

1-1 By: Nelson, et al. S.B. No. 6
1-2 (In the Senate - Filed Decemer 7, 2004; January 31, 2005,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; February 28, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 February 28, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 6 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to protective services; providing penalties.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 ARTICLE 1. CHILD PROTECTIVE SERVICES

1-13 SECTION 1.01. Section 54.211, Education Code, is amended to
1-14 read as follows:

1-15 Sec. 54.211. EXEMPTIONS FOR STUDENTS IN FOSTER OR OTHER
1-16 RESIDENTIAL CARE. (a) A student is exempt from the payment of
1-17 tuition and fees authorized in this chapter if the student:

1-18 (1) was in foster care or other residential care under
1-19 the conservatorship of the Department of Family and Protective [~~and~~
1-20 ~~Regulatory~~] Services on or after:

1-21 (A) the day preceding the student's 18th
1-22 birthday;

1-23 (B) the day of the student's 14th birthday, if
1-24 the student was also eligible for adoption on or after that day; or

1-25 (C) the day the student graduated from high
1-26 school or received the equivalent of a high school diploma; and

1-27 (2) enrolls in an institution of higher education as
1-28 an undergraduate student not later than:

1-29 (A) the third anniversary of the date the student
1-30 was discharged from the foster or other residential care, the date
1-31 the student graduated from high school, or the date the student
1-32 received the equivalent of a high school diploma, whichever date is
1-33 earliest; or

1-34 (B) the student's 21st birthday.

1-35 (b) The Texas Education Agency and the Texas Higher
1-36 Education Coordinating Board shall develop outreach programs to
1-37 ensure that students in foster or other residential care in grades
1-38 9-12 are aware of the availability of the exemption from the payment
1-39 of tuition and fees provided by this section.

1-40 SECTION 1.02. Section 54.2111, Education Code, is amended
1-41 to read as follows:

1-42 Sec. 54.2111. EXEMPTIONS FOR ADOPTED STUDENTS FORMERLY IN
1-43 FOSTER OR OTHER RESIDENTIAL CARE. (a) A student is exempt from the
1-44 payment of tuition and fees authorized by this chapter if the
1-45 student:

1-46 (1) was adopted; and

1-47 (2) was the subject of an adoption assistance
1-48 agreement under Subchapter D, Chapter 162, Family Code.

1-49 (b) The Texas Education Agency and the Texas Higher
1-50 Education Coordinating Board shall develop outreach programs to
1-51 ensure that adopted students in grades 9-12 formerly in foster or
1-52 other residential care are aware of the availability of the
1-53 exemption from the payment of tuition and fees provided by this
1-54 section.

1-55 SECTION 1.03. Subchapter A, Chapter 107, Family Code, is
1-56 amended by adding Section 107.0045 to read as follows:

1-57 Sec. 107.0045. DISCIPLINE OF ATTORNEY AD LITEM. An
1-58 attorney ad litem who fails to perform the duties required by
1-59 Sections 107.003 and 107.004 is subject to disciplinary action
1-60 under Subchapter E, Chapter 81, Government Code.

1-61 SECTION 1.04. Section 162.304, Family Code, is amended by
1-62 adding Subsection (f) to read as follows:

1-63 (f) The department shall work with the Health and Human

2-1 Services Commission and the federal government to develop a program
 2-2 to provide medical assistance under Chapter 32, Human Resources
 2-3 Code, to children who were in the conservatorship of the department
 2-4 at the time of adoptive placement and need medical or
 2-5 rehabilitative care but do not qualify for adoption assistance.

2-6 SECTION 1.05. Section 261.001, Family Code, is amended by
 2-7 amending Subdivision (2) to read as follows:

2-8 (2) "Department" means the Department of Family and
 2-9 Protective [~~and Regulatory~~] Services.

2-10 SECTION 1.06. Section 261.002, Family Code, is amended by
 2-11 adding Subsection (c) to read as follows:

2-12 (c) The department shall enter into agreements with other
 2-13 states to allow for the exchange of reports of child abuse and
 2-14 neglect in other states' central registry systems. The department
 2-15 shall use information obtained under this subsection in performing
 2-16 the background checks required under Section 42.056, Human
 2-17 Resources Code. The department shall cooperate with federal
 2-18 agencies and shall provide information and reports of child abuse
 2-19 and neglect to the appropriate federal agency that maintains the
 2-20 national registry for child abuse and neglect, if a national
 2-21 registry exists.

2-22 SECTION 1.07. (a) Subsection (a), Section 261.107, Family
 2-23 Code, is amended to read as follows:

2-24 (a) A person commits an offense if the person knowingly or
 2-25 intentionally makes a report as provided in this chapter that the
 2-26 person knows is false [~~or lacks factual foundation~~]. An offense
 2-27 under this section is a state jail felony [~~Class A misdemeanor~~]
 2-28 unless it is shown on the trial of the offense that the person has
 2-29 previously been convicted under this section, in which case the
 2-30 offense is a [~~state jail~~] felony of the third degree.

2-31 (b) The change in law made by this section to Subsection
 2-32 (a), Section 261.107, Family Code, applies only to an offense
 2-33 committed on or after the effective date of this section. An
 2-34 offense committed before the effective date of this section is
 2-35 covered by Section 261.107, Family Code, as it existed on the date
 2-36 the offense was committed, and the former law is continued in effect
 2-37 for that purpose. For purposes of this subsection, an offense is
 2-38 committed before the effective date of this section if any element
 2-39 of the offense occurs before that date.

2-40 SECTION 1.08. Section 261.201, Family Code, is amended by
 2-41 adding Subsection (f-1) to read as follows:

2-42 (f-1) The department shall provide to a relative or other
 2-43 individual with whom a child is placed any information the
 2-44 department considers necessary to ensure that the relative or other
 2-45 individual is prepared to meet the needs of the child. The
 2-46 information must include information regarding:

- 2-47 (1) any abuse or neglect suffered by the child;
 2-48 (2) the child's physical and mental health history,
 2-49 including any diagnosis of mental illness, and any physical or
 2-50 mental health issues that exist at the time the child is placed;
 2-51 (3) any medications prescribed for the child; and
 2-52 (4) the child's educational background and experience.

2-53 SECTION 1.09. (a) Subsections (a), (d), (f), (g), and (h),
 2-54 Section 261.301, Family Code, are amended to read as follows:

2-55 (a) With assistance from the appropriate state or local law
 2-56 enforcement agency as provided by this section, the department or
 2-57 designated agency shall make a prompt and thorough investigation of
 2-58 a report of child abuse or neglect allegedly committed by a person
 2-59 responsible for a child's care, custody, or welfare. The
 2-60 investigation shall be conducted without regard to any pending suit
 2-61 affecting the parent-child relationship.

2-62 (d) The department shall [~~may~~] by rule assign priorities and
 2-63 prescribe investigative procedures for investigations based on the
 2-64 severity and immediacy of the alleged harm to the child. The
 2-65 primary purpose of the investigation shall be the protection of the
 2-66 child. The rules must require the department to:

- 2-67 (1) immediately respond to a report of abuse and
 2-68 neglect that involves circumstances in which the death of the child
 2-69 or substantial bodily harm to the child would result unless the

3-1 department immediately intervenes;

3-2 (2) respond within 24 hours to a report of abuse and
 3-3 neglect that is assigned the highest priority, other than a report
 3-4 described by Subdivision (1); and

3-5 (3) respond within 72 hours to a report of abuse and
 3-6 neglect that is assigned the second highest priority.

3-7 (f) An investigation of a report to the department [~~that is~~
 3-8 ~~assigned the highest priority in accordance with department rules~~
 3-9 ~~adopted under Subsection (d) and] that alleges that a child has been~~
 3-10 ~~or may be the victim of conduct that constitutes a criminal offense~~
 3-11 ~~that poses an immediate risk of physical or sexual abuse of a child~~
 3-12 ~~that could result in the death of or serious harm to the child shall~~
 3-13 ~~be conducted jointly by a peace officer, as defined by Article 2.12,~~
 3-14 ~~Code of Criminal Procedure, from the appropriate local law~~
 3-15 ~~enforcement agency and the department or the agency responsible for~~
 3-16 ~~conducting an investigation under Subchapter E.~~

3-17 (g) The inability or unwillingness of a local law
 3-18 enforcement agency to conduct a joint investigation under this
 3-19 section [~~Subsection (f)] does not constitute grounds to prevent or~~
 3-20 ~~prohibit the department from performing its duties under this~~
 3-21 ~~subtitle. The department shall document any instance in which a law~~
 3-22 ~~enforcement agency is unable or unwilling to conduct a joint~~
 3-23 ~~investigation under this section [~~Subsection (f)].~~~~

3-24 (h) The department and the appropriate local law
 3-25 enforcement agency shall conduct an investigation, other than an
 3-26 investigation under Subchapter E, as provided by this section and
 3-27 Article 2.27, Code of Criminal Procedure, if the investigation is
 3-28 of a report [~~of child abuse or neglect that is assigned the highest~~
 3-29 ~~priority in accordance with department rules adopted under~~
 3-30 ~~Subsection (d) and] that alleges that a child has been or may be the~~
 3-31 ~~victim of conduct that constitutes a criminal offense that poses an~~
 3-32 ~~immediate risk of physical or sexual abuse of a child that could~~
 3-33 ~~result in the death of or serious harm to the child. Immediately on~~
 3-34 ~~receipt of a report described by this subsection, the department~~
 3-35 ~~shall notify the appropriate local law enforcement agency of the~~
 3-36 ~~report.~~

3-37 (b) The change in law made by this section to Section
 3-38 261.301, Family Code, applies to the investigation of a report of
 3-39 child abuse or neglect made on or after the effective date of this
 3-40 section. The investigation of a report of child abuse or neglect
 3-41 made before the effective date of this section is governed by the
 3-42 law in effect on the date the report was made, and the former law is
 3-43 continued in effect for that purpose.

3-44 (c) The Department of Family and Protective Services shall
 3-45 develop and implement an automated tracking and reporting system
 3-46 that enables the department to track information on initial
 3-47 contacts to monitor compliance with the requirements of Subsection
 3-48 (d), Section 261.301, Family Code, as amended by this section,
 3-49 relating to the timely response to reports of abuse and neglect.

3-50 SECTION 1.10. Subchapter D, Chapter 261, Family Code, is
 3-51 amended by adding Section 261.3011 to read as follows:

3-52 Sec. 261.3011. JOINT INVESTIGATION GUIDELINES AND
 3-53 TRAINING. (a) The department shall, in consultation with the
 3-54 appropriate law enforcement agencies in each county, develop
 3-55 guidelines and protocols for joint investigations by the department
 3-56 and the law enforcement agency under Section 261.301. The
 3-57 guidelines and protocols must:

3-58 (1) clarify the respective roles of the department and
 3-59 law enforcement agency in conducting the investigation;

3-60 (2) require that mutual child protective services and
 3-61 law enforcement training and agreements be implemented by both
 3-62 entities to ensure the integrity and best outcomes of joint
 3-63 investigations; and

3-64 (3) incorporate the use of forensic methods in
 3-65 determining the occurrence of child abuse and neglect.

3-66 (b) The department shall collaborate with law enforcement
 3-67 agencies to provide to department investigators and law enforcement
 3-68 officers responsible for investigating reports of abuse and neglect
 3-69 joint training relating to methods to effectively conduct joint

4-1 investigations under Section 261.301. The training must include
 4-2 information on interviewing techniques, evidence gathering, and
 4-3 testifying in court for criminal investigations.

4-4 SECTION 1.11. (a) Section 261.3015, Family Code, is
 4-5 amended by amending Subsection (a) and adding Subsection (a-1) to
 4-6 read as follows:

4-7 (a) In assigning priorities and prescribing investigative
 4-8 procedures based on the severity and immediacy of the alleged harm
 4-9 to a child under Section 261.301(d), the department [board by rule]
 4-10 shall establish a flexible response system to allow the department
 4-11 to make the most effective use of [allocate] resources by
 4-12 investigating serious cases of abuse and neglect and by screening
 4-13 out less serious cases of abuse and neglect if the department
 4-14 determines, after contacting a professional or other credible
 4-15 source, that the child's safety can be assured without further
 4-16 investigation. The department may administratively close the less
 4-17 serious cases without providing services or making a referral to
 4-18 another entity for assistance [providing assessment and family
 4-19 preservation services in less serious cases].

4-20 (a-1) For purposes of Subsection (a), a case is considered
 4-21 to be a less serious case of abuse or neglect if the circumstances
 4-22 of the case do not indicate an immediate risk of abuse or neglect
 4-23 that could result in the death of or serious harm to the child who is
 4-24 the subject of the case.

4-25 (b) To ensure the safety of children, the Department of
 4-26 Family and Protective Services shall use highly skilled caseworkers
 4-27 to perform the screening functions described by Subsection (a),
 4-28 Section 261.3015, Family Code, as amended by this section, and
 4-29 develop standardized policy guidelines, including accountability
 4-30 measures to monitor closed cases, to ensure that screening
 4-31 guidelines do not result in the closing of cases that should not be
 4-32 closed.

4-33 SECTION 1.12. Subsection (e), Section 261.302, Family Code,
 4-34 is amended to read as follows:

4-35 (e) An interview with a child alleged to be a victim of
 4-36 [physical] abuse or neglect conducted by the department or another
 4-37 person, other than a law enforcement agency, under the direction of
 4-38 the department [sexual abuse] shall be audiotaped or videotaped
 4-39 [unless the investigating agency determines that good cause exists
 4-40 for not audiotaping or videotaping the interview in accordance with
 4-41 rules of the agency. Good cause may include, but is not limited to,
 4-42 such considerations as the age of the child and the nature and
 4-43 seriousness of the allegations under investigation. Nothing in
 4-44 this subsection shall be construed as prohibiting the investigating
 4-45 agency from audiotaping or videotaping an interview of a child on
 4-46 any case for which such audiotaping or videotaping is not required
 4-47 under this subsection]. The fact that the investigating agency
 4-48 failed to audiotape or videotape an interview is admissible at the
 4-49 trial of the offense that is the subject of the interview.

4-50 SECTION 1.13. Subchapter D, Chapter 261, Family Code, is
 4-51 amended by adding Sections 261.3021, 261.3022, 261.3023, and
 4-52 261.3024 to read as follows:

4-53 Sec. 261.3021. CASEWORK DOCUMENTATION AND MANAGEMENT.
 4-54 Subject to the appropriation of money for these purposes, the
 4-55 department shall:

4-56 (1) identify critical investigation actions that
 4-57 impact child safety and require department caseworkers to document
 4-58 those actions in a child's case file not later than the day after
 4-59 the action occurs;

4-60 (2) identify and develop a comprehensive set of
 4-61 casework quality indicators that must be reported in real time to
 4-62 support timely management oversight;

4-63 (3) provide department supervisors with access to
 4-64 casework quality indicators and train department supervisors on the
 4-65 use of that information in the daily supervision of caseworkers;

4-66 (4) develop a case tracking system that notifies
 4-67 department supervisors and management when a case is not
 4-68 progressing in a timely manner;

4-69 (5) use current data reporting systems to provide

5-1 department supervisors and management with easier access to
 5-2 information; and

5-3 (6) train department supervisors and management on the
 5-4 use of data to monitor cases and make decisions.

5-5 Sec. 261.3022. CHILD SAFETY CHECK ALERT LIST. (a) If the
 5-6 department is unable to locate a family for purposes of
 5-7 investigating a report of child abuse or neglect and the department
 5-8 has exhausted all means available to the department for locating
 5-9 the family, the department may seek assistance from the appropriate
 5-10 county attorney, district attorney, or criminal district attorney
 5-11 with responsibility for representing the department as provided by
 5-12 Section 264.009.

5-13 (b) If the department requests assistance, the county
 5-14 attorney, district attorney, or criminal district attorney, as
 5-15 applicable, shall file an application with the court requesting the
 5-16 issuance of an ex parte order requiring the Texas Crime Information
 5-17 Center to place the members of the family the department is
 5-18 attempting to locate on a child safety check alert list. The
 5-19 application must include a summary of:

5-20 (1) the report of child abuse or neglect the
 5-21 department is attempting to investigate; and

5-22 (2) the department's efforts to locate the family.

