

By: Goodman

H.B. No. 478

A BILL TO BE ENTITLED

AN ACT

relating to the operation of the child protective services and foster care system.

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

SECTION 1. It is the intent of the legislature that the Department of Family and Protective Services privatize the provision of substitute care services statewide. While recognizing that some local governments are presently funding portions of certain substitute care services programs and may choose to expand that funding in the future, by privatizing substitute care services, the legislature does not intend to require any county, municipality, or special district to assist in funding programs that previously have been funded by the state. It is the intent of the legislature to engage community ownership and participation in protecting and serving the children and families in their community. This Act does not prohibit a county, municipality, or special district from voluntarily funding participation in substitute care services.

SECTION 2. Subtitle D, Title 2, Human Resources Code, is amended by adding Chapter 45 to read as follows:

CHAPTER 45. PRIVATIZATION OF SUBSTITUTE CARE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 45.001. DEFINITIONS. In this chapter:

(1) "Privatize" means to contract with a private

1 entity to provide certain governmental services.

2 (2) "Substitute care provider" means a child-care  
3 institution or a child-placing agency, as defined by Section  
4 42.002.

5 (3) "Substitute care services" means services  
6 provided to or for children in substitute care, including the  
7 recruitment, training, and management of foster parents, the  
8 recruitment of adoptive families, parenting classes, services  
9 related to family preservation, and case management services. The  
10 term does not include the regulation of facilities under Subchapter  
11 C, Chapter 42.

12 Sec. 45.002. PRIVATIZING SUBSTITUTE CARE SERVICES;  
13 DEPARTMENT DUTIES. (a) Not later than September 1, 2009, the  
14 department shall privatize the provision of substitute care  
15 services in this state.

16 (b) On and after September 1, 2009:

17 (1) all substitute care services for children for whom  
18 the department has been appointed temporary or permanent managing  
19 conservator must be provided by child-care institutions and  
20 child-placing agencies with which the department contracts; and

21 (2) notwithstanding any other law, the department may  
22 not directly provide those services.

23 Sec. 45.003. HIRING PREFERENCE. A substitute care provider  
24 that contracts with the department to provide substitute care  
25 services shall give a preference in hiring to qualified department  
26 employees in good standing with the department who provide  
27 substitute care services and whose positions with the department

1 may be eliminated as a result of the privatization of substitute  
2 care services.

3 [Sections 45.004-45.050 reserved for expansion]

4 SUBCHAPTER B. DEPARTMENT DUTIES

5 Sec. 45.051. REORGANIZING STAFF RESPONSIBILITIES. Not  
6 later than March 1, 2006, the department shall develop a plan for  
7 reorganizing the department's operation to support future  
8 procurement of, contracting with, and monitoring of private  
9 substitute care providers and enforcement of the licensing of  
10 facilities. The plan must include provisions for reducing the  
11 duplication of the department's program monitoring activities.

12 Sec. 45.052. CONTINUITY OF CARE. The department shall  
13 examine the benefits of using a single private agency case manager  
14 or case management team to be responsible for managing substitute  
15 care services for each child and the child's family from the date  
16 the child enters to the date the child exits the child protective  
17 services system to ensure continuity of care and expedite  
18 permanency.

19 Sec. 45.053. ALTERNATIVE FINANCING. The department shall  
20 create alternative financing and payment arrangements for  
21 substitute care service providers. In developing the alternative  
22 financing arrangement, the department shall examine:

23 (1) the use of case rates or performance-based  
24 fee-for-service contracts that include lump-sum incentive  
25 payments; and

26 (2) ways to reduce a substitute care provider's  
27 financial risk, including the use of a risk-reward corridor that

1 limits a provider's risk of loss and potential profits or the  
2 establishment of a statewide risk pool.

3 Sec. 45.054. ADOPTION OF TRANSITION PLAN. Not later than  
4 March 1, 2006, the commission and the department shall, in  
5 consultation with private entities under contract to provide  
6 substitute care services for the department, including members of  
7 the boards of directors of the private entities and other community  
8 stakeholders, develop and adopt a substitute care services  
9 transition plan consistent with the requirements of Subchapter C.  
10 The executive commissioner shall adopt rules to implement the  
11 privatization of substitute care services in this state.

