaintiff, should he establish his right to the funds claimed, to have a judgment therefore, which is required to specify the amount to which he is entitled; and a certified copy of such judgment is required to be sufficient authority for the comptroller to pay the same from the guardianship resource account established under Subchapter C, Chapter 111, Government Code. Requires the comptroller, to the extent that funds are not available in the guardianship resource account, to pay the amount to which the plaintiff is entitled from the general revenue fund until funds become available in the guardianship resource account.

SECTION 3.33. STUDY. (a) Requires GAO to conduct a study regarding the feasibility of establish and administering a pooled income trust for families of incapacitated individuals in this state.

(b) Requires GAO, not later than January 1, 2007, to report the findings and conclusions of the study to certain elected officials.

SECTION 3.34. 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. Prohibits DADS from renewing the contract.

SECTION 3.35. 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 3.36. PLAN TO TRANSFER STATE GUARDIANSHIPS TO LOCAL ENTITIES.

(a) Requires GAO, notwithstanding any other provision of this Act, to develop a plan for the transfer of certain responsibilities of DADS pertaining to guardianship to the counties.

(b) Requires, not later than November 1, 2006, GAO to submit to the 79th Legislature a report regarding the plan developed by GAO under this section. Sets forth certain requirements for the report.

SECTION 3.37. ABOLITION OF GUARDIANSHIP ADVISORY BOARD. Provides that on the effective date of this Act, the term of a member of the guardianship advisory board serving immediately before that date expires and the advisory board is abolished.

SECTION 3.38. PROPOSED RULES AND PROCEDURES. Requires, not later than March 1, 2006, the Guardianship Alliance 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 3.39. 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 Alliance Board in accordance with Chapter 111, Government Code, as added by this Act. 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 Alliance Board in accordance with Chapter 111, Government Code, as added by this Act. 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 3.40. EFFECTIVE DATE OF CERTIFICATION. Provides that a person is not required to hold a certificate issued under Subchapter D, Chapter 111, Government Code, as added by this Act, to provide or continue guardianship services to a ward before September 1, 2007.

SECTION 3.41. Repealers: Sections 48.209(d), (e), and (f) (pertaining to guardianship), Human Resources Code; and Subchapter D (Guardianship Advisory Board), Chapter 531, Government Code.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Effective date: September 1, 2005.