5-23 (c) If the court determines after a hearing that the
 5-24 department has exhausted all means available to the department for
 5-25 locating the family, the court shall approve the application and
 5-26 order the Texas Crime Information Center to place the family on a
 5-27 child safety check alert list. The alert list must include:

5-28 (1) the name of the family member alleged to have
 5-29 abused or neglected a child according to the report the department
 5-30 is attempting to investigate;

5-31 (2) the name of the child who is the subject of the
 5-32 report;

5-33 (3) a code identifying the type of child abuse or
 5-34 neglect alleged to have been committed against the child;

5-35 (4) the family's last known address; and

5-36 (5) the minimum criteria for an entry as established
 5-37 by the center.

5-38 Sec. 261.3023. LAW ENFORCEMENT RESPONSE TO CHILD SAFETY
 5-39 CHECK ALERT. (a) If a law enforcement officer encounters a person
 5-40 listed on the Texas Crime Information Center's child safety check
 5-41 alert list who is alleged to have abused or neglected a child, or
 5-42 encounters a child listed on the alert list who is the subject of a
 5-43 report of child abuse or neglect the department is attempting to
 5-44 investigate, the officer shall request information from the person
 5-45 or the child regarding the child's well-being and current
 5-46 residence.

5-47 (b) If the law enforcement officer determines that the
 5-48 circumstances described by Section 262.104 exist, the officer may
 5-49 take possession of the child without a court order as authorized by
 5-50 that section if the officer is able to locate the child. If the
 5-51 circumstances described by Section 262.104 do not exist, the
 5-52 officer shall obtain the child's current address and any other
 5-53 relevant information and report that information to the department.

5-54 Sec. 261.3024. REMOVAL FROM CHILD SAFETY CHECK ALERT LIST.
 5-55 (a) A law enforcement officer who locates a child listed on the
 5-56 Texas Crime Information Center's child safety check alert list who
 5-57 is the subject of a report of child abuse or neglect the department
 5-58 is attempting to investigate and who reports the child's current
 5-59 address and other relevant information to the department under
 5-60 Section 261.3023 shall report to the Texas Crime Information Center
 5-61 that the child has been located.

5-62 (b) If the department locates a child described by
 5-63 Subsection (a) through a means other than information reported by a
 5-64 law enforcement officer under Subsection (a), the department shall
 5-65 report to the Texas Crime Information Center that the child has been
 5-66 located.

5-67 (c) On receipt of notice under this section that a child has
 5-68 been located, the Texas Crime Information Center shall remove the
 5-69 child and the child's family from the child safety check alert list.

6-1 SECTION 1.14. Subchapter D, Chapter 261, Family Code, is
6-2 amended by adding Section 261.3031 to read as follows:

6-3 Sec. 261.3031. FAILURE TO COOPERATE WITH INVESTIGATION;
6-4 DEPARTMENT RESPONSE. If a parent or other person refuses to
6-5 cooperate with the department's investigation of the alleged abuse
6-6 or neglect of a child and the refusal poses a risk to the child's
6-7 safety, the department shall seek assistance from the appropriate
6-8 county attorney or district attorney or criminal district attorney
6-9 with responsibility for representing the department as provided by
6-10 Section 264.009 to obtain a court order as described by Section
6-11 261.303.

6-12 SECTION 1.15. Subchapter D, Chapter 261, Family Code, is
6-13 amended by adding Section 261.3032 to read as follows:

6-14 Sec. 261.3032. INTERFERENCE WITH INVESTIGATION; CRIMINAL
6-15 PENALTY. (a) A person commits an offense if, with the intent to
6-16 interfere with the department's investigation of a report of abuse
6-17 or neglect of a child, the person takes, retains, or conceals the
6-18 child and the person's taking, retention, or concealment interferes
6-19 with the department's investigation.

6-20 (b) An offense under this section is a Class B misdemeanor.

6-21 (c) If conduct that constitutes an offense under this
6-22 section also constitutes an offense under any other law, the actor
6-23 may be prosecuted under this section or the other law.

6-24 SECTION 1.16. (a) Section 261.307, Family Code, is amended
6-25 to read as follows:

6-26 Sec. 261.307. INFORMATION RELATING TO INVESTIGATION
6-27 PROCEDURE. (a) As soon as possible after initiating an
6-28 investigation of a parent or other person having legal custody of a
6-29 child, the department shall provide to the person:

6-30 (1) a brief and easily understood summary of:
6-31 (A) [~~1~~] the department's procedures for
6-32 conducting an investigation of alleged child abuse or neglect,
6-33 including:

6-34 (i) [~~A~~] a description of the
6-35 circumstances under which the department would request to remove
6-36 the child from the home through the judicial system; and

6-37 (ii) [~~B~~] an explanation that the law
6-38 requires the department to refer all reports of alleged child abuse
6-39 or neglect to a law enforcement agency for a separate determination
6-40 of whether a criminal violation occurred;

6-41 (B) [~~2~~] the person's right to file a complaint
6-42 with the department or to request a review of the findings made by
6-43 the department in the investigation;

6-44 (C) [~~3~~] the person's right to review all
6-45 records of the investigation unless the review would jeopardize an
6-46 ongoing criminal investigation or the child's safety;

6-47 (D) [~~4~~] the person's right to seek legal
6-48 counsel;

6-49 (E) [~~5~~] references to the statutory and
6-50 regulatory provisions governing child abuse and neglect and how the
6-51 person may obtain copies of those provisions; and

6-52 (F) [~~6~~] the process the person may use to
6-53 acquire access to the child if the child is removed from the home;

6-54 (2) a proposed child placement resources form that
6-55 instructs the parent or other person having legal custody of the
6-56 child to complete and return the form to the department or agency
6-57 and to identify in the form three individuals who could be relative
6-58 or designated caregivers, as those terms are defined by Section
6-59 264.751; and

6-60 (3) the informational manual required by Section
6-61 261.3071.

6-62 (b) In addition to the information required to be provided
6-63 under Subsection (a), the department shall provide to the person
6-64 described by that subsection any information required to be
6-65 provided by the federal Child Abuse Prevention and Treatment Act
6-66 (Pub. L. No. 93-247) and its subsequent amendments by the Keeping
6-67 Children and Families Safe Act of 2003 (Pub. L. No. 108-36). To the
6-68 extent of any conflict between Subsection (a) and those federal
6-69 laws, the federal law prevails.

7-1 (b) The Department of Family and Protective Services shall
 7-2 develop the proposed child placement resources form required to be
 7-3 provided under Section 261.307, Family Code, as amended by this
 7-4 section, not later than November 1, 2005.

7-5 (c) The Department of Family and Protective Services shall
 7-6 provide the proposed child placement resources form required under
 7-7 Section 261.307, Family Code, as amended by this section, to the
 7-8 parent or other person having legal custody of a child who is the
 7-9 subject of an investigation of abuse or neglect that is commenced on
 7-10 or after November 1, 2005.

7-11 SECTION 1.17. Subchapter D, Chapter 261, Family Code, is
 7-12 amended by adding Section 261.3071 to read as follows:

7-13 Sec. 261.3071. INFORMATIONAL MANUAL. (a) In this section,
 7-14 "relative caregiver" and "designated caregiver" have the meanings
 7-15 assigned those terms by Section 264.751.

7-16 (b) The department shall develop and publish an
 7-17 informational manual that provides information for:

7-18 (1) a parent or other person having custody of a child
 7-19 who is the subject of an investigation under this chapter; and

7-20 (2) a person who is selected by the department to be
 7-21 the child's relative or designated caregiver.

7-22 (c) Information provided in the manual must be in both
 7-23 English and Spanish and must include:

7-24 (1) useful indexes of information such as telephone
 7-25 numbers;

7-26 (2) the information required to be provided under
 7-27 Section 261.307(1);

7-28 (3) information describing the rights and duties of a
 7-29 relative or designated caregiver; and

7-30 (4) information regarding the relative and other
 7-31 designated caregiver program under Subchapter I, Chapter 264.

7-32 SECTION 1.18. Section 261.310, Family Code, is amended by
 7-33 amending Subsection (c) and adding Subsection (e) to read as
 7-34 follows:

7-35 (c) The professional training curriculum developed under
 7-36 this section shall include:

7-37 (1) information concerning:
 7-38 (A) ~~[(1)]~~ physical abuse and neglect, including
 7-39 distinguishing physical abuse from ordinary childhood injuries;

7-40 (B) ~~[(2)]~~ psychological abuse and neglect;

7-41 (C) ~~[(3)]~~ available treatment resources; and

7-42 (D) ~~[(4)]~~ the incidence and types of reports of
 7-43 child abuse and neglect that are received by the investigating
 7-44 agencies, including information concerning false reports;

7-45 (2) law-enforcement-style training, including
 7-46 training relating to forensic interviewing and investigatory
 7-47 techniques and the collection of physical evidence; and

7-48 (3) training regarding applicable federal law,
 7-49 including the Adoption and Safe Families Act of 1997 (Pub. L. No.
 7-50 105-89) and the Child Abuse Prevention and Treatment Act (Pub. L.
 7-51 No. 93-247) and its subsequent amendments by the Keeping Children
 7-52 and Families Safe Act of 2003 (Pub. L. No. 108-36).

7-53 (e) The department, in conjunction with the Department of
 7-54 Public Safety, shall provide to the department's residential
 7-55 child-care facility licensing investigators advanced training in
 7-56 investigative protocols and techniques.

7-57 SECTION 1.19. Subchapter D, Chapter 261, Family Code, is
 7-58 amended by adding Section 261.3101 to read as follows:

7-59 Sec. 261.3101. FORENSIC INVESTIGATION SUPPORT. The
 7-60 department shall, subject to the availability of money:

7-61 (1) employ or contract with medical and law
 7-62 enforcement professionals who shall be strategically placed
 7-63 throughout the state to provide forensic investigation support and
 7-64 to assist caseworkers with assessment decisions and intervention
 7-65 activities;

7-66 (2) employ or contract with subject matter experts to
 7-67 serve as consultants to department caseworkers in all aspects of
 7-68 their duties; and

7-69 (3) designate persons who shall act as liaisons within

8-1 the department whose primary functions are to develop relationships
 8-2 with local law enforcement agencies and courts.

8-3 SECTION 1.20. Section 261.3125, Family Code, is amended to
 8-4 read as follows:

8-5 Sec. 261.3125. CHILD SAFETY SPECIALISTS [~~INVESTIGATIONS~~
 8-6 ~~COORDINATOR~~]. (a) The department shall employ in each of the
 8-7 department's administrative regions [~~region of the department for~~
 8-8 ~~child protective services~~] at least one child safety specialist
 8-9 [~~protective services investigations coordinator~~]. The job
 8-10 responsibilities of the child safety specialist [~~investigations~~
 8-11 ~~coordinator~~] must focus [~~only~~] on child abuse and neglect
 8-12 investigation issues, including reports of child abuse required by
 8-13 Section 261.101, to achieve a greater compliance with that section,
 8-14 and on assessing and improving the effectiveness of the department
 8-15 in providing for the protection of children in the region.

8-16 (b) The duties of a child safety specialist [~~protective~~
 8-17 ~~services investigations coordinator~~] must include the duty to:

8-18 (1) conduct staff reviews and evaluations of cases
 8-19 determined to involve a high risk to the health or safety of a
 8-20 child, including cases of abuse reported under Section 261.101, to
 8-21 ensure that risk assessment tools are fully and correctly used;

8-22 (2) review and evaluate [~~monitor~~] cases in which there
 8-23 have been multiple referrals to the department of child abuse or
 8-24 neglect involving the same family, child, or person alleged to have
 8-25 committed the abuse or neglect; and

8-26 (3) approve decisions and assessments related to
 8-27 investigations of cases of child abuse or neglect that involve a
 8-28 high risk to the health or safety of a child.

8-29 SECTION 1.21. Subchapter D, Chapter 261, Family Code, is
 8-30 amended by adding Section 261.3126 to read as follows:

8-31 Sec. 261.3126. COLOCATION OF INVESTIGATORS. (a) In each
 8-32 county, to the extent possible, the department and the local law
 8-33 enforcement agencies that investigate child abuse in the county
 8-34 shall collocate in the same offices investigators from the
 8-35 department and the law enforcement agencies to improve the
 8-36 efficiency of child abuse investigations. With approval of the
 8-37 local children's advocacy center and its partner agencies, in each
 8-38 county in which a children's advocacy center established under
 8-39 Section 264.402 is located, the department shall attempt to locate
 8-40 investigators from the department and county and municipal law
 8-41 enforcement agencies at the center.

8-42 (b) A law enforcement agency is not required to comply with
 8-43 the collocation requirements of this section if the law enforcement
 8-44 agency does not have a full-time peace officer solely assigned to
 8-45 investigate reports of child abuse and neglect.

8-46 (c) If a county does not have a children's advocacy center,
 8-47 the department shall work with the local community to encourage one
 8-48 as provided by Section 264.402.

8-49 SECTION 1.22. Subchapter E, Chapter 261, Family Code, is
 8-50 amended by adding Section 261.410 to read as follows:

8-51 Sec. 261.410. REPORT OF ABUSE BY OTHER CHILDREN. (a) In
 8-52 this section:

8-53 (1) "Physical abuse" means:

8-54 (A) physical injury that results in substantial
 8-55 harm to the child, or the genuine threat of substantial harm from
 8-56 physical injury to the child, including an injury that is at
 8-57 variance with the history or explanation given and excluding an
 8-58 accident or reasonable discipline by a parent, guardian, or
 8-59 managing or possessory conservator that does not expose the child
 8-60 to a substantial risk of harm; or

8-61 (B) failure to make a reasonable effort to
 8-62 prevent an action by another person that results in physical injury
 8-63 that results in substantial harm to the child.

8-64 (2) "Sexual abuse" means:

8-65 (A) sexual conduct harmful to a child's mental,
 8-66 emotional, or physical welfare, including conduct that constitutes
 8-67 the offense of indecency with a child under Section 21.11, Penal
 8-68 Code, sexual assault under Section 22.011, Penal Code, or
 8-69 aggravated sexual assault under Section 22.021, Penal Code;

9-1 (B) failure to make a reasonable effort to
 9-2 prevent sexual conduct harmful to a child;

9-3 (C) compelling or encouraging a child to engage
 9-4 in sexual conduct as defined by Section 43.01, Penal Code;

9-5 (D) causing, permitting, encouraging, engaging
 9-6 in, or allowing the photographing, filming, or depicting of a child
 9-7 if the person knew or should have known that the resulting
 9-8 photograph, film, or depiction of the child is obscene as defined by
 9-9 Section 43.21, Penal Code, or pornographic; or

9-10 (E) causing, permitting, encouraging, engaging
 9-11 in, or allowing a sexual performance by a child as defined by
 9-12 Section 43.25, Penal Code.

9-13 (b) An agency that operates, licenses, certifies, or
 9-14 registers a facility shall require a residential child-care
 9-15 facility to report each incident of physical or sexual abuse
 9-16 committed by a child against another child.

9-17 (c) Using information received under Subsection (b), the
 9-18 agency that operates, licenses, certifies, or registers a facility
 9-19 shall compile a report that includes information:

9-20 (1) regarding the number of cases of physical and
 9-21 sexual abuse committed by a child against another child;

9-22 (2) identifying the residential child-care facility;

9-23 (3) regarding the date each allegation of abuse was
 9-24 made;

9-25 (4) regarding the date each investigation was started
 9-26 and concluded;

9-27 (5) regarding the findings and results of each
 9-28 investigation; and

9-29 (6) regarding the number of children involved in each
 9-30 incident investigated.

9-31 SECTION 1.23. Subchapter B, Chapter 262, Family Code, is
 9-32 amended by adding Section 262.114 to read as follows:

9-33 Sec. 262.114. EVALUATION OF IDENTIFIED RELATIVES AND OTHER
 9-34 DESIGNATED INDIVIDUALS; PLACEMENT. (a) Before a full adversary
 9-35 hearing under Subchapter C, the Department of Family and Protective
 9-36 Services must perform a background and criminal history check and,
 9-37 if appropriate, a home study, of the relatives or other designated
 9-38 individuals identified as a potential relative or designated
 9-39 caregiver, as defined by Section 264.751, on the proposed child
 9-40 placement resources form provided under Section 261.307. The
 9-41 department shall perform these evaluations of each person listed on
 9-42 the form until the department identifies a relative or other
 9-43 designated individual qualified to be a substitute caregiver. The
 9-44 department may eliminate a person as a potential relative or
 9-45 designated caregiver based solely on a background and criminal
 9-46 history check. A final determination that a potential relative or
 9-47 designated caregiver is qualified to be a substitute caregiver must
 9-48 also include completion of the home study.