12 Sec. 45.055. REGIONAL IMPLEMENTATION. (a) The department  
13 shall implement the privatization of substitute care services on a  
14 regional basis.

15 (b) The department may not implement the privatization of  
16 substitute care services in a region of the state before the  
17 department certifies in writing to the governor and the presiding  
18 officers of each house of the legislature that the nonprofit  
19 substitute care providers with whom the department has contracted  
20 are ready to provide services and assume all responsibilities  
21 transferred under the contract. In making this certification, the  
22 department must conduct a readiness assessment before implementing  
23 the privatization of substitute care services in a region.

24 [Sections 45.056-45.100 reserved for expansion]

25 SUBCHAPTER C. TRANSITION PLAN

26 Sec. 45.101. GOALS FOR PRIVATIZATION. The transition plan  
27 adopted under Section 45.054 must provide for a new structural

1 model for the community-centered delivery of substitute care  
2 services that is based on a goal of improving protective services,  
3 achieving timely permanency for children in substitute care,  
4 including family reunification, placement with a relative, or  
5 adoption, and improving the overall well-being of children in  
6 substitute care consistent with federal and state mandates.

7 Sec. 45.102. TRANSITION PLAN REQUIREMENTS. The transition  
8 plan developed by the department and the commission must:

9 (1) address the transfer of substitute care services  
10 and management functions from the department to substitute care  
11 providers;

12 (2) identify regional gaps in the types of substitute  
13 care services that are available;

14 (3) require the department to enter into contracts for  
15 the provision of substitute care services as required by Section  
16 264.106, Family Code;

17 (4) provide incentives for substitute care providers  
18 to develop new services and supports before privatizing substitute  
19 care services in a region;

20 (5) include an implementation plan to transfer all  
21 foster homes certified by the department to private child-placing  
22 agencies, ensuring minimum disruption to the children in foster  
23 care and to current foster parents;

24 (6) include a process for assessing each child who is  
25 transferred to a private nonprofit substitute care provider to  
26 verify the child's service needs;

27 (7) include a process for transferring adoption

1 services to private contract agencies as soon as parental rights  
2 are terminated in accordance with Section 264.207(b)(6), Family  
3 Code;

4 (8) describe the manner in which family services and  
5 case management services will be transferred to the substitute care  
6 providers;

7 (9) describe the manner in which the department will:

8 (A) procure and contract for kinship and family  
9 group conferencing services that are funded by the legislature; and

10 (B) incorporate those services into the  
11 privatized system of substitute care services as it is implemented;

12 (10) provide for the implementation of Sections  
13 264.1062 and 264.107, Family Code; and

14 (11) provide alternative financing and payment  
15 arrangements for substitute care service providers that:

16 (A) limit the financial risk for substitute care  
17 providers to ensure the providers' solvency;

18 (B) ensure flexibility to promote innovation and  
19 efficiency in service delivery;

20 (C) balance provider control over key decisions  
21 with the level of risk the substitute care provider assumes in the  
22 contract; and

23 (D) provide for incentives to encourage  
24 substitute care providers to expedite achieving permanency and  
25 other goals for children.

26 [Sections 45.103-45.150 reserved for expansion]

1                   SUBCHAPTER D. MISCELLANEOUS PROVISIONS

2           Sec. 45.151. EXPIRATION. This chapter expires September 1,  
3 2010.

4           SECTION 3. Section 264.106, Family Code, is amended to read  
5 as follows:

6           Sec. 264.106. REQUIRED CONTRACTS FOR SUBSTITUTE CARE  
7 SERVICES. (a) In this section:

8                   (1) "Substitute care provider" means a child-care  
9 institution or a child-placing agency, as defined by Section  
10 42.002, Human Resources Code.

11                   (2) "Substitute care services" means services  
12 provided to or for children in substitute care, including the  
13 recruitment, training, and management of foster parents, the  
14 recruitment of adoptive families, parenting classes, services  
15 related to family preservation, and case management services. The  
16 term does not include the regulation of facilities under Subchapter  
17 C, Chapter 42, Human Resources Code.