9-49 (a-1) For the purposes of this section, "background" means,
 9-50 but is not limited to, a history of child abuse and neglect.

9-51 (b) The department shall place a child with a relative or
 9-52 other designated individual identified on the proposed child
 9-53 placement resources form if the department, with input from the
 9-54 attorney ad litem, if the attorney ad litem has met with the child,
 9-55 determines that the placement is in the best interest of the child.
 9-56 The department may place the child with the relative or designated
 9-57 individual before conducting the home study required under
 9-58 Subsection (a), only in exigent circumstances, as determined by the
 9-59 department on an individual case basis. In determining the
 9-60 placement of the child, the department shall at all times consider
 9-61 the child's safety to be the paramount concern. The department
 9-62 shall provide a copy of the informational manual required under
 9-63 Section 261.3071 to the relative or other designated caregiver at
 9-64 the time of the child's placement.

9-65 SECTION 1.24. (a) Subsection (c), Section 262.201, Family
 9-66 Code, is amended to read as follows:

9-67 (c) If the court finds sufficient evidence to satisfy a
 9-68 person of ordinary prudence and caution that there is a continuing
 9-69 danger to the physical health or safety of the child and for the

child to remain in the home is contrary to the welfare of the child, the court shall issue an appropriate temporary order under Chapter 105. The court shall require each parent, alleged father, or relative of the child before the court to submit the proposed child placement resources form provided under Section 261.307, if the form has not been previously provided, and provide the Department of Family and Protective [and Regulatory] Services with information necessary to locate any other absent parent, alleged father, or relative of the child. The court shall 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. The court shall inform each parent in open court that parental and custodial rights and duties may be subject to restriction or to termination unless the parent or parents are willing and able to provide the child with a safe environment. If the court finds that the child requires protection from family violence by a member of the child's family or household, the court shall render a protective order under Title 4 for the child. In this subsection, "family violence" has the meaning assigned by Section 71.004.

(b) The change in law made by this section to Section 262.201(c), Family Code, applies only to a full adversary hearing that occurs on or after November 1, 2005. A full adversary hearing that occurs before that date is governed by the law as it existed before amendment by this section, and the former law is continued in effect for that purpose.

SECTION 1.25. (a) Section 263.201, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The court shall require each parent, alleged father, or relative of the child before the court to submit the proposed child placement resources form provided under Section 261.307 at the status hearing, if the form has not previously been submitted.

(b) The change in law made by this section to Section 263.201, Family Code, applies only to a status hearing that occurs on or after November 1, 2005. A status hearing that occurs before that date is governed by the law as it existed before amendment by this section, and the former law is continued in effect for that purpose.

SECTION 1.26. (a) Section 263.102, Family Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

- (a) The service plan must:
- (1) be specific;
 - (2) be in writing in a language that the parents understand, or made otherwise available;
 - (3) be prepared by the department or other agency in conference with the child's parents;
 - (4) state appropriate deadlines;
 - (5) state whether the goal of the plan is:
 - (A) return of the child to the child's parents;
 - (B) termination of parental rights and placement of the child for adoption; or
 - (C) because of the child's special needs or exceptional circumstances, continuation of the child's care out of the child's home;
 - (6) state steps that are necessary to:
 - (A) return the child to the child's home if the placement is in foster care;
 - (B) enable the child to remain in the child's home with the assistance of a service plan if the placement is in the home under the department's or other agency's supervision; or
 - (C) otherwise provide a permanent safe placement for the child;
 - (7) state the actions and responsibilities that are necessary for the child's parents to take to achieve the plan goal during the period of the service plan and the assistance to be provided to the parents by the department or other authorized agency toward meeting that goal;
 - (8) state any specific skills or knowledge that the

11-1 child's parents must acquire or learn, as well as any behavioral
 11-2 changes the parents must exhibit, to achieve the plan goal;

11-3 (9) state the actions and responsibilities that are
 11-4 necessary for the child's parents to take to ensure that the child
 11-5 attends school and maintains or improves the child's academic
 11-6 performance;

11-7 (10) state the name of the person with the department
 11-8 or other agency whom the child's parents may contact for
 11-9 information relating to the child if other than the person
 11-10 preparing the plan; and

11-11 (11) [~~9~~] prescribe any other term or condition that
 11-12 the department or other agency determines to be necessary to the
 11-13 service plan's success.

11-14 (d) The department must write the service plan in a clear
 11-15 and understandable manner in order to facilitate a parent's ability
 11-16 to follow the requirements of the service plan.

11-17 (e) Regardless of whether the goal stated in a child's
 11-18 service plan as required under Subsection (a)(5) is to return the
 11-19 child to the child's parents or to terminate parental rights and
 11-20 place the child for adoption, the department shall concurrently
 11-21 provide to the child and the child's family, as applicable:

11-22 (1) time-limited family reunification services as
 11-23 defined by 42 U.S.C. Section 629a for a period not to exceed the
 11-24 period within which the court must render a final order in or
 11-25 dismiss the suit affecting the parent-child relationship with
 11-26 respect to the child as provided by Subchapter E; and

11-27 (2) adoption promotion and support services as defined
 11-28 by 42 U.S.C. Section 629a.

11-29 (b) Subsection (c), Section 263.202, Family Code, is
 11-30 amended to read as follows:

11-31 (c) The court shall advise the parties that progress under
 11-32 the service plan will be reviewed at all subsequent hearings,
 11-33 including a review of whether the parties have acquired or learned
 11-34 any specific skills or knowledge stated in the service plan.

11-35 (c) The changes in law made by Section 263.102 and
 11-36 Subsection (c), Section 263.202, Family Code, as amended by this
 11-37 section, apply only to a child placed in the custody of the
 11-38 Department of Family and Protective Services on or after the
 11-39 effective date of this section. A child placed in the custody of
 11-40 the department before the effective date of this section is
 11-41 governed by the law in effect on the date the child was placed in the
 11-42 department's custody, and the former law is continued in effect for
 11-43 that purpose.

11-44 SECTION 1.27. Section 263.202, Family Code, is amended by
 11-45 amending Subsection (b) and adding Subsection (e) to read as
 11-46 follows:

11-47 (b) Except as provided by Subsection (e), a [A] status
 11-48 hearing shall be limited to matters related to the contents and
 11-49 execution of the service plan filed with the court. The court shall
 11-50 review the service plan that the department or other agency filed
 11-51 under this chapter for reasonableness, accuracy, and compliance
 11-52 with requirements of court orders and make findings as to whether:

11-53 (1) a plan that has the goal of returning the child to
 11-54 the child's parents adequately ensures that reasonable efforts are
 11-55 made to enable the child's parents to provide a safe environment for
 11-56 the child; and

11-57 (2) the child's parents have reviewed and understand
 11-58 the service plan and have been advised that unless the parents are
 11-59 willing and able to provide the child with a safe environment, even
 11-60 with the assistance of a service plan, within the reasonable period
 11-61 of time specified in the plan, the parents' parental and custodial
 11-62 duties and rights may be subject to restriction or to termination
 11-63 under this code or the child may not be returned to the parents.

11-64 (e) At the status hearing, the court shall make a finding as
 11-65 to whether the court has identified the individual who has the right
 11-66 to consent for the child under Section 266.003.

11-67 SECTION 1.28. Subsection (b), Section 263.401, Family Code,
 11-68 is amended to read as follows:

11-69 (b) The court may not retain the suit on the court's docket

12-1 after the time described by Subsection (a) unless the court finds
12-2 that extraordinary circumstances prevent the court from rendering a
12-3 final order within the time described by Subsection (a) and that
12-4 continuing the appointment of the department as temporary managing
12-5 conservator is in the best interest of the child. If the court
12-6 makes those findings, the court may retain the suit on the court's
12-7 docket for a period not to exceed 180 days after the time described
12-8 by Subsection (a) [~~if the court finds that continuing the~~
12-9 ~~appointment of the department as temporary managing conservator is~~
12-10 ~~in the best interest of the child~~]. If the court retains the suit on
12-11 the court's docket, the court shall render an order in which the
12-12 court:

12-13 (1) schedules the new date for dismissal of the suit
12-14 not later than the 180th day after the time described by Subsection
12-15 (a);

12-16 (2) makes further temporary orders for the safety and
12-17 welfare of the child as necessary to avoid further delay in
12-18 resolving the suit; and

12-19 (3) sets a final hearing on a date that allows the
12-20 court to render a final order before the required date for dismissal
12-21 of the suit under this subsection.

12-22 SECTION 1.29. (a) Subsection (c), Section 263.502, Family
12-23 Code, is amended to read as follows:

12-24 (c) The placement review report must:

12-25 (1) evaluate whether the child's current placement is
12-26 appropriate for meeting the child's needs;

12-27 (2) evaluate whether efforts have been made to ensure
12-28 placement of the child in the least restrictive environment
12-29 consistent with the best interest and special needs of the child if
12-30 the child is placed in institutional care;

12-31 (3) contain a discharge plan for a child who is at
12-32 least 16 years of age that identifies [~~identify~~] the services and
12-33 specific tasks that are needed to assist the [a] child [~~who is at~~
12-34 ~~least 16 years of age~~] in making the transition from substitute care
12-35 to adult [~~independent~~] living and describes the services that are
12-36 available through the Preparation for Adult Living Program operated
12-37 by the department [~~if the services are available in the community~~];

12-38 (4) evaluate whether the child's current educational
12-39 placement is appropriate for meeting the child's academic needs;

12-40 (5) identify other plans or services that are needed
12-41 to meet the child's special needs or circumstances; and

12-42 (6) [~~(5)~~] describe the efforts of the department or
12-43 authorized agency to place the child for adoption if parental
12-44 rights to the child have been terminated and the child is eligible
12-45 for adoption, including efforts to provide adoption promotion and
12-46 support services as defined by 42 U.S.C. Section 629a and other
12-47 efforts consistent with the federal Adoption and Safe Families Act
12-48 of 1997 (Pub. L. No. 105-89).

12-49 (b) In implementing the provisions of Subdivision (3),
12-50 Subsection (c), Section 263.502, Family Code, as amended by this
12-51 section, the Department of Family and Protective Services shall, to
12-52 the extent that funding is appropriated for this purpose, contract
12-53 with outside entities to assist in the discharge planning process.

12-54 SECTION 1.30. Section 264.001, Family Code, is amended to
12-55 read as follows:

12-56 Sec. 264.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

12-57 (1) "Department" [~~department~~] means the Department
12-58 of Family and Protective [~~and Regulatory~~] Services.

12-59 (2) "Commission" means the Health and Human Services
12-60 Commission.

12-61 (3) "Executive commissioner" means the executive
12-62 commissioner of the Health and Human Services Commission.

12-63 (4) "Residential child-care facility" has the meaning
12-64 assigned by Section 42.002, Human Resources Code.

12-65 SECTION 1.31. Subchapter A, Chapter 264, Family Code, is
12-66 amended by adding Section 264.0091 to read as follows:

12-67 Sec. 264.0091. USE OF TELECONFERENCING AND
12-68 VIDEOCONFERENCING TECHNOLOGY. The department, in cooperation with
12-69 district and county courts, shall expand the use of

13-1 teleconferencing and videoconferencing to facilitate participation
 13-2 by medical experts and other individuals in court proceedings.

13-3 SECTION 1.32. Section 264.101, Family Code, is amended by
 13-4 adding Subsection (d-1) to read as follows:

13-5 (d-1) The executive commissioner may adopt rules that
 13-6 prescribe the maximum amount of state money that a residential
 13-7 child-care facility may spend on nondirect residential services,
 13-8 including administrative services. The commission shall recover
 13-9 the money that exceeds the maximum amount established under this
 13-10 subsection.

13-11 SECTION 1.33. (a) Section 264.106, Family Code, is amended
 13-12 to read as follows:

13-13 Sec. 264.106. REQUIRED CONTRACTS FOR SUBSTITUTE CARE
 13-14 SERVICES. (a) In this section:

13-15 (1) "Case management services" means services
 13-16 provided to or for, or functions performed with respect to, a child
 13-17 for whom the department has been appointed temporary or permanent
 13-18 managing conservator or the child's family in managing a case
 13-19 involving the child. The term includes:

13-20 (A) conducting caseworker-child visits or family
 13-21 visits;

13-22 (B) convening family group conferences;

13-23 (C) developing or revising case plans;

13-24 (D) coordinating and monitoring services needed
 13-25 by the family;

13-26 (E) assuming duties related to court proceedings
 13-27 involving the child, including preparing court reports and
 13-28 attending court hearings and permanency planning hearings, but not
 13-29 including duties related to court proceedings involving the
 13-30 processing of an adoption of the child; and

13-31 (F) other services to ensure that the child is
 13-32 progressing toward permanency in accordance with federal law and
 13-33 the laws of this state.

13-34 (2) "Substitute care provider" means a child-care
 13-35 institution or child-placing agency, as defined by Section 42.002,
 13-36 Human Resources Code.

13-37 (3) "Substitute care services" means services
 13-38 provided to or for children in substitute care, including the
 13-39 recruitment, training, and management of foster parents, the
 13-40 recruitment of adoptive families, and the facilitation and
 13-41 processing of adoptions. The term does not include case management
 13-42 services.

13-43 (b) The department shall:

13-44 (1) assess the need for substitute care services
 13-45 throughout the state for children for whom the department has been
 13-46 appointed temporary or permanent managing conservator; and

13-47 (2) contract with substitute care providers [only to
 13-48 the extent necessary to meet the need] for the [those] services
 13-49 described by Subdivision (1).

13-50 ~~[(b) Before contracting with a substitute care provider,~~
 13-51 ~~the department shall determine whether:~~

13-52 ~~[(1) community resources are available to support~~
 13-53 ~~children placed under the provider's care; and~~

13-54 ~~[(2) the appropriate public school district has~~
 13-55 ~~sufficient resources to support children placed under the~~
 13-56 ~~provider's care if the children will attend public school.]~~

13-57 (c) The department shall:

13-58 (1) monitor the quality of services for which the
 13-59 department contracts under this section;

13-60 (2) ensure that the services are provided in
 13-61 accordance with federal law and the laws of this state, including
 13-62 department rules and rules of the Department of State Health
 13-63 Services and the Texas Commission on Environmental Quality; and

13-64 (3) attempt to contract with substitute care providers
 13-65 that are community-based organizations that will:

13-66 (A) increase local foster and adoptive placement
 13-67 options for all children, especially teenagers, sibling groups,
 13-68 children with severe or multiple disabilities, and other children
 13-69 who are difficult to place; and

14-1 (B) expand efforts to recruit foster families,
 14-2 adoptive families, and alternative care providers through
 14-3 faith-based and other targeted recruitment programs.

14-4 (d) In addition to the requirements of Section 40.058(b),
 14-5 Human Resources Code, a contract with a substitute care provider
 14-6 must include provisions that:

14-7 (1) enable the department to monitor the effectiveness
 14-8 of the provider's services; ~~and~~

14-9 (2) specify performance criteria; and

14-10 (3) authorize the department to terminate the contract
 14-11 or impose sanctions for a violation of a provision of the contract
 14-12 that specifies performance criteria.

14-13 (e) ~~(d)~~ In determining whether to contract with a
 14-14 substitute care provider, the department shall consider the
 14-15 provider's performance under any previous contract for substitute
 14-16 care services between the department and the provider.

14-17 (f) A contract under this section does not affect the rights
 14-18 and duties of the department in the department's capacity as the
 14-19 temporary or permanent managing conservator of a child.

14-20 (g) Notwithstanding any other law, on and after September 1,
 14-21 2008, the department may not directly provide substitute care
 14-22 services for children for whom the department has been appointed
 14-23 temporary or permanent managing conservator, except for case
 14-24 management services.

14-25 ~~[(e) In this section, "substitute care provider" means a~~
 14-26 ~~person who provides residential care for children for 24 hours a~~
 14-27 ~~day, including:~~

14-28 ~~[(1) a child-care institution, as defined by Section~~
 14-29 ~~42.002, Human Resources Code;~~

14-30 ~~[(2) a child-placing agency, as defined by Section~~
 14-31 ~~42.002, Human Resources Code;~~

14-32 ~~[(3) a foster group home or foster family home, as~~
 14-33 ~~defined by Section 42.002, Human Resources Code; and~~

14-34 ~~[(4) an agency group home or agency home, as defined by~~
 14-35 ~~Section 42.002, Human Resources Code, other than an agency group~~
 14-36 ~~home, agency home, or a foster home verified or certified by the~~
 14-37 ~~department.]~~

14-38 (b) The executive commissioner of the Health and Human
 14-39 Services Commission shall adopt a substitute care transition plan
 14-40 and rules to implement Section 264.106, Family Code, as amended by
 14-41 this section. The transition plan must provide that:

14-42 (1) as soon as possible after September 1, 2005, the
 14-43 Department of Family and Protective Services shall begin
 14-44 implementing Section 264.106, Family Code, as amended by this
 14-45 section; and

14-46 (2) on and after September 1, 2008:

14-47 (A) all substitute care services, as defined by
 14-48 Subsection (a), Section 264.106, Family Code, as amended by this
 14-49 section, for children for whom the department has been appointed
 14-50 temporary or permanent managing conservator must be provided by
 14-51 child-care institutions, child-placing agencies, foster group
 14-52 homes, and counties with a local child welfare board with which the
 14-53 department contracts; and

14-54 (B) notwithstanding any other law, the
 14-55 department may not directly provide those services.

14-56 (c) Section 264.106, Family Code, as amended by this
 14-57 section, applies only to a contract for substitute care services
 14-58 that is entered into or renewed on or after the effective date of
 14-59 this section. A contract that is entered into or renewed before the
 14-60 effective date of this section is governed by the law in effect on
 14-61 the date the contract was entered into or renewed, and the former
 14-62 law is continued in effect for that purpose.

14-63 SECTION 1.34. ADOPTION OF TRANSITION PLAN. Not later than
 14-64 March 1, 2006, the Health and Human Services Commission and the
 14-65 Department of Family and Protective Services shall, in consultation
 14-66 with private entities under contract to provide substitute care
 14-67 services for the department, including members of the boards of
 14-68 directors of the private entities and other community stakeholders,
 14-69 develop and adopt a substitute care services transition plan. The

15-1 executive commissioner of the Health and Human Services Commission
 15-2 shall adopt rules to implement the privatization of substitute care
 15-3 services in this state. The transition plan developed by the
 15-4 department and the commission must:

15-5 (1) identify barriers to privatization and propose
 15-6 solutions to stimulate capacity and adjust program delivery;

15-7 (2) include an implementation plan to transfer all
 15-8 foster homes certified by the department to private child-placing
 15-9 agencies, ensuring minimum disruption to the children in foster
 15-10 care and to current foster parents;

15-11 (3) include a process for assessing each child who is
 15-12 transferred to a private substitute care provider to verify the
 15-13 child's service needs;

15-14 (4) include an implementation plan to transfer all
 15-15 adoption services to private agencies, including details of how and
 15-16 when cases will be transferred and how adoption provider contracts
 15-17 and reimbursement methods will be structured;

15-18 (5) detail financial arrangements and performance
 15-19 expectations for substitute care and case management providers
 15-20 that:

15-21 (A) provide incentives for desired results and
 15-22 explicit contract performance and outcome indicators;

15-23 (B) describe how financing options will increase
 15-24 flexibility to promote innovation and efficiency in service
 15-25 delivery; and

15-26 (C) provide balance between control over key
 15-27 decisions with the level of risk the contractor assumes;

15-28 (6) require the department to enter into contracts for
 15-29 the provision of substitute care and describe the procurement and
 15-30 contracting process, including:

15-31 (A) describing how the department will shift from
 15-32 an open-enrollment system to competitive procurement; and

15-33 (B) developing a procurement and contracting
 15-34 schedule to ensure full implementation not later than September 1,
 15-35 2008;

15-36 (7) address the immediate and ongoing training that is
 15-37 needed both for department staff who are shifting roles and for
 15-38 contractors, including substitute care and case management
 15-39 providers;

15-40 (8) provide that a substitute care provider that
 15-41 contracts with the department to provide substitute care services
 15-42 shall give a preference in hiring to qualified department employees
 15-43 in good standing with the department who provide substitute care
 15-44 services and whose positions with the department may be eliminated
 15-45 as a result of the privatization of substitute care services; and

15-46 (9) describe how the transition will impact the
 15-47 state's ability to capture federal funding and examine options for
 15-48 further maximizing federal funding opportunities and increasing
 15-49 flexibility.

15-50 SECTION 1.35. SUBSTITUTE CARE SERVICES TRANSITION TASK
 15-51 FORCE. (a) The substitute care services transition task force
 15-52 shall:

15-53 (1) review the substitute care services transition
 15-54 plan and rules adopted by the executive commissioner of the Health
 15-55 and Human Services Commission under this Act;

15-56 (2) monitor the implementation of Section 264.106,
 15-57 Family Code, as amended by this Act, by the Department of Family and
 15-58 Protective Services; and

15-59 (3) make recommendations to the department to
 15-60 facilitate the implementation of Section 264.106, Family Code, as
 15-61 amended by this Act.

15-62 (b) The task force is composed of three members, appointed
 15-63 as follows:

15-64 (1) one member appointed by the lieutenant governor;

15-65 (2) one member appointed by the speaker of the house of
 15-66 representatives; and

15-67 (3) one member appointed by the comptroller.

15-68 (c) The member appointed under Subdivision (3), Subsection
 15-69 (b) of this section, serves as the presiding officer.

16-1 (d) The task force shall meet at least monthly.

16-2 (e) Not later than the 31st day after the date the
16-3 Department of Family and Protective Services receives a
16-4 recommendation under Subdivision (3), Subsection (a) of this
16-5 section, the department shall implement the recommendation or, if
16-6 necessary, the executive commissioner of the Health and Human
16-7 Services Commission shall initiate rulemaking procedures to adopt
16-8 rules to implement the recommendation.

16-9 (f) At least quarterly, the task force shall submit a report
16-10 to the lieutenant governor, the speaker of the house of
16-11 representatives, and the Legislative Budget Board regarding the
16-12 status of the implementation of Section 264.106, Family Code, as
16-13 amended by this Act.

16-14 (g) This section expires and the task force is abolished
16-15 August 31, 2008.

16-16 SECTION 1.36. Section 264.1075, Family Code, is amended to
16-17 read as follows:

16-18 Sec. 264.1075. ASSESSING THE NEEDS OF A CHILD [USE OF
16-19 ASSESSMENT SERVICES]. (a) As soon as possible after a child
16-20 begins receiving foster care under this subchapter, the department
16-21 shall assess whether the child has a developmental disability or
16-22 mental retardation. The commission shall establish the procedures
16-23 that the department must use in making an assessment under this
16-24 subsection. The procedures may include screening or participation
16-25 by:

16-26 (1) a private person experienced in the developmental
16-27 disabilities or mental retardation of children;

16-28 (2) a local mental retardation authority; or

16-29 (3) a provider of a county with a local child welfare
16-30 board.

16-31 (b) Before placing a child in substitute care, the
16-32 department shall use assessment services provided by a child-care
16-33 facility or child-placing agency in accordance with Section
16-34 42.0425, Human Resources Code, to determine the appropriate
16-35 substitute care for the child.

16-36 SECTION 1.37. Subchapter B, Chapter 264, Family Code, is
16-37 amended by adding Section 264.1076 to read as follows:

16-38 Sec. 264.1076. FOSTER CARE DEVELOPMENTAL DISABILITIES
16-39 ADVISORY COMMITTEE. (a) The Foster Care Developmental
16-40 Disabilities Advisory Committee shall advise the department on
16-41 issues relating to the care of foster children with developmental
16-42 disabilities or mental retardation, including effective methods
16-43 for:

16-44 (1) minimizing the number of foster children placed in
16-45 institutions and maximizing the number of foster children receiving
16-46 community-based care;

16-47 (2) training and supporting persons who provide foster
16-48 care in a residential setting on issues relating to the particular
16-49 needs of children with developmental disabilities or mental
16-50 retardation;

16-51 (3) training employees of the department to promptly
16-52 identify foster children with developmental disabilities or mental
16-53 retardation;

16-54 (4) monitoring the care provided in residential
16-55 settings to foster children with developmental disabilities or
16-56 mental retardation;

16-57 (5) recruiting individuals to provide foster care in a
16-58 residential setting to children with developmental disabilities or
16-59 mental retardation;

16-60 (6) contracting with persons to care for foster
16-61 children with developmental disabilities or mental retardation;

16-62 (7) planning for the transition of children with
16-63 developmental disabilities or mental retardation out of foster care
16-64 to enhance opportunities for the children to remain in their
16-65 communities; and

16-66 (8) assigning levels of services for children with
16-67 developmental disabilities or mental retardation and children with
16-68 special health care needs.

16-69 (b) The executive commissioner shall determine the number

17-1 of persons who serve on the committee.

17-2 (c) The executive commissioner shall appoint the members of
 17-3 the committee and determine each member's length of service. In
 17-4 making appointments to the committee, the executive commissioner
 17-5 shall attempt to include:

17-6 (1) representatives of the commission and other
 17-7 relevant state agencies;

17-8 (2) providers of services to persons with
 17-9 developmental disabilities or mental retardation;

17-10 (3) persons who formerly received care under this
 17-11 subchapter as foster children;

17-12 (4) persons with expertise about developmental
 17-13 disabilities or mental retardation;

17-14 (5) persons who advocate for the rights of children
 17-15 with developmental disabilities or mental retardation; and

17-16 (6) persons related to children with developmental
 17-17 disabilities or mental retardation.

17-18 (d) Chapter 2110, Government Code, does not apply to the
 17-19 committee.

17-20 (e) The commission or the department may pay any expenses
 17-21 incurred by the committee.

17-22 SECTION 1.38. Subchapter B, Chapter 264, Family Code, is
 17-23 amended by adding Section 264.1095 to read as follows:

17-24 Sec. 264.1095. CHILD SUPPORT. Unless the department has
 17-25 been assigned support rights under Section 264.109, the department
 17-26 shall file suit for child support under Section 154.001(b) for a
 17-27 child for whom the department has been named temporary managing
 17-28 conservator.

17-29 SECTION 1.39. (a) Subchapter B, Chapter 264, Family Code,
 17-30 is amended by adding Section 264.116 to read as follows:

17-31 Sec. 264.116. TEXAS FOSTER GRANDPARENTS PROGRAM. (a) The
 17-32 department shall work with volunteer and advocacy organizations
 17-33 from the community to develop and implement a statewide foster
 17-34 grandparents program that:

17-35 (1) recruits volunteers who are senior citizens; and

17-36 (2) encourages the volunteers to serve as mentors to
 17-37 children who reside in a residential child-care facility.

17-38 (b) From funds available for that purpose, the department
 17-39 may reimburse volunteers for actual and necessary expenses incurred
 17-40 while participating in the program, including travel expenses. The
 17-41 executive commissioner by rule shall develop guidelines for the
 17-42 reimbursement of expenses under the program.

17-43 (c) A volunteer who participates in the program is subject
 17-44 to state and national criminal background checks in accordance with
 17-45 Sections 411.087 and 411.114, Government Code.

17-46 (d) The department shall require foster parents or
 17-47 employees of residential child-care facilities to provide
 17-48 appropriate supervision over volunteers during their participation
 17-49 in the program.

17-50 (e) The program is subject to Chapter 2109, Government Code.

17-51 (b) The Department of Family and Protective Services shall
 17-52 implement the statewide foster grandparents program required by
 17-53 Section 264.116, Family Code, as added by this section, not later
 17-54 than June 1, 2006.

17-55 SECTION 1.40. Subchapter B, Chapter 264, Family Code, is
 17-56 amended by adding Section 264.121 to read as follows:

17-57 Sec. 264.121. PREPARATION FOR ADULT LIVING PROGRAM.

17-58 (a) The department shall address the unique challenges facing
 17-59 foster children in the conservatorship of the department who must
 17-60 transition to independent living by:

17-61 (1) expanding efforts to improve discharge planning
 17-62 and increasing the availability of transitional family group
 17-63 decision-making to all youth age 16 or older in the department's
 17-64 permanent managing conservatorship;

17-65 (2) coordinating with the Health and Human Services
 17-66 Commission to obtain authority, to the extent allowed by federal
 17-67 law, the state Medicaid plan, the Title IV-E state plan, and any
 17-68 waiver or amendment to either plan, necessary to:

17-69 (A) extend foster care eligibility and

18-1 transition services for youth up to age 21 and develop policy to
 18-2 permit eligible youth to return to foster care as necessary to
 18-3 achieve the goals of the Preparation for Adult Living Program; and

18-4 (B) extend Medicaid coverage for foster care
 18-5 youth and former foster care youth up to age 21 with a single
 18-6 application at the time the youth leaves foster care; and

18-7 (3) entering into cooperative agreements with the
 18-8 Texas Workforce Commission and local workforce development boards
 18-9 to further the objectives of the Preparation for Adult Living
 18-10 Program. The department, the Texas Workforce Commission, and the
 18-11 local workforce development boards shall ensure that services are
 18-12 prioritized and targeted to meet the needs of foster care and former
 18-13 foster care children and that such services will include, where
 18-14 feasible, referrals for short-term stays for youth needing housing.

18-15 (b) In this section "local workforce development board"
 18-16 means a local workforce development board created under Chapter
 18-17 2308, Government Code.

18-18 SECTION 1.41. Subchapter C, Chapter 264, Family Code, is
 18-19 amended by adding Section 264.2015 to read as follows:

18-20 Sec. 264.2015. FAMILY GROUP CONFERENCING. The department
 18-21 may collaborate with the courts and other appropriate local
 18-22 entities to develop and implement family group conferencing as a
 18-23 strategy for promoting family preservation and permanency for
 18-24 children.

18-25 SECTION 1.42. Subchapter C, Chapter 264, Family Code, is
 18-26 amended by adding Section 264.204 to read as follows:

18-27 Sec. 264.204. COMMUNITY-BASED FAMILY SERVICES. (a) The
 18-28 department shall administer a grant program to provide funding to
 18-29 community organizations, including faith-based or county
 18-30 organizations, to respond to:

18-31 (1) low-priority, less serious cases of abuse and
 18-32 neglect; and

18-33 (2) cases in which an allegation of abuse or neglect of
 18-34 a child was unsubstantiated but involved a family that has been
 18-35 previously investigated for abuse or neglect of a child.

18-36 (b) The executive commissioner shall adopt rules to
 18-37 implement the grant program, including rules governing the
 18-38 submission and approval of grant requests and the cancellation of
 18-39 grants.

18-40 (c) To receive a grant, a community organization whose grant
 18-41 request is approved must execute an interagency agreement or a
 18-42 contract with the department. The contract must require the
 18-43 organization receiving the grant to perform the services as stated
 18-44 in the approved grant request. The contract must contain
 18-45 appropriate provisions for program and fiscal monitoring.

18-46 (d) In areas of the state in which community organizations
 18-47 receive grants under the program, the department shall refer
 18-48 low-priority, less serious cases of abuse and neglect to a
 18-49 community organization receiving a grant under the program.

18-50 (e) A community organization receiving a referral under
 18-51 Subsection (d) shall make a home visit and offer family social
 18-52 services to enhance the parents' ability to provide a safe and
 18-53 stable home environment for the child. If the family chooses to use
 18-54 the family services, a case manager from the organization shall
 18-55 monitor the case and ensure that the services are delivered.

18-56 (f) If after the home visit the community organization
 18-57 determines that the case is more serious than the department
 18-58 indicated, the community organization shall refer the case to the
 18-59 department for a full investigation.

18-60 (g) The department may not award a grant to a community
 18-61 organization in an area of the state in which a similar program is
 18-62 already providing effective family services in the community.