18           (b) The department shall:

19                   (1) assess the need for substitute care services  
20 throughout the state; and

21                   (2) contract with nonprofit agencies as part of  
22 regional community-centered networks [~~substitute care providers~~  
23 ~~only to the extent necessary to meet the need~~] for the provision of  
24 all necessary substitute care [~~these~~] services.

25           ~~[(b) Before contracting with a substitute care provider,~~  
26 ~~the department shall determine whether:~~

27                   ~~[(1) community resources are available to support~~

1 ~~children placed under the provider's care; and~~

2 ~~(2) the appropriate public school district has~~  
3 ~~sufficient resources to support children placed under the~~  
4 ~~provider's care if the children will attend public school.]~~

5 (c) In addition to the requirements of Section 40.058(b),  
6 Human Resources Code, a contract with a substitute care provider  
7 must include provisions that:

8 (1) enable the department to monitor the effectiveness  
9 of the provider's services; ~~and~~

10 (2) specify performance outcomes; and

11 (3) authorize the department to terminate the contract  
12 or impose sanctions for a violation of a provision of the contract  
13 that specifies performance criteria.

14 (d) In determining whether to contract with a substitute  
15 care provider, the department shall consider the provider's  
16 performance under any previous contract for substitute care  
17 services between the department and the provider.

18 (e) In consultation with the department, the executive  
19 commissioner of the Health and Human Services Commission, by rule,  
20 shall establish contracting guidelines for the department under  
21 this section designed to prevent potential conflicts of interest  
22 between the department and nonprofit agencies that contract with  
23 the department under this section.

24 (f) The department shall ensure that small and specialized  
25 providers are provided an equal opportunity to contract with the  
26 department to provide substitute care services.

27 (g) A contract under this section does not affect the rights



1 and duties of the department in the department's capacity as the  
2 temporary or permanent managing conservator of a child.

3 (h) Notwithstanding any other law, on and after September 1,  
4 2009, the department may not directly provide substitute care  
5 services for children for whom the department has been appointed  
6 temporary or permanent managing conservator.

7 ~~[In this section, "substitute care provider" means a person~~  
8 ~~who provides residential care for children for 24 hours a day,~~  
9 ~~including:~~

10 ~~[(1) a child-care institution, as defined by Section~~  
11 ~~42.002, Human Resources Code;~~

12 ~~[(2) a child-placing agency, as defined by Section~~  
13 ~~42.002, Human Resources Code;~~

14 ~~[(3) a foster group home or foster family home, as~~  
15 ~~defined by Section 42.002, Human Resources Code; and~~

16 ~~[(4) an agency group home or agency home, as defined by~~  
17 ~~Section 42.002, Human Resources Code, other than an agency group~~  
18 ~~home, agency home, or a foster home verified or certified by the~~  
19 ~~department.]~~

20 SECTION 4. Subchapter B, Chapter 264, Family Code, is  
21 amended by adding Section 264.1062 to read as follows:

22 Sec. 264.1062. MONITORING PERFORMANCE OF SUBSTITUTE CARE  
23 PROVIDERS. (a) The department, in consultation with private  
24 entities under contract to provide substitute care services, shall  
25 establish a quality assurance program that uses comprehensive,  
26 multitiered assurance and improvement systems based on real-time  
27 data to evaluate performance.

1       (b) The contract performance outcomes specified in a  
2 contract under Section 264.106 must be consistent with the fiscal  
3 goals of privatizing substitute care services and must be within  
4 the contractor's authority to deliver. The contract must clearly  
5 define the manner in which the substitute care provider's  
6 performance will be measured and identify the information sources  
7 the department will use to evaluate the performance.

8       SECTION 5. Section 264.107, Family Code, is amended by  
9 adding Subsections (c)-(f) to read as follows:

10       (c) The department shall require the use of real-time  
11 technology in the placement system to screen possible placement  
12 options for a child and match the child's needs with the most  
13 qualified providers with vacancies.

14       (d) The department shall institute a quality assistance  
15 system to ensure that placement decisions are reliable and are made  
16 in a consistent manner.

17       (e) In making placement decisions, the department shall  
18 consider the recommendations of clinically qualified professionals  
19 who have knowledge of the provider network.