18-63 (h) For purposes of this section, a case is considered to be
 18-64 a less serious case of abuse or neglect if:

18-65 (1) the circumstances of the case do not appear to
 18-66 involve a reasonable likelihood that the child will be abused or
 18-67 neglected in the foreseeable future; or

18-68 (2) the allegations in the report of child abuse or
 18-69 neglect:

19-1 (A) are general in nature or vague and do not
 19-2 support a determination that the child who is the subject of the
 19-3 report has been abused or neglected or will likely be abused or
 19-4 neglected; or

19-5 (B) if substantiated, would not be considered
 19-6 abuse or neglect under this chapter.

19-7 SECTION 1.43. Subchapter C, Chapter 264, Family Code, is
 19-8 amended by adding Section 264.2041 to read as follows:

19-9 Sec. 264.2041. CULTURAL AWARENESS. The department shall:

19-10 (1) document disproportionate representation of
 19-11 individual races and ethnicities and institute policy and practices
 19-12 to promote parity in outcomes for all children;

19-13 (2) prioritize prevention and early intervention
 19-14 services for communities and groups with disproportionate
 19-15 representation in the child protective services population;

19-16 (3) develop and deliver cultural competency training
 19-17 to all service delivery staff;

19-18 (4) increase targeted recruitment efforts for foster
 19-19 and adoptive families who can meet the needs of children and youth
 19-20 who are waiting for permanent homes;

19-21 (5) target recruitment efforts to ensure diversity
 19-22 among department staff; and

19-23 (6) develop collaborative partnerships with community
 19-24 groups, agencies, faith-based organizations, and other community
 19-25 organizations to provide culturally competent services to children
 19-26 and families of every race and ethnicity.

19-27 SECTION 1.44. Subsection (c), Section 264.203, Family Code,
 19-28 is amended to read as follows:

19-29 (c) If the person ordered to participate in the services
 19-30 fails to follow the court's order, the court may impose appropriate
 19-31 sanctions in order to protect the health and safety of the child,
 19-32 including the removal of the child as specified by Chapter 262
 19-33 [community service as a sanction for contempt].

19-34 SECTION 1.45. Subsection (b), Section 264.502, Family Code,
 19-35 is amended to read as follows:

19-36 (b) The members of the committee who serve under Subsections
 19-37 (a)(1) through (3) shall select the following additional committee
 19-38 members:

19-39 (1) a criminal prosecutor involved in prosecuting
 19-40 crimes against children;

19-41 (2) a sheriff;

19-42 (3) a justice of the peace;

19-43 (4) a medical examiner;

19-44 (5) a police chief;

19-45 (6) a pediatrician experienced in diagnosing and
 19-46 treating child abuse and neglect;

19-47 (7) a child educator;

19-48 (8) a child mental health provider;

19-49 (9) a public health professional;

19-50 (10) a child protective services specialist;

19-51 (11) a sudden infant death syndrome family service
 19-52 provider;

19-53 (12) a neonatologist;

19-54 (13) a child advocate; ~~and~~

19-55 (14) a chief juvenile probation officer; and

19-56 (15) a child abuse prevention specialist.

19-57 SECTION 1.46. Section 264.503, Family Code, is amended by
 19-58 amending Subsections (b) through (f) and adding Subsections (d-1)
 19-59 and (g) to read as follows:

19-60 (b) To ensure that the committee achieves its purpose, the
 19-61 department and the ~~Texas~~ Department of State Health Services
 19-62 shall perform the duties specified by this section.

19-63 (c) The department shall:

19-64 (1) recognize the creation and participation of review
 19-65 teams; and

19-66 (2) work cooperatively with the committee and with
 19-67 individual child fatality review teams ~~[promote and coordinate~~
 19-68 ~~training to assist the review teams in carrying out their duties,~~

19-69 ~~[(3) assist the committee in developing model~~

20-1 protocols for:

20-2 [~~(A) the reporting and investigating of child~~
 20-3 ~~fatalities for law enforcement agencies, child protective~~
 20-4 ~~services, justices of the peace and medical examiners, and other~~
 20-5 ~~professionals involved in the investigations of child deaths,~~

20-6 [~~(B) the collection of data regarding child~~
 20-7 ~~deaths; and~~

20-8 [~~(C) the operation of the review teams; and~~
 20-9 [~~(4) develop and implement procedures necessary for~~
 20-10 ~~the operation of the committee].~~

20-11 (d) The Department of State Health Services [~~department~~]
 20-12 shall:

20-13 (1) promote and coordinate training to assist the
 20-14 review teams in carrying out their duties;

20-15 (2) assist the committee in developing model protocols
 20-16 for:

20-17 (A) the reporting and investigating of child
 20-18 fatalities for law enforcement agencies, child protective
 20-19 services, justices of the peace and medical examiners, and other
 20-20 professionals involved in the investigations of child deaths;

20-21 (B) the collection of data regarding child
 20-22 deaths; and

20-23 (C) the operation of the review teams;
 20-24 (3) develop and implement procedures necessary for the
 20-25 operation of the committee; and

20-26 (4) promote education of the public regarding the
 20-27 incidence and causes of child deaths, the public role in preventing
 20-28 child deaths, and specific steps the public can undertake to
 20-29 prevent child deaths.

20-30 (d-1) The committee shall enlist the support and assistance
 20-31 of civic, philanthropic, and public service organizations in the
 20-32 performance of the duties imposed under Subsection (d) [this
 20-33 subsection].

20-34 (e) In addition to the duties under Subsection (d), the [The
 20-35 Texas] Department of State Health Services shall:

20-36 (1) collect data under this subchapter and coordinate
 20-37 the collection of data under this subchapter with other data
 20-38 collection activities; and

20-39 (2) perform annual statistical studies of the
 20-40 incidence and causes of child fatalities using the data collected
 20-41 under this subchapter.

20-42 (f) The committee shall issue a report for each preventable
 20-43 child death. The report must include [annual reports on the
 20-44 committee's activities, including] findings related to the child's
 20-45 death, [and] recommendations on how to prevent similar deaths, and
 20-46 details surrounding the department's involvement with the child
 20-47 prior to the child's death [relating to each purpose and duty of the
 20-48 committee described by this section]. Not later than December 1 of
 20-49 each [even-numbered] year, the committee shall publish a
 20-50 compilation of the reports published under this subsection during
 20-51 the year, [the report and] submit a copy of the compilation [report]
 20-52 to the governor, lieutenant governor, [and] speaker of the house of
 20-53 representatives, and department, and make the compilation
 20-54 available to the public. Not later than June 1 of each year, the
 20-55 department shall submit a written response on the compilation from
 20-56 the previous year to the committee, governor, lieutenant governor,
 20-57 and speaker of the house of representatives describing which of the
 20-58 committee's recommendations regarding the operation of the child
 20-59 protective services system the department will implement and the
 20-60 methods of implementation.

20-61 (g) The committee shall perform the functions and duties
 20-62 required of a citizen review panel under 42 U.S.C. Section
 20-63 5106a(c)(4)(A).

20-64 SECTION 1.47. Subsection (c), Section 264.504, Family Code,
 20-65 is amended to read as follows:

20-66 (c) Information identifying a deceased child, a member of
 20-67 the child's family, a guardian or caretaker of the child, or an
 20-68 alleged or suspected perpetrator of abuse or neglect of the child
 20-69 may not be disclosed during a public meeting. On a majority vote of

21-1 the committee members, the members shall remove from the committee
 21-2 any member who discloses information described by this subsection
 21-3 in a public meeting.

21-4 SECTION 1.48. Subsection (c), Section 264.505, Family Code,
 21-5 is amended to read as follows:

21-6 (c) A review team may include:

- 21-7 (1) a criminal prosecutor involved in prosecuting
 21-8 crimes against children;
 21-9 (2) a sheriff;
 21-10 (3) a justice of the peace or medical examiner;
 21-11 (4) a police chief;
 21-12 (5) a pediatrician experienced in diagnosing and
 21-13 treating child abuse and neglect;
 21-14 (6) a child educator;
 21-15 (7) a child mental health provider;
 21-16 (8) a public health professional;
 21-17 (9) a child protective services specialist;
 21-18 (10) a sudden infant death syndrome family service
 21-19 provider;
 21-20 (11) a neonatologist;
 21-21 (12) a child advocate; ~~and~~
 21-22 (13) a chief juvenile probation officer; and
 21-23 (14) a child abuse prevention specialist.

21-24 SECTION 1.49. Section 264.506, Family Code, is amended by
 21-25 amending Subsection (b) and adding Subsection (d) to read as
 21-26 follows:

21-27 (b) To achieve its purpose, a review team shall:

- 21-28 (1) adapt and implement, according to local needs and
 21-29 resources, the model protocols developed by the department and the
 21-30 committee;
 21-31 (2) meet on a regular basis at least quarterly to
 21-32 review child fatality cases and recommend methods to improve
 21-33 coordination of services and investigations between agencies that
 21-34 are represented on the team;
 21-35 (3) collect and maintain data as required by the
 21-36 committee; and
 21-37 (4) submit to the bureau of vital statistics data
 21-38 reports on deaths reviewed as specified by the committee.

21-39 (d) A review team shall perform the functions and duties
 21-40 required of a citizen review panel under 42 U.S.C. Section
 21-41 5106a(c)(4)(A).

21-42 SECTION 1.50. Subsection (c), Section 264.511, Family Code,
 21-43 is amended to read as follows:

21-44 (c) A member of a review team may not disclose any
 21-45 information that is confidential under this section. On a majority
 21-46 vote of the review team members, the members shall remove from the
 21-47 review team any member who discloses confidential information.

21-48 SECTION 1.51. Section 264.602, Family Code, is amended by
 21-49 adding Subsection (e) to read as follows:

21-50 (e) The department, in cooperation with the statewide
 21-51 organization with which the attorney general contracts under
 21-52 Section 264.603 and other interested agencies, shall support the
 21-53 expansion of court-appointed volunteer advocate programs into
 21-54 counties in which there is a need for the programs. In expanding
 21-55 into a county, a program shall work to ensure the independence of
 21-56 the program, to the extent possible, by establishing community
 21-57 support and accessing private funding from the community for the
 21-58 program.

21-59 SECTION 1.52. (a) Chapter 264, Family Code, is amended by
 21-60 adding Subchapter I to read as follows:

21-61 SUBCHAPTER I. RELATIVE AND OTHER DESIGNATED CAREGIVER PLACEMENT
 21-62 PROGRAM

21-63 Sec. 264.751. DEFINITIONS. In this subchapter:

- 21-64 (1) "Designated caregiver" means an individual who has
 21-65 a longstanding and significant relationship with a child for whom
 21-66 the department has been appointed managing conservator and who:
 21-67 (A) is appointed to provide substitute care for
 21-68 the child, but is not licensed or certified to operate a foster
 21-69 home, foster group home, agency foster home, or agency foster group

22-1 home under Chapter 42, Human Resources Code; or

22-2 (B) is subsequently appointed permanent managing
 22-3 conservator of the child after providing the care described by
 22-4 Paragraph (A).

22-5 (2) "Relative" means a person related to a child by
 22-6 consanguinity as determined under Section 573.022, Government
 22-7 Code.

22-8 (3) "Relative caregiver" means a relative who:

22-9 (A) provides substitute care for a child for whom
 22-10 the department has been appointed managing conservator, but who is
 22-11 not licensed or certified to operate a foster home, foster group
 22-12 home, agency foster home, or agency foster group home under Chapter
 22-13 42, Human Resources Code; or

22-14 (B) is subsequently appointed permanent managing
 22-15 conservator of the child after providing the care described by
 22-16 Paragraph (A).

22-17 Sec. 264.752. RELATIVE AND OTHER DESIGNATED CAREGIVER
 22-18 PLACEMENT PROGRAM. (a) The department shall develop and
 22-19 administer a program to:

22-20 (1) promote continuity and stability for children for
 22-21 whom the department is appointed managing conservator by placing
 22-22 those children with relative or other designated caregivers; and

22-23 (2) facilitate relative or other designated caregiver
 22-24 placements by providing assistance and services to those caregivers
 22-25 in accordance with this subchapter and rules adopted by the
 22-26 executive commissioner.

22-27 (b) The executive commissioner shall adopt rules necessary
 22-28 to implement this subchapter. The rules must include eligibility
 22-29 criteria for receiving assistance and services under this
 22-30 subchapter.

22-31 Sec. 264.753. EXPEDITED PLACEMENT. The department shall
 22-32 expedite the completion of the background and criminal history
 22-33 check, the home study, and any other administrative procedure to
 22-34 ensure that the child is placed with a qualified relative or
 22-35 caregiver not later than two weeks after the date the caregiver is
 22-36 identified.

22-37 Sec. 264.754. INVESTIGATION OF PROPOSED PLACEMENT. Before
 22-38 placing a child with a proposed relative or other designated
 22-39 caregiver, the department must conduct an investigation to
 22-40 determine whether the proposed placement is in the child's best
 22-41 interests.

22-42 Sec. 264.755. CAREGIVER ASSISTANCE AGREEMENT. The
 22-43 department shall, subject to the availability of funds, enter into
 22-44 a caregiver assistance agreement with each relative or other
 22-45 designated caregiver to provide monetary assistance and additional
 22-46 support services to the caregiver. The monetary assistance and
 22-47 support services may include:

22-48 (1) a one-time cash payment of not more than \$1,000 to
 22-49 the caregiver on the initial placement of a child or, if the child
 22-50 and at least one of the child's siblings are placed with the
 22-51 caregiver, a one-time cash payment of not more than \$1,000 to the
 22-52 caregiver on the initial placement of the sibling group, to assist
 22-53 the caregiver in purchasing essential child-care items such as
 22-54 furniture and clothing;

22-55 (2) case management services and training and
 22-56 information about the child's needs until the caregiver is
 22-57 appointed permanent managing conservator;

22-58 (3) referrals to appropriate state agencies
 22-59 administering public benefits or assistance programs for which the
 22-60 child, the caregiver, or the caregiver's family may qualify;

22-61 (4) family counseling not provided under the Medicaid
 22-62 program for the caregiver's family for a period not to exceed two
 22-63 years from the date of initial placement;

22-64 (5) if the caregiver meets the eligibility criteria
 22-65 determined by rules adopted by the executive commissioner,
 22-66 reimbursement of all child-care expenses incurred while the child
 22-67 is under 13 years of age, or under 18 years of age if the child has a
 22-68 developmental disability, and while the department is the child's
 22-69 managing conservator;

23-1 (6) if the caregiver meets the eligibility criteria
 23-2 determined by rules adopted by the executive commissioner,
 23-3 reimbursement of 50 percent of child-care expenses incurred after
 23-4 the caregiver is appointed permanent managing conservator of the
 23-5 child while the child is under 13 years of age, or under 18 years of
 23-6 age if the child has a developmental disability; and

23-7 (7) reimbursement of other expenses, as determined by
 23-8 rules adopted by the executive commissioner, not to exceed \$500 per
 23-9 year for each child.

23-10 Sec. 264.756. ASSISTANCE WITH PERMANENT PLACEMENT. The
 23-11 department shall collaborate with the State Bar of Texas and local
 23-12 community partners to identify legal resources to assist relatives
 23-13 and other designated caregivers in obtaining conservatorship,
 23-14 adoption, or other permanent legal status for the child.

23-15 Sec. 264.757. COORDINATION WITH OTHER AGENCIES. The
 23-16 department shall coordinate with other health and human services
 23-17 agencies, as defined by Section 531.001, Government Code, to
 23-18 provide assistance and services under this subchapter.

23-19 Sec. 264.758. FUNDS. The department and other state
 23-20 agencies shall actively seek and use federal funds available for
 23-21 the purposes of this subchapter.

23-22 (b) Not later than December 1, 2005, the executive
 23-23 commissioner of the Health and Human Services Commission shall
 23-24 adopt rules for implementing and administering the relative and
 23-25 other designated caregiver placement program under Subchapter I,
 23-26 Chapter 264, Family Code, as added by this section.

23-27 (c) Not later than March 1, 2006, the Department of Family
 23-28 and Protective Services shall implement the relative and other
 23-29 designated caregiver placement program in accordance with
 23-30 Subchapter I, Chapter 264, Family Code, as added by this section.

23-31 SECTION 1.53. Subtitle E, Title 5, Family Code, is amended
 23-32 by adding Chapter 266 to read as follows:

23-33 CHAPTER 266. MEDICAL CARE FOR CHILDREN IN FOSTER CARE

23-34 Sec. 266.001. DEFINITIONS. In this chapter:

23-35 (1) "Commission" means the Health and Human Services
 23-36 Commission.

23-37 (2) "Department" means the Department of Family and
 23-38 Protective Services.

23-39 Sec. 266.002. CONSTRUCTION WITH OTHER LAW. This chapter
 23-40 does not limit the right to consent to medical, dental,
 23-41 psychological, and surgical treatment under Chapter 32.

23-42 Sec. 266.003. CONSENT FOR MEDICAL CARE. (a) Medical care
 23-43 may not be provided to a child in foster care unless the person
 23-44 authorized by this section has provided informed consent.

23-45 (b) The following persons may be authorized by the court to
 23-46 consent to medical care for a child in foster care:

23-47 (1) an individual designated by name in an order of the
 23-48 court, including the child's parent, if the parent's rights have not
 23-49 been terminated; or

23-50 (2) the department or an agent of the department,
 23-51 including a foster parent.

23-52 (c) If the person authorized to consent to medical care is
 23-53 the department or an agent of the department, the department shall
 23-54 file with the court the name of the individual who will exercise the
 23-55 duty and responsibility of providing informed consent on behalf of
 23-56 the department. If the individual who exercises the duty and
 23-57 responsibility of providing informed consent on behalf of the
 23-58 department changes, the department shall file notice of the change
 23-59 with the court not later than the 10th day after the date the change
 23-60 occurs.

23-61 (d) A physician or other provider of medical care acting in
 23-62 good faith may rely on the representation by a person that the
 23-63 person has the authority to consent to the provision of medical care
 23-64 to a child in foster care as provided by Subsection (b).

23-65 (e) The department, a person authorized to consent to
 23-66 medical care under Subsection (b), the child's parent if the
 23-67 parent's rights have not been terminated, a guardian ad litem or
 23-68 attorney ad litem if one has been appointed, or the person providing
 23-69 foster care to the child may petition the court for any order

24-1 related to medical care of a child in foster care that the
 24-2 department or other person believes is in the best interest of the
 24-3 child. Notice of the petition must be given to each person entitled
 24-4 to notice under Section 263.301(b).

24-5 (f) On its own motion or in response to a petition under
 24-6 Subsection (e), the court may issue any order related to the medical
 24-7 care of a child in foster care that the court determines is in the
 24-8 best interest of the child.

24-9 (g) Notwithstanding Subsection (b), a person may not be
 24-10 authorized to consent to medical care provided to a child in foster
 24-11 care unless the person has completed a department-approved training
 24-12 program related to consenting to medical care. This subsection
 24-13 does not apply to a parent whose rights have not been terminated
 24-14 unless the court orders the parent to complete the training.

24-15 (h) The person authorized by Subsection (b) to consent to
 24-16 medical care of a child in foster care shall participate in each
 24-17 appointment of the child with the provider of the medical care.

24-18 Sec. 266.004. HEALTH PASSPORTS. (a) The commission shall
 24-19 make available to the person authorized to consent to medical care
 24-20 under Section 266.003(b) and any provider of health care to a child
 24-21 in foster care the most complete health history of the child
 24-22 available to the department.

24-23 (b) The department shall develop a health passport for each
 24-24 child in foster care. The department shall determine the format of
 24-25 the passport. The passport may be maintained in an electronic
 24-26 format. The health passport must include the most complete medical
 24-27 history of the child available to the department and must be readily
 24-28 accessible to medical care providers. The health passport must
 24-29 contain educational records of the child, including the names and
 24-30 addresses of educational providers, the child's grade level
 24-31 performance, and any other educational information the department
 24-32 determines is important.

24-33 (c) The form and content of the passport shall be finalized
 24-34 within six months of the enactment of the legislation adding this
 24-35 chapter. The passport shall be available in an electronic format
 24-36 within 24 months of the enactment of this legislation. Within 36
 24-37 months, the passport shall interface directly with other electronic
 24-38 health record systems that contain information that impacts the
 24-39 health care of the child.

24-40 (d) The department shall maintain the passport as part of
 24-41 the department's records for the child as long as the child remains
 24-42 in foster care.

24-43 Sec. 266.005. JUDICIAL REVIEW OF MEDICAL CARE. (a) At
 24-44 each hearing under Chapter 263, or more frequently if ordered by the
 24-45 court, the court shall review a summary of the medical care provided
 24-46 to the child since the last hearing. The summary must include
 24-47 information regarding:

24-48 (1) the nature of any emergency medical care provided
 24-49 to the child and the circumstances necessitating emergency medical
 24-50 care, including any injury or acute illness suffered by the child;

24-51 (2) any medication prescribed for the child and the
 24-52 condition for which the medication was prescribed;

24-53 (3) the degree to which the child or foster care
 24-54 provider has complied or failed to comply with any plan of medical
 24-55 treatment for the child;

24-56 (4) any adverse reaction to or side effects of any
 24-57 medical treatment provided to the child;

24-58 (5) any specific medical condition of the child that
 24-59 has been diagnosed or for which tests are being conducted to make a
 24-60 diagnosis;

24-61 (6) any activity that the child should avoid or should
 24-62 engage in that might affect the effectiveness of the treatment,
 24-63 including physical activities, other medications, and diet; and

24-64 (7) other information required by department rule or
 24-65 by the court.

24-66 (b) At or before each hearing under Chapter 263, the
 24-67 department shall provide the summary of medical care described by
 24-68 Subsection (a) to:

24-69 (1) the court;

25-1 (2) the person authorized to consent to medical
 25-2 treatment for the child;

25-3 (3) the guardian ad litem or attorney ad litem, if one
 25-4 has been appointed by the court;

25-5 (4) the child's parent, if the parent's rights have not
 25-6 been terminated; and

25-7 (5) any other person determined by the department or
 25-8 the court to be necessary or convenient to the provision of medical
 25-9 care to children in foster care.

25-10 Sec. 266.006. OVERSIGHT OF MEDICAL CARE. (a) The
 25-11 commission shall establish a comprehensive system of oversight of
 25-12 medical care provided to children in foster care.

25-13 (b) The oversight system must include:

25-14 (1) the implementation of medical passports by which
 25-15 each foster child's full medical history available to the
 25-16 department is available at all times to the person authorized to
 25-17 consent to medical care for the child and to each provider of
 25-18 medical care who diagnoses or treats the child;

25-19 (2) establishment and use of a management information
 25-20 system that allows medical care provided to all children in foster
 25-21 care to be monitored;

25-22 (3) the use of medical advisory committees and medical
 25-23 review teams to establish treatment guidelines and criteria by
 25-24 which individual cases of medical care provided to children in
 25-25 foster care will be identified for further, in-depth review;

25-26 (4) development of the training program described by
 25-27 Section 266.003(g);

25-28 (5) a system in which parents, foster parents,
 25-29 caseworkers, and guardians ad litem have access to a child
 25-30 psychiatrist employed by the department to use as a resource for
 25-31 treating foster children;

25-32 (6) provision for the summary of medical treatment
 25-33 described by Section 266.005(a); and

25-34 (7) provision for the participation of the person
 25-35 authorized to consent to medical care for a child in foster care in
 25-36 each appointment of the child with the provider of the medical care.

25-37 Sec. 266.0061. STUDY OF INCENTIVES TO PRESCRIBE
 25-38 PSYCHOTROPIC DRUGS. (a) The department shall study the level of
 25-39 care system the department uses to determine a child's foster care
 25-40 needs to ascertain whether the system creates incentives for
 25-41 prescribing psychotropic medications to children in foster care.

25-42 (b) Not later than October 1, 2006, the department shall
 25-43 report the results of the study to the legislature. The report must
 25-44 include the department's proposed changes to the level of care
 25-45 system.

25-46 (c) This section expires January 1, 2007.

25-47 SECTION 1.54. Section 51.961, Government Code, is amended
 25-48 to read as follows:

25-49 Sec. 51.961. FAMILY PROTECTION FEE. (a) The commissioners
 25-50 court of a county shall ~~may~~ adopt a family protection fee in an
 25-51 amount not to exceed \$30 ~~[\$15]~~.

25-52 (b) Except as provided by Subsection (c), the district clerk
 25-53 or county clerk shall collect the family protection fee at the time
 25-54 a suit for dissolution of a marriage under Chapter 6, Family Code,
 25-55 is filed. The fee is in addition to any other fee collected by the
 25-56 district clerk or county clerk.

25-57 (c) The clerk may not collect a fee under this section from a
 25-58 person who is protected by an order issued under:

25-59 (1) Subtitle B, Title 4, Family Code; or

25-60 (2) Article 17.292, Code of Criminal Procedure.

25-61 (d) The clerk shall pay one-half of the ~~[a]~~ fee collected
 25-62 under this section to the appropriate officer of the county in which
 25-63 the suit is filed for deposit in the county treasury to the credit
 25-64 of the family protection account. The account may be used by the
 25-65 commissioners court of the county only to fund a service provider
 25-66 located in that county or an adjacent county. The commissioners
 25-67 court may provide funding to a nonprofit organization that provides
 25-68 services described by Subsection (e).

25-69 (e) A service provider who receives funds under Subsection

(d) may provide family violence and child abuse prevention, intervention, family strengthening, mental health, counseling, legal, and marriage preservation services to families that are at risk of experiencing or that have experienced family violence or the abuse or neglect of a child.

(f) In this section, "family violence" has the meaning assigned by Section 71.004, Family Code.

(g) The clerk shall pay one-half of the fee collected under this section to the comptroller, who shall deposit the money to the credit of the child abuse and neglect prevention trust fund account established under Section 40.105, Human Resources Code.

SECTION 1.55. Section 101.061, Government Code, is amended to read as follows:

Sec. 101.061. DISTRICT COURT FEES AND COSTS. The clerk of a district court shall collect fees and costs as follows:

(1) filing fee in action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . \$15;

(2) fee for service of notice of action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . not to exceed \$20, if notice delivered in person, or the cost of postage, if service is by registered or certified mail;

(3) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(4) appellate judicial system filing fees for:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(5) additional filing fees:

(A) for each suit filed for insurance contingency fund, if authorized by the county commissioners court (Sec. 51.302, Government Code) . . . not to exceed \$5;

(B) for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local Government Code) . . . \$45; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . \$50;

(C) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15; and

(D) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . \$5; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . \$10;

(6) for filing a suit, including an appeal from an inferior court:

(A) for a suit with 10 or fewer plaintiffs (Sec. 51.317, Government Code) . . . \$50;

27-1 (B) for a suit with at least 11 but not more than
27-2 25 plaintiffs (Sec. 51.317, Government Code) . . . \$75;
27-3 (C) for a suit with at least 26 but not more than
27-4 100 plaintiffs (Sec. 51.317, Government Code) . . . \$100;
27-5 (D) for a suit with at least 101 but not more than
27-6 500 plaintiffs (Sec. 51.317, Government Code) . . . \$125;
27-7 (E) for a suit with at least 501 but not more than
27-8 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$150; or
27-9 (F) for a suit with more than 1,000 plaintiffs
27-10 (Sec. 51.317, Government Code) . . . \$200;
27-11 (7) for filing a cross-action, counterclaim,
27-12 intervention, contempt action, motion for new trial, or third-party
27-13 petition (Sec. 51.317, Government Code) . . . \$15;
27-14 (8) for issuing a citation or other writ or process not
27-15 otherwise provided for, including one copy, when requested at the
27-16 time a suit or action is filed (Sec. 51.317, Government Code) . . .
27-17 \$8;
27-18 (9) for records management and preservation (Sec.
27-19 51.317, Government Code) . . . \$10;
27-20 (10) for issuing a subpoena, including one copy (Sec.
27-21 51.318, Government Code) . . . \$8;
27-22 (11) for issuing a citation, commission for
27-23 deposition, writ of execution, order of sale, writ of execution and
27-24 order of sale, writ of injunction, writ of garnishment, writ of
27-25 attachment, or writ of sequestration not provided for in Section
27-26 51.317, or any other writ or process not otherwise provided for,
27-27 including one copy if required by law (Sec. 51.318, Government
27-28 Code) . . . \$8;
27-29 (12) for searching files or records to locate a cause
27-30 when the docket number is not provided (Sec. 51.318, Government
27-31 Code) . . . \$5;
27-32 (13) for searching files or records to ascertain the
27-33 existence of an instrument or record in the district clerk's office
27-34 (Sec. 51.318, Government Code) . . . \$5;
27-35 (14) for abstracting a judgment (Sec. 51.318,
27-36 Government Code) . . . \$8;
27-37 (15) for approving a bond (Sec. 51.318, Government
27-38 Code) . . . \$4;
27-39 (16) for a certified copy of a record, judgment,
27-40 order, pleading, or paper on file or of record in the district
27-41 clerk's office, including certificate and seal, for each page or
27-42 part of a page (Sec. 51.318, Government Code) . . . \$1;
27-43 (17) for a noncertified copy, for each page or part of
27-44 a page (Sec. 51.318, Government Code) . . . not to exceed \$1;
27-45 (18) jury fee (Sec. 51.604, Government Code) . . .
27-46 \$30;
27-47 (19) for filing a report of divorce or annulment (Sec.
27-48 194.002, Health and Safety Code) . . . \$1;
27-49 (20) for filing a suit in Comal County (Sec. 152.0522,
27-50 Human Resources Code) . . . \$4;
27-51 (21) additional filing fee for family protection on
27-52 filing a suit for dissolution of a marriage under Chapter 6, Family
27-53 Code, if authorized by the county commissioners court (Sec. 51.961,
27-54 Government Code) . . . not to exceed \$30 [~~\$15~~];
27-55 (22) fee on filing a suit for dissolution of a marriage
27-56 for services of child support department in Harris County, if
27-57 authorized by the county commissioners court (Sec. 152.1074, Human
27-58 Resources Code) . . . not to exceed \$12;
27-59 (23) fee on filing a suit requesting an adoption in
27-60 Montague County (Sec. 152.1752, Human Resources Code) . . . \$25;
27-61 (24) court cost on citation for contempt of court for
27-62 failure to comply with child support order in Nueces County, if
27-63 authorized by the commissioners court (Sec. 152.1844, Human
27-64 Resources Code) . . . not to exceed \$10;
27-65 (25) fee on filing a suit for divorce in Orange County
27-66 (Sec. 152.1873, Human Resources Code) . . . not less than \$5;
27-67 (26) court costs on citation for contempt of court in
27-68 Orange County for failure to comply with a child support order or
27-69 order providing for possession of or access to a child (Sec.

28-1 152.1873, Human Resources Code) . . . amount determined by
28-2 district clerk;

28-3 (27) fee on filing a suit requesting an adoption in
28-4 Orange County (Sec. 152.1874, Human Resources Code) . . . not less
28-5 than \$25;

28-6 (28) fee on filing a suit requesting an adoption in
28-7 Wichita County (Sec. 152.2496, Human Resources Code) . . . \$100;

28-8 (29) additional filing fee to fund the courthouse
28-9 security fund, if authorized by the county commissioners court
28-10 (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

28-11 (30) additional filing fee for filing documents not
28-12 subject to certain filing fees to fund the courthouse security
28-13 fund, if authorized by the county commissioners court (Sec.
28-14 291.008, Local Government Code) . . . \$1;

28-15 (31) additional filing fee to fund the courthouse
28-16 security fund in Webb County, if authorized by the county
28-17 commissioners court (Sec. 291.009, Local Government Code) . . .
28-18 not to exceed \$20;

28-19 (32) court cost in civil cases other than suits for
28-20 delinquent taxes to fund the county law library fund, if authorized
28-21 by the county commissioners court (Sec. 323.023, Local Government
28-22 Code) . . . not to exceed \$35;

28-23 (33) when administering a case for the Rockwall County
28-24 Court at Law (Sec. 25.2012, Government Code) . . . civil fees and
28-25 court costs as if the case had been filed in district court;

28-26 (34) at a hearing held by an associate judge in Dallas
28-27 County, a court cost to preserve the record, in the absence of a
28-28 court reporter, by other means (Sec. 54.509, Government Code) . . .
28-29 as assessed by the referring court or associate judge; and

28-30 (35) at a hearing held by an associate judge in Duval
28-31 County, a court cost to preserve the record (Sec. 54.1151,
28-32 Government Code, as added by Chapter 1150, Acts of the 78th
28-33 Legislature, Regular Session, 2003) . . . as imposed by the
28-34 referring court or associate judge.