20       (f) The department shall create regional advisory councils  
21 to assist the department in:

22               (1) assessing the need for resources in the region;  
23 and

24               (2) locating substitute care services in the region  
25 for hard to place children.

26       SECTION 6. Section 264.109(c), Family Code, is amended to  
27 read as follows:

1 (c) The department and the Title IV-D agency shall execute a  
2 memorandum of understanding for the implementation of the  
3 provisions of this section and for the allocation to [~~between~~] the  
4 department [~~and the agency~~], consistent with federal laws and  
5 regulations, of any child support funds recovered by the Title IV-D  
6 agency in substitute care cases. All child support funds recovered  
7 under this section and retained by the department [~~or the Title IV-D~~  
8 ~~agency~~] and any federal matching or incentive funds resulting from  
9 child support collection efforts in substitute care cases shall be  
10 in excess of amounts otherwise appropriated to [~~either~~] the  
11 department [~~or the Title IV-D agency~~] by the legislature.

12 SECTION 7. Subchapter B, Chapter 264, Family Code, is  
13 amended by adding Section 264.1095 to read as follows:

14 Sec. 264.1095. CHILD SUPPORT. Unless the department has  
15 been assigned support rights under Section 264.109, the department  
16 shall file suit for child support under Section 154.001(b) for a  
17 child for whom the department has been named temporary managing  
18 conservator.

19 SECTION 8. Section 264.113(b), Family Code, is amended to  
20 read as follows:

21 (b) The department shall encourage private substitute care  
22 providers [~~develop a program~~] to recruit and retain foster parents  
23 from faith-based organizations. As part of the program, the  
24 substitute care provider [~~department~~] shall:

25 (1) collaborate with faith-based organizations to  
26 inform prospective foster parents about the [~~department's~~] need for  
27 foster parents, the requirements for becoming a foster parent, and

1 any other aspect of the foster care program that is necessary to  
2 recruit foster parents;

3 (2) provide training for prospective foster parents  
4 recruited under this section; and

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

8 SECTION 9. Subchapter B, Chapter 264, Family Code, is  
9 amended by adding Section 264.117 to read as follows:

10 Sec. 264.117. MEDICAL PASSPORT. (a) The department shall  
11 develop a medical passport for each foster child. The passport must  
12 include the child's complete medication, medical, and therapy  
13 history, including:

14 (1) immunization history;

15 (2) known medical conditions and allergies or other  
16 special health needs;

17 (3) dates of well-baby checks and child physicals;

18 (4) medications prescribed; and

19 (5) the name of the child's primary care physician.

20 (b) The child or the child's caretaker shall present the  
21 passport during each physician or therapist visit to ensure that  
22 the physician or therapist has a complete record of the child's  
23 medical treatment.

24 (c) The passport shall be part of the department's record  
25 for the child as long as the child remains in foster care. The  
26 passport shall remain with the child as the child changes  
27 placements, physicians, or therapists.

1           (d) The department shall develop a procedure for  
2 maintaining and updating medical passports.

3           (e) The department shall work with stakeholder groups to  
4 create the medical passport.

5           SECTION 10. Section 264.207(b), Family Code, is amended to  
6 read as follows:

7           (b) To accomplish the goals stated in Subsection (a), the  
8 department shall:

9                   (1) establish time frames for the initial screening of  
10 families seeking to adopt children;

11                   (2) provide for the evaluation of the effectiveness of  
12 the department's management-level employees in expeditiously  
13 making permanent placements for children;

14                   (3) establish, as feasible, comprehensive assessment  
15 services in various locations in the state to determine the needs of  
16 children and families served by the department;

17                   (4) emphasize and centralize the monitoring and  
18 promoting of the permanent placement of children receiving  
19 department services;

20                   (5) establish goals and performance measures in the  
21 permanent placement of children;

22                   (6) immediately seek private licensed child-placing  
23 agencies to place a child in the department's managing  
24 conservatorship if the goal of the child's permanency plan is for  
25 the child to be adopted [~~who has been available for permanent~~  
26 ~~placement for more than 90 days~~];

27                   (7) provide information to private licensed

1 child-placing agencies concerning children under Subdivision (6);

2 (8) provide incentives for a private licensed  
3 child-placing agency that places a child, as defined by Section  
4 162.301, under Subdivision (6);

5 (9) encourage foster parents to be approved by the  
6 department as both foster parents and adoptive parents; and

7 (10) [~~address failures by the department's service~~  
8 ~~regions in making permanent placements for children in a reasonable~~  
9 ~~time; and~~

10 [~~(11)~~] require the department's service regions to  
11 participate in the Texas Adoption Resources Exchange.