28-35 SECTION 1.56. Subdivision (2), Subsection (a), Section
28-36 411.114, Government Code, is amended to read as follows:

28-37 (2) The Department of Family and Protective [~~and~~
28-38 ~~Regulatory~~] Services shall obtain from the department criminal
28-39 history record information maintained by the department that
28-40 relates to a person who is:

28-41 (A) an applicant for a license, registration,
28-42 certification, or listing under Chapter 42, Human Resources Code,
28-43 or Chapter 249, Health and Safety Code [~~, or a person who registers~~
28-44 ~~with or has been issued a certificate to operate under~~
28-45 ~~accreditation by the Department of Protective and Regulatory~~
28-46 ~~Services under Subchapter E, Chapter 42, Human Resources Code];~~

28-47 (B) an owner, operator, or employee of or an
28-48 applicant for employment by a child-care facility, child-placing
28-49 agency, family home, or maternity home licensed, registered,
28-50 certified, or listed under Chapter 42, Human Resources Code, or
28-51 Chapter 249, Health and Safety Code [~~, or by a child-care facility or~~
28-52 ~~child-placing agency that is seeking to register with or has been~~
28-53 ~~issued a certificate to operate under accreditation by the~~
28-54 ~~Department of Protective and Regulatory Services under Subchapter~~
28-55 ~~E, Chapter 42, Human Resources Code];~~

28-56 (C) a person 14 years of age or older who will be
28-57 regularly or frequently working or staying in a child-care
28-58 facility, family home, or maternity home while children are being
28-59 provided care, other than a child in the care of the home or
28-60 facility;

28-61 (D) an applicant selected for a position with the
28-62 Department of Family and Protective [~~and Regulatory~~] Services, the
28-63 duties of which include direct delivery of protective services to
28-64 children, elderly persons, or persons with a disability;

28-65 (E) an employee of, an applicant for employment
28-66 with, or a volunteer or an applicant volunteer with a business
28-67 entity or person that contracts with the Department of Family and
28-68 Protective [~~and Regulatory~~] Services to provide direct delivery of
28-69 protective services to children, elderly persons, or persons with a

29-1 disability, if the person's duties or responsibilities include
 29-2 direct contact with children, elderly persons, or persons with a
 29-3 disability;

29-4 (F) a registered volunteer with the Department of
 29-5 Family and Protective [and Regulatory] Services;

29-6 (G) a person providing or applying to provide
 29-7 in-home, adoptive, or foster care for children in the care of the
 29-8 Department of Family and Protective [and Regulatory] Services and
 29-9 other persons living in the residence in which the child will
 29-10 reside;

29-11 (H) a Department of Family and Protective [and
 29-12 Regulatory] Services employee who is engaged in the direct delivery
 29-13 of protective services to children, elderly persons, or persons
 29-14 with a disability;

29-15 (I) a person who is the subject of a report the
 29-16 Department of Family and Protective [and Regulatory] Services
 29-17 receives alleging that the person has abused, neglected, or
 29-18 exploited a child, an elderly person, or a person with a disability,
 29-19 provided that:

29-20 (i) the report alleges the person has
 29-21 engaged in conduct that meets the statutory definition of abuse,
 29-22 neglect, or exploitation under Chapter 261, Family Code, or Chapter
 29-23 48, Human Resources Code; and

29-24 (ii) the person who is the subject of the
 29-25 report is not also the victim of the alleged conduct;

29-26 (J) a person providing child care for a child who
 29-27 is in the care of the Department of Family and Protective [and
 29-28 Regulatory] Services and who is or will be receiving adoptive,
 29-29 foster, or in-home care;

29-30 (K) through a contract with a nonprofit
 29-31 management center, an employee of, an applicant for employment
 29-32 with, or a volunteer or an applicant volunteer with a nonprofit,
 29-33 tax-exempt organization that provides any service that involves the
 29-34 care of or access to children, elderly persons, or persons with a
 29-35 disability; or

29-36 (L) an applicant for a child-care administrator
 29-37 or child-placing agency administrator license under Chapter 43
 29-38 [seeking accreditation as provided by Section 43.003], Human
 29-39 Resources Code.

29-40 SECTION 1.57. (a) Subchapter B, Chapter 531, Government
 29-41 Code, is amended by adding Section 531.078 to read as follows:

29-42 Sec. 531.078. POOLED FUNDING FOR FOSTER CARE PREVENTIVE
 29-43 SERVICES. (a) The commission and the Department of Family and
 29-44 Protective Services shall develop and implement a plan to combine,
 29-45 to the extent and in the manner allowed by Section 51, Article III,
 29-46 Texas Constitution, and other applicable law, funds of those
 29-47 agencies with funds of other appropriate state agencies and local
 29-48 governmental entities to provide services designed to prevent
 29-49 children from being placed in foster care. The preventive services
 29-50 may include:

29-51 (1) child and family counseling;

29-52 (2) instruction in parenting and homemaking skills;

29-53 (3) parental support services;

29-54 (4) temporary respite care; and

29-55 (5) crisis services.

29-56 (b) The plan must provide for:

29-57 (1) state funding to be distributed to other state
 29-58 agencies, local governmental entities, or private entities only as
 29-59 specifically directed by the terms of a grant or contract to provide
 29-60 preventive services;

29-61 (2) procedures to ensure that funds received by the
 29-62 commission by gift, grant, or interagency or interlocal contract
 29-63 from another state agency, a local governmental entity, the federal
 29-64 government, or any other public or private source for purposes of
 29-65 this section are disbursed in accordance with the terms under which
 29-66 the commission received the funds; and

29-67 (3) a reporting mechanism to ensure appropriate use of
 29-68 funds.

29-69 (c) For the purposes of this section, the commission may

30-1 request and accept gifts and grants under the terms of a gift,
 30-2 grant, or contract from a local governmental entity, a private
 30-3 entity, or any other public or private source for use in providing
 30-4 services designed to prevent children from being placed in foster
 30-5 care. If required by the terms of a gift, grant, or contract or by
 30-6 applicable law, the commission shall use the amounts received:

30-7 (1) from a local governmental entity to provide the
 30-8 services in the geographic area of this state in which the entity is
 30-9 located; and

30-10 (2) from the federal government or a private entity to
 30-11 provide the services statewide or in a particular geographic area
 30-12 of this state.

30-13 (b) Not later than November 1, 2006, the Health and Human
 30-14 Services Commission shall provide to the governor and the
 30-15 Legislative Budget Board a report on the status and progress of the
 30-16 preventive services funding plan required by Section 531.078,
 30-17 Government Code, as added by this section.

30-18 SECTION 1.58. Section 651.004, Government Code, is amended
 30-19 by adding Subsection (e) to read as follows:

30-20 (e) The Department of Family and Protective Services is not
 30-21 required to comply with management-to-staff ratio requirements of
 30-22 this section with respect to caseworker supervisors, program
 30-23 directors, and program administrators.

30-24 SECTION 1.59. (a) Subchapter C, Chapter 2155, Government
 30-25 Code, is amended by adding Section 2155.1442 to read as follows:

30-26 Sec. 2155.1442. FOSTER CARE RESIDENTIAL CONTRACT
 30-27 MANAGEMENT. (a) Subject to Subsection (d), the state auditor
 30-28 shall conduct a management review of the residential contract
 30-29 management employees of the Health and Human Services Commission
 30-30 and the Department of Family and Protective Services and make
 30-31 recommendations regarding the organization of, and skills and
 30-32 educational requirements for, those employees. The state auditor
 30-33 shall also make recommendations regarding the implementation of
 30-34 financial accountability provisions and processes to ensure
 30-35 effective and efficient expenditure of state and other contract
 30-36 funds. The state auditor shall report annually to the governor, the
 30-37 lieutenant governor, the speaker of the house of representatives,
 30-38 and the comptroller on the auditor's recommendations and the
 30-39 commission's and department's implementation of each
 30-40 recommendation.

30-41 (b) The Health and Human Services Commission, in
 30-42 coordination with the state auditor, shall perform complete on-site
 30-43 financial audits of selected residential contractors as necessary.
 30-44 The state auditor shall select the contractors based on the
 30-45 contract's risk assessment rating, allegations of fraud or misuse
 30-46 of state or other contract funds, or other appropriate audit
 30-47 selection criteria. The state auditor shall include findings from
 30-48 the on-site financial audits in the annual report to the governor
 30-49 and other representatives of the state required by Subsection (a).
 30-50 In addition, the state auditor shall immediately report to the
 30-51 governor and each person listed in Subsection (a) any findings of
 30-52 fraud or other misuse of state or other contract funds.

30-53 (c) The Department of Family and Protective Services may
 30-54 develop an Internet-based system to enable residential contractors
 30-55 to review their reimbursement accounts or other pertinent financial
 30-56 data and reconcile their accounts.

30-57 (d) Work performed under Subsection (a) by the state auditor
 30-58 is subject to approval by the legislative audit committee for
 30-59 inclusion in the audit plan under Section 321.013(c).

30-60 (b) Section 2155.1442, Government Code, as added by this
 30-61 section, applies only to a contract that is entered into or renewed
 30-62 on or after the effective date of this section. A contract entered
 30-63 into or renewed before that date is governed by the law in effect on
 30-64 the date the contract is entered into or renewed, and the former law
 30-65 is continued in effect for that purpose.

30-66 (c) Not later than December 1, 2005, the state auditor shall
 30-67 complete and publish the management review and report required by
 30-68 Subsection (a), Section 2155.1442, Government Code, as added by
 30-69 this section. This subsection applies only if the auditor's work is

31-1 approved by the legislative audit committee in time to meet this
31-2 deadline.

31-3 (d) Not later than October 1, 2006, the Health and Human
31-4 Services Commission, in coordination with the state auditor, shall
31-5 begin the on-site financial reviews of selected contractors
31-6 required by Subsection (b), Section 2155.1442, Government Code, as
31-7 added by this section.

31-8 SECTION 1.60. (a) Section 32.055, Human Resources Code, is
31-9 amended to read as follows:

31-10 Sec. 32.055. CATASTROPHIC CASE MANAGEMENT. (a) In this
31-11 section, "medically fragile child" means a child who:

31-12 (1) is under 21 years of age;

31-13 (2) has a serious, chronic illness or condition that:

31-14 (A) has continued, or is anticipated to continue,
31-15 at least 12 months;

31-16 (B) requires daily hospitalization or has
31-17 required at least one month of hospitalization;

31-18 (C) requires ongoing medical treatment and
31-19 monitoring by appropriately trained personnel, including a parent
31-20 or other family member; and

31-21 (D) presents an ongoing threat to the child's
31-22 well-being; and

31-23 (3) requires the routine use of a medical device or the
31-24 use of assistive technology to compensate for the loss of a bodily
31-25 function necessary to participate in an activity of daily life.

31-26 (b) The department shall develop and implement a
31-27 catastrophic case management system to be used in providing medical
31-28 assistance to persons with catastrophic health problems, including
31-29 medically fragile children under the conservatorship of the
31-30 Department of Family and Protective Services who are placed in
31-31 foster care.

31-32 (c) [~~(b)~~] The system must provide for the assignment of a
31-33 case manager to a recipient of medical assistance with catastrophic
31-34 health problems that are likely to:

31-35 (1) require the services of multiple, specialized
31-36 health care providers; and

31-37 (2) result in major medical costs.

31-38 (d) [~~(c)~~] The department shall identify the services to be
31-39 provided by a case manager assigned under the system. The services
31-40 must include assessment of the recipient's needs and coordination
31-41 of all available medical services and payment options. The
31-42 services may include other support services such as:

31-43 (1) assistance with making arrangements to receive
31-44 care from medical facilities;

31-45 (2) assistance with travel and lodging in connection
31-46 with receipt of medical care;

31-47 (3) education of the recipient and the recipient's
31-48 family members or foster parent, as applicable, regarding the
31-49 nature of the recipient's health problems;

31-50 (4) referral to appropriate support groups; and

31-51 (5) any other service likely to result in better care
31-52 provided in a cost-effective manner.

31-53 (e) In implementing the system for medically fragile
31-54 children, the department shall coordinate with the Department of
31-55 Family and Protective Services and may contract with children's
31-56 hospitals or other health care providers to provide case management
31-57 services to foster children.

31-58 (f) [~~(d)~~] Not later than January 15 of each odd-numbered
31-59 year, the department shall report to the legislature on the
31-60 implementation of the system. The report must include a statement
31-61 of:

31-62 (1) the number of recipients of medical assistance who
31-63 received catastrophic case management services under the system
31-64 during the preceding two years; and

31-65 (2) the estimated savings under the medical assistance
31-66 program resulting from implementation of the system during the
31-67 preceding two years.

31-68 (b) Not later than January 1, 2006, the Health and Human
31-69 Services Commission shall implement the catastrophic case

management system for medically fragile children required by Section 32.055, Human Resources Code, as amended by this section.

SECTION 1.61. The heading to Subtitle D, Title 2, Human Resources Code, is amended to read as follows:

SUBTITLE D. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES ~~[AND REGULATORY]~~ SERVICES; CHILD WELFARE AND PROTECTIVE SERVICES

SECTION 1.62. The heading to Chapter 40, Human Resources Code, is amended to read as follows:

CHAPTER 40. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES ~~[AND REGULATORY]~~ SERVICES

SECTION 1.63. Subdivisions (3) and (5), Section 40.001, Human Resources Code, are amended to read as follows:

(3) "Department" means the Department of Family and Protective ~~[and Regulatory]~~ Services.

(5) "Family preservation" includes the provision of services designed to assist families, including adoptive and extended families, who are at risk or in crisis, including:

(A) preventive services designed to help a child at risk of foster care placement remain safely with the child's family; and

(B) services designed to help a child return, when the return is safe and appropriate, to the family from which the child was removed ~~[the protection of parents and their children from needless family disruption because of unfounded accusations of child abuse or neglect. It does not include the provision of state social services for the rehabilitation of parents convicted of abusing or neglecting their children].~~

SECTION 1.64. Subsection (b), Section 40.002, Human Resources Code, is amended to read as follows:

(b) Notwithstanding any other law, the department shall:

(1) provide protective services for children and elderly and disabled persons, including investigations of alleged abuse, neglect, or exploitation in facilities of the Texas Department of Mental Health and Mental Retardation or its successor agency;

(2) provide family support and family preservation services that respect the fundamental right of parents to control the education and upbringing of their children;

(3) license, register, and enforce regulations applicable to child-care facilities, ~~[and]~~ child-care administrators, and child-placing agency administrators; and

(4) implement and manage programs intended to provide early intervention or prevent at-risk behaviors that lead to child abuse, delinquency, running away, truancy, and dropping out of school.

SECTION 1.65. Section 40.003, Human Resources Code, is amended to read as follows:

Sec. 40.003. SUNSET PROVISION. The Department of Family and Protective ~~[and Regulatory]~~ Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2009.

SECTION 1.66. Subchapter A, Chapter 40, Human Resources Code, is amended by adding Section 40.009 to read as follows:

Sec. 40.009. QUALITY ASSURANCE PROGRAM FOR CHILD PROTECTIVE SERVICES; QUARTERLY REPORTS. (a) The department shall develop and implement a quality assurance program for child protective services provided by or on behalf of the department.

(b) The program must include periodic audits of the completeness and accuracy of investigatory and inspection-related reports prepared or required by the department, including:

(1) reports of investigations of child abuse and neglect;

(2) reports relating to children placed in foster care; and

(3) reports relating to the licensing and inspection of residential child-care facilities.

(c) An audit must be conducted in accordance with professional standards and generally recognized sampling

33-1 techniques.

33-2 (d) The department shall retain the results of an audit
 33-3 conducted under this section until at least the fifth anniversary
 33-4 of the date the audit is completed.