12 SECTION 11. Section 42.002, Human Resources Code, is  
13 amended by adding Subdivision (18) to read as follows:

14 (18) "Residential child-care facility" means a  
15 facility licensed or certified by the department to provide  
16 assessment, care, training, education, custody, treatment, or  
17 supervision for a child who is not related by blood, marriage, or  
18 adoption to the owner or operator of the facility, for all of the  
19 24-hour day, whether or not the facility is operated for profit or  
20 charges for the services it offers. The term includes child-care  
21 institutions, foster group homes, foster homes, agency foster group  
22 homes, and agency foster homes.

23 SECTION 12. Section 42.023(b), Human Resources Code, is  
24 amended to read as follows:

25 (b) The annual report shall include:

26 (1) a report by regions of applications for licensure  
27 or certification, of provisional licenses issued, denied, or

1 revoked, of licenses issued, denied, suspended or revoked, of  
2 emergency closures and injunctions, and of the compliance of  
3 state-operated agencies, if such agencies exist, with  
4 certification requirements;

5 (2) a summary of the training programs required under  
6 Section 42.04412 and their effectiveness [~~amount and kind of~~  
7 ~~in-service training and other professional development~~  
8 ~~opportunities provided for department staff~~];

9 (3) a summary of training and other professional  
10 development opportunities offered to facilities' staffs; [~~and~~]

11 (4) a report of new administrative procedures, of the  
12 number of staff and staff changes, and of plans for the coming year;  
13 and

14 (5) a report of trends in licensing violations on a  
15 statewide and regional basis and any department plans to address  
16 those trends through the provision of technical assistance.

17 SECTION 13. Subchapter B, Chapter 42, Human Resources Code,  
18 is amended by adding Section 42.025 to read as follows:

19 Sec. 42.025. STATE ADVISORY COMMITTEE ON LICENSING. (a)  
20 The executive commissioner shall establish a State Advisory  
21 Committee on Licensing.

22 (b) The advisory committee shall be composed of members from  
23 the public and private sectors, including:

24 (1) representatives of each type of licensed  
25 residential child-care facility;

26 (2) a department employee who performs functions  
27 relating to licensing; and

1           (3) a representative of the community.

2           (c) The department shall provide staff necessary for the  
3 advisory committee.

4           (d) The advisory committee shall meet at least annually.

5           (e) The advisory committee shall receive and review the  
6 annual report required under Section 42.023 and make  
7 recommendations to the department with respect to:

8           (1) improving consistency in the enforcement of  
9 licensing requirements;

10           (2) the provision of advanced training;

11           (3) the revision of licensing standards; and

12           (4) technical assistance necessary to improve the  
13 quality of care based on the information reported regarding  
14 violations of licensing standards.

15           (f) Chapter 2110, Government Code, does not apply to the  
16 committee.

17           SECTION 14. (a) Section 42.042, Human Resources Code, is  
18 amended by adding Subsections (d-1), (h-1), (h-2), and (q) to read  
19 as follows:

20           (d-1) The department shall provide a standard inspection  
21 checklist and other forms for use in conducting inspections of  
22 residential child-care facilities and issuing inspection reports.

23           (h-1) The department shall evaluate minimum standards for  
24 residential child-care facilities and child-placing agencies  
25 promulgated under this section and shall:

26           (1) classify each minimum standard as:

27                   (A) an immediate health and safety issue;



1           (B) a procedural issue; or

2           (C) an administrative function; and

3           (2) assign a priority designation to each standard  
4 within a classification that identifies the degree of risk that the  
5 issue that is the subject of the standard presents to a child's  
6 health and safety.

7           (h-2) In developing a methodology to classify and assign  
8 risk designations to minimum standards under Subsection (h-1), the  
9 department shall:

10           (1) consult with a committee appointed by the  
11 executive commissioner and composed of representatives of public  
12 and private entities; and

13           (2) test any potential methodology for accuracy when  
14 applied to the state's licensing standards.

15           (g) The executive commissioner shall require residential  
16 child-care facilities and child-placing agencies to immediately  
17 report to the department when the facility or agency determines  
18 that a child is missing or if there is a serious incident involving  
19 a child, including death or serious injury, abuse or neglect, or  
20 arrest or truancy.

21           (b) Not later than September 1, 2006, the Department of  
22 Family and Protective Services shall:

23           (1) develop the methodology for a classification and  
24 risk-analysis system in accordance with Sections 42.042(h-1) and  
25 (h-2), Human Resources Code, as added by this section; and

26           (2) classify and assign priority designations to each  
27 minimum standard described by Section 42.042(h-1), Human Resources

1 Code, as added by this section.

2 SECTION 15. The section heading to Section 42.0441, Human  
3 Resources Code, is amended to read as follows:

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

6 SECTION 16. Subchapter C, Chapter 42, Human Resources Code,  
7 is amended by adding Section 42.04411 to read as follows:

8 Sec. 42.04411. INSPECTION RESULTS AND EXIT CONFERENCE FOR  
9 RESIDENTIAL CHILD-CARE FACILITIES. (a) On completion of an  
10 inspection of a residential child-care facility under Section  
11 42.044, the inspector shall hold an exit conference with a  
12 representative of the inspected facility. The inspector shall  
13 provide to the representative:

14 (1) a copy of the inspection checklist used by the  
15 inspector; and

16 (2) a list of violations discovered during the  
17 inspection that includes specific references to the minimum  
18 standards related to the violations and the level of risk assigned  
19 to those standards in accordance with Section 42.042(h-1).

20 (b) The inspector shall provide the representative an  
21 opportunity to respond to the violations discovered during the  
22 inspection.

23 (c) If, after holding an exit conference, the inspector  
24 finds additional violations in a subsequent inspection, the  
25 inspector shall conduct another exit conference to provide the  
26 information required by Subsection (a) with respect to the  
27 additional violations.

1 SECTION 17. (a) Subchapter C, Chapter 42, Human Resources  
2 Code, is amended by adding Section 42.04412 to read as follows:

3 Sec. 42.04412. QUALIFICATIONS AND TRAINING FOR CERTAIN  
4 INSPECTORS AND INVESTIGATORS; EXAMINATION. (a) The department  
5 shall use qualified individuals to inspect residential child-care  
6 facilities and conduct investigations of those facilities under  
7 this chapter. An individual is qualified to serve as an inspector  
8 or investigator if the individual:

9 (1) holds at least a master's degree or has at least  
10 three years of relevant work experience; and

11 (2) passes the examination required by Subsection (b)  
12 to be administered after completion of training.

13 (b) The department shall develop and administer  
14 competency-based examinations for department employees who inspect  
15 residential child-care facilities or conduct investigations of  
16 those facilities under this chapter. The department shall  
17 administer one examination to each employee before the employee  
18 begins a training program under Subsection (c) and another  
19 examination after the employee completes the training program.

20 (c) The department shall develop and administer training  
21 programs to provide appropriate competency-based training to  
22 department employees who inspect residential child-care facilities  
23 or conduct investigations of those facilities under this chapter.

24 (d) Annually, the department shall evaluate and determine  
25 the effectiveness of the training programs required under  
26 Subsection (c) in providing consistent training on the  
27 interpretation and enforcement of licensing standards for

1 residential child-care facilities. In conducting the evaluation,  
2 the department shall determine the number of residential child-care  
3 facility licensing violations identified throughout the state and,  
4 based on that information, identify any regional discrepancies in  
5 licensing enforcement.

6 (b) Not later than January 1, 2006, the Department of Family  
7 and Protective Services shall develop and begin administering the  
8 examinations and training programs for inspectors and  
9 investigators required by Section 42.04412, Human Resources Code,  
10 as added by this section.

11 (c) The qualifications listed under Section 42.04412(a),  
12 Human Resources Code, as added by this section, apply to an employee  
13 of the Department of Family and Protective Services who conducts an  
14 inspection or investigation of a residential child-care facility on  
15 or after March 1, 2006.

16 SECTION 18. Section 42.046(c), Human Resources Code, is  
17 amended to read as follows:

18 (c) After receiving an application, the department shall  
19 investigate the applicant and the plan of care for children, if  
20 applicable. As part of the investigation, the department shall  
21 require the applicant to provide information about the applicant's  
22 compliance history with the regulatory requirements in any other  
23 state in which the applicant provides or provided similar services.  
24 The department shall verify the compliance history of each  
25 applicant.

26 SECTION 19. Subchapter C, Chapter 42, Human Resources Code,  
27 is amended by adding Section 42.062 to read as follows:

1       Sec. 42.062. CERTAIN EMPLOYMENT PROHIBITED. A residential  
2 child-care facility may not employ in any capacity a person who is  
3 not eligible to receive a license or certification for the  
4 operation of a residential child-care facility under Section  
5 42.072(c-1).

6       SECTION 20. Section 42.072, Human Resources Code, is  
7 amended by adding Subsection (c-1) to read as follows:

8       (c-1) Notwithstanding Subsection (c), the department may  
9 not, before the fifth anniversary of the date the revocation took  
10 effect, issue a license or certification for the operation of a  
11 residential child-care facility to a person who previously operated  
12 or served as an officer, director, or board member of a residential  
13 child-care facility at the time of the occurrence of conduct that  
14 resulted in the license or certification of the facility being  
15 revoked by the department or by court order.

16       SECTION 21. (a) Chapter 97, Civil Practice and Remedies  
17 Code, is amended by adding Section 97.003 to read as follows:

18       Sec. 97.003. LIMIT ON LIABILITY OF CERTAIN ORGANIZATIONS  
19 PROVIDING CHILD WELFARE SERVICES. (a) In an action on a liability  
20 claim in which a final judgment is rendered against a nonprofit  
21 agency that provides child welfare services on behalf of the state  
22 to children in the conservatorship of the state, the limit of civil  
23 liability for noneconomic damages inclusive of all persons and  
24 entities for which vicarious liability theories may apply is a  
25 total amount, including prejudgment interest, not to exceed  
26 \$250,000 for each person and \$500,000 for each single occurrence of  
27 bodily injury or death.

1           (b) The limitation on civil liability does not apply to  
2 reckless conduct or intentional, wilful, or wanton misconduct of a  
3 nonprofit agency.

4           (b) Section 97.003, Civil Practice and Remedies Code, as  
5 added by this section, applies only to a cause of action that  
6 accrues on or after the effective date of this Act. An action that  
7 accrued before the effective date of this Act is governed by the law  
8 applicable to the action immediately before the effective date of  
9 this Act, and that law is continued in effect for that purpose.

10           (c) Section 97.003, Civil Practice and Remedies Code, as  
11 added by this section, is an exercise of authority under Section  
12 66(c), Article III, Texas Constitution, and takes effect only if  
13 this Act receives a vote of three-fifths of all the members elected  
14 to each house, as provided by Section 66(e) of that article.

15           SECTION 22. (a) Not later than December 1, 2005, the  
16 Department of Family and Protective Services shall develop a plan  
17 to improve:

18                   (1) the training provided to personnel who conduct  
19 investigations of child abuse and neglect;

20                   (2) the protocols for conducting investigations; and

21                   (3) the coordination of investigations between the  
22 department and law enforcement agencies.

23           (b) The plan must be finalized by a work group consisting  
24 of:

25                   (1) employees of the Department of Family and  
26 Protective Services and law enforcement professionals who have  
27 responsibility for investigating reports of child abuse and

1 neglect; and

2 (2) employees of the courts that handle child  
3 protective cases.

4 SECTION 23. The change in law made by Section 264.106,  
5 Family Code, as amended by this Act, applies only to a contract for  
6 substitute care services or case management services that is  
7 entered into or renewed on or after the effective date of this Act.  
8 A contract that is entered into or renewed before the effective date  
9 of this Act is governed by the law in effect on the date the contract  
10 was entered into or renewed, and the former law is continued in  
11 effect for that purpose.

12 SECTION 24. This Act takes effect September 1, 2005.