33-5 (e) Each fiscal quarter the department shall file with the
 33-6 governor and the presiding officer of each house of the legislature
 33-7 a detailed written report assessing the delivery of child
 33-8 protective services and examining the outcomes for children and
 33-9 families served by child protective programs, foster care programs,
 33-10 adoption programs, and other related programs in this state.

33-11 (f) The report required by Subsection (e) must include:

33-12 (1) a summary of the audits conducted under this
 33-13 section during the preceding quarter; and

33-14 (2) a summary of the department's performance during
 33-15 the preceding quarter on the most recent standards used by the
 33-16 federal government to evaluate state child and family services
 33-17 programs with regard to child safety, permanency, and well-being.

33-18 SECTION 1.67. (a) Subchapter A, Chapter 40, Human
 33-19 Resources Code, is amended by adding Section 40.010 to read as
 33-20 follows:

33-21 Sec. 40.010. PROTECTIVE SERVICES LEGISLATIVE OVERSIGHT
 33-22 COMMITTEE. (a) The Protective Services Legislative Oversight
 33-23 Committee is created to:

33-24 (1) facilitate the reformation of powers, duties,
 33-25 functions, programs, and activities of the department; and

33-26 (2) monitor the effectiveness and efficiency of the
 33-27 services provided by the department.

33-28 (b) The committee is composed of 14 members as follows:

33-29 (1) four members of the senate, appointed by the
 33-30 lieutenant governor;

33-31 (2) four members of the house of representatives,
 33-32 appointed by the speaker of the house of representatives; and

33-33 (3) six members of the public, appointed by the
 33-34 governor as follows:

33-35 (A) one member with experience in a child-placing
 33-36 agency;

33-37 (B) one member with experience in a foster family
 33-38 association;

33-39 (C) one member with experience in a guardianship
 33-40 program;

33-41 (D) one member with experience in mental health
 33-42 care; and

33-43 (E) two members with experience in law
 33-44 enforcement.

33-45 (c) The commissioner serves as an ex officio member of the
 33-46 committee.

33-47 (d) A member of the committee serves at the pleasure of the
 33-48 appointing official.

33-49 (e) The lieutenant governor and the speaker of the house of
 33-50 representatives shall alternate designating a presiding officer
 33-51 for a term of one year from among their respective appointments.

33-52 (f) A member of the committee may not receive compensation
 33-53 for serving on the committee but is entitled to reimbursement for
 33-54 travel expenses incurred by the member while conducting the
 33-55 business of the committee as provided by the General Appropriations
 33-56 Act.

33-57 (g) In addition to performing the duties prescribed by
 33-58 Subsection (a), the committee shall:

33-59 (1) with assistance from the department and the
 33-60 commission, advise the commissioner concerning the powers, duties,
 33-61 functions, programs, and activities of the department and the funds
 33-62 and obligations that are related to the powers, duties, functions,
 33-63 programs, or activities;

33-64 (2) meet at the call of the presiding officer;

33-65 (3) research, take public testimony, and issue reports
 33-66 on other appropriate issues or specific issues requested by the
 33-67 lieutenant governor, speaker, or governor; and

33-68 (4) review specific recommendations for legislation
 33-69 proposed by the department or commission.

34-1 (h) The committee may request reports and other information
 34-2 from the commission, the department, and the attorney general
 34-3 relating to protective services in this state and other appropriate
 34-4 issues.

34-5 (i) The committee shall use existing staff of the senate and
 34-6 house of representatives to assist the committee in performing its
 34-7 duties under this section.

34-8 (j) Chapter 551, Government Code, applies to the committee.

34-9 (k) The committee shall report to the governor, the
 34-10 lieutenant governor, and the speaker of the house of
 34-11 representatives not later than November 15 of each even-numbered
 34-12 year. The report must include:

34-13 (1) identification of significant issues in the
 34-14 protective services system, with recommendations for action;

34-15 (2) an analysis of the effectiveness and efficiency of
 34-16 the protective services system, with recommendations for any
 34-17 necessary research; and

34-18 (3) recommendations for legislative action.

34-19 (b) The speaker, the lieutenant governor, and the governor
 34-20 shall appoint the members of the Protective Services Legislative
 34-21 Oversight Committee created by Section 40.010, Human Resources
 34-22 Code, as added by this section, as soon as possible after the
 34-23 effective date of this section. The lieutenant governor shall
 34-24 designate the initial presiding officer of the committee. The
 34-25 presiding officer shall call the initial meeting of the committee
 34-26 as soon as possible after the committee members are appointed.

34-27 SECTION 1.68. Section 40.030, Human Resources Code, is
 34-28 amended to read as follows:

34-29 Sec. 40.030. ADVISORY COMMITTEES. The executive
 34-30 commissioner or the executive commissioner's designee [board] may
 34-31 appoint advisory committees in accordance with Chapter 2110,
 34-32 Government Code [Article 6252-33, Revised Statutes].

34-33 SECTION 1.69. The heading to Section 40.0305, Human
 34-34 Resources Code, is amended to read as follows:

34-35 Sec. 40.0305. STRATEGIC USE OF TECHNOLOGY [~~STEERING~~
 34-36 ~~COMMITTEE~~].

34-37 SECTION 1.70. Subsections (a) and (d), Section 40.0305,
 34-38 Human Resources Code, are amended to read as follows:

34-39 (a) The department shall continually explore the strategic
 34-40 use of technology as a means to improve services, reduce workload
 34-41 burdens, increase accountability, and enhance the overall
 34-42 efficiency and effectiveness of department operations. The
 34-43 department shall develop strategic plans and seek funding to
 34-44 implement technology enhancements that the department determines
 34-45 are feasible and cost-effective [establish a strategic technology
 34-46 steering committee within the department to evaluate major
 34-47 information technology project proposals].

34-48 (d) In evaluating major information technology project
 34-49 proposals, the department, in cooperation with the commission,
 34-50 [~~steering committee~~] shall:

34-51 (1) assess the major information needs of the
 34-52 department;

34-53 (2) define standard criteria for setting priorities
 34-54 for the department's information needs;

34-55 (3) forecast the returns to the department on project
 34-56 investments;

34-57 (4) evaluate the department's available information
 34-58 resources; and

34-59 (5) review, approve, and evaluate the status of
 34-60 projected costs and benefits related to project proposals.

34-61 SECTION 1.71. Section 40.031, Human Resources Code, is
 34-62 amended to read as follows:

34-63 Sec. 40.031. DIVISIONS OF DEPARTMENT. (a) The executive
 34-64 commissioner [board] may establish divisions within the department
 34-65 as necessary for efficient administration and for the discharge of
 34-66 the department's functions.

34-67 (b) The executive commissioner shall establish an
 34-68 investigations division to oversee and direct the investigation
 34-69 functions of the child protective services program, including the

35-1 receipt and screening of all reports of alleged child abuse or
35-2 neglect.

35-3 (c) The commissioner shall designate a person with law
35-4 enforcement experience as the director of the investigations
35-5 division.

35-6 (d) The investigations division shall, as appropriate,
35-7 refer children and families in need of services to other department
35-8 divisions or to other persons or entities with whom the department
35-9 contracts for the provision of the needed services.

35-10 (e) Reports of alleged child abuse or neglect investigated
35-11 under Subchapter E, Chapter 261, Family Code, are not subject to
35-12 investigation by the investigations division [~~board may allocate~~
35-13 ~~and reallocate functions, programs, and activities among the~~
35-14 ~~department's divisions~~].

35-15 SECTION 1.72. (a) Subchapter B, Chapter 40, Human
35-16 Resources Code, is amended by adding Section 40.0322 to read as
35-17 follows:

35-18 Sec. 40.0322. CASEWORKER REPLACEMENT PROGRAM. (a) To the
35-19 extent that funding is available, the department shall develop a
35-20 program to provide for the timely replacement of caseworkers with
35-21 trainees hired in anticipation of vacancies.

35-22 (b) In developing the program, the department shall
35-23 consider the turnover rate for caseworkers by region.

35-24 (b) Unless sufficient funds are not available, the
35-25 Department of Family and Protective Services shall develop the
35-26 program required under Section 40.0322, Human Resources Code, as
35-27 added by this section, not later than December 31, 2005.

35-28 SECTION 1.73. Subchapter B, Chapter 40, Human Resources
35-29 Code, is amended by adding Section 40.0323 to read as follows:

35-30 Sec. 40.0323. CASELOAD STANDARDS. Notwithstanding Section
35-31 531.048(d), Government Code, in an ongoing manner, the department
35-32 is encouraged to analyze and consider the appropriateness of hiring
35-33 caseworkers for the children's protective services division in
35-34 sufficient numbers to reduce those caseworkers' caseloads to the
35-35 maximum number of active caseloads recommended for best practice
35-36 casework by the Council on Accreditation for Children and Family
35-37 Services and the Child Welfare League of America.

35-38 SECTION 1.74. Subchapter B, Chapter 40, Human Resources
35-39 Code, is amended by adding Section 40.035 to read as follows:

35-40 Sec. 40.035. ENHANCED TRAINING OF CHILD PROTECTIVE SERVICES
35-41 CASEWORKERS. To improve the quality and consistency of training
35-42 provided to child protective services caseworkers, the department
35-43 shall:

35-44 (1) augment classroom-based training with a blended
35-45 learning environment using computer-based modules, structured
35-46 field experience, and simulation for skills development;

35-47 (2) use a core curriculum for all new department
35-48 caseworkers and specialized training for specific jobs;

35-49 (3) require that department caseworkers transferring
35-50 from one specialty to another must complete the core curriculum and
35-51 advanced training for the new specialty before assuming their new
35-52 responsibilities; and

35-53 (4) centralize accountability and oversight of all
35-54 department training in order to ensure statewide consistency.

35-55 SECTION 1.75. Subsection (c), Section 40.0525, Human
35-56 Resources Code, is amended to read as follows:

35-57 (c) Subject to Section 40.031(b), this [This] section does
35-58 not require the department to establish separate departments for
35-59 investigations and service delivery.

35-60 SECTION 1.76. Subchapter C, Chapter 40, Human Resources
35-61 Code, is amended by adding Section 40.0526 to read as follows:

35-62 Sec. 40.0526. BUILDING COMMUNITY PARTNERSHIPS TO SUPPORT
35-63 CHILDREN AND FAMILIES. (a) The department shall develop a
35-64 statewide strategy to build alliances and networks at the local
35-65 level that support the detection and treatment of child abuse and
35-66 neglect and enhance the coordination and delivery of services to
35-67 children and families.

35-68 (b) The strategy must include plans to:

35-69 (1) move staff from centralized office sites into

community-based settings to the greatest extent feasible; and
 (2) enter into agreements for the establishment or development of joint offices or workplaces with local officials and organizations, including:
 (A) children's advocacy centers;
 (B) law enforcement officials;
 (C) prosecutors;
 (D) health care providers;
 (E) schools;
 (F) housing projects;
 (G) domestic violence shelters; and
 (H) the local juvenile probation department.

(c) The department may employ specialized staff, to the extent that funds are appropriated for that purpose, to serve as:

(1) local legal liaisons who support the prosecution in each region of legal cases through the judicial system by improving coordination and cooperation in case consultation and preparation of cases for court; and

(2) local community initiative specialists in each region who focus on building community alliances and networks.

(d) An agreement made in accordance with this section for the joint location of department personnel with other local officials or organizations is not subject to Chapter 2167, Government Code.

SECTION 1.77. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.0527 to read as follows:

Sec. 40.0527. COMPREHENSIVE STAFFING AND WORKLOAD DISTRIBUTION PLAN FOR CHILD PROTECTIVE SERVICES. (a) The department shall develop and implement a staffing and workload distribution plan for the child protective services program to:

(1) enhance accountability;
 (2) improve the quality of investigations;
 (3) eliminate delays; and
 (4) ensure the most efficient and effective use of child protective services staff and resources.

(b) In developing and implementing the plan, the department shall, subject to available funds:

(1) develop a methodology for the equitable distribution of investigative and other staff to ensure an equitable assignment of cases in each area of the state;

(2) evaluate the duties of investigators and supervisors and identify and reassign functions that may be performed more efficiently by support or other paraprofessional staff;

(3) ensure that investigative and service units contain adequate supervisory and support staff;

(4) provide incentives to recruit and retain:

(A) caseworkers and supervisors assigned to investigative units; and

(B) specialized staff with law enforcement or forensic investigation experience;

(5) ensure that caseworkers and supervisors who are not in an investigations unit are paid appropriately to increase employee retention;

(6) when appropriate, identify and use alternative work schedules;

(7) use a system of regional hiring supervisors for targeted recruitment efforts;

(8) improve staff recruitment and screening methods to promote the hiring of the most qualified candidates and improve an applicant's understanding of the job requirements;

(9) reduce the time necessary to complete a plan of service for a child and family when providing family-based safety services; and

(10) identify methods to reduce the administrative area that a manager is responsible for to increase accountability.

SECTION 1.78. (a) Section 40.058, Human Resources Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1) and (f) through (i) to read as follows:

37-1 (b) A contract for the purchase of program-related client
37-2 services must include:

37-3 (1) clearly defined goals and outcomes that can be
37-4 measured to determine whether the objectives of the program are
37-5 being achieved;

37-6 (2) clearly defined sanctions or penalties for
37-7 noncompliance with contract terms; ~~and~~

37-8 (3) clearly specified accounting, reporting, and
37-9 auditing requirements applicable to money received under the
37-10 contract; and

37-11 (4) if applicable, clearly defined performance
37-12 standards that relate directly to the quality of care provided to
37-13 residents of foster care facilities.

37-14 (b-1) A contract for the purchase of substitute care
37-15 services, as defined by Section 264.106, Family Code, must be
37-16 procured using:

37-17 (1) department procurement procedures; or

37-18 (2) procurement procedures approved by the executive
37-19 commissioner that promote open and fair competition.

37-20 (c) The department shall monitor a contractor's performance
37-21 under a contract for the purchase of program-related client
37-22 services. In monitoring performance, the department shall:

37-23 (1) use a risk-assessment methodology to ensure
37-24 compliance with financial and performance requirements under the
37-25 contract; ~~and~~

37-26 (2) obtain and evaluate program cost information to
37-27 ensure that all costs, including administrative costs, are
37-28 reasonable and necessary to achieve program objectives; and

37-29 (3) review each foster care services contract and
37-30 evaluate the contract for compliance with the performance standards
37-31 of the contract prescribed by Subsection (b)(4).

37-32 (f) The department shall terminate a contract with a foster
37-33 care services provider if the contractor does not meet the
37-34 performance standards prescribed by Subsection (b)(4). The
37-35 department may not award or renew a foster care services contract
37-36 with a contractor if the contractor does not meet those performance
37-37 standards.

37-38 (g) The commission shall create a foster care performance
37-39 team to develop performance criteria for foster care services
37-40 contracts. The team shall include contracting experts from
37-41 multiple state agencies, foster care services providers and
37-42 clients, performance-based contract experts of the state auditor,
37-43 and other experts in outcome-based contracts. The team shall
37-44 develop clearly defined and measurable standards for foster care
37-45 services contracts that directly relate to factors within the
37-46 control of the providers. The department shall adopt the clearly
37-47 defined performance standards for inclusion in foster care services
37-48 contracts as developed and recommended by the team. The team shall
37-49 also develop performance standards that provide measurable
37-50 criteria for identification of foster care services providers:

37-51 (1) that do not provide quality care;

37-52 (2) that should not receive additional contract
37-53 awards; and

37-54 (3) whose contracts should be revoked.

37-55 (h) The commission shall create an alternative payment plan
37-56 in all foster care services contracts to encourage the reduction of
37-57 the period that children are in intensive levels of care. The
37-58 payment plan must provide several alternative payment mechanisms to
37-59 encourage foster care services contractors to improve the quality
37-60 of care, encourage efficient use of funding, and reduce the period
37-61 of intensive care for children under program-related client
37-62 services contracts for foster care. The payment plan may not be
37-63 designed in a manner that encourages or requires a reduction in the
37-64 level of care provided to medically fragile children, as defined by
37-65 Section 32.055, children with significant developmental
37-66 disabilities, or other children with chronic conditions that
37-67 require a constant level of care.

37-68 (i) A contract for the provision of foster care services
37-69 must contain a provision requiring the department's contract

38-1 management employees to make periodic unannounced visits to the
 38-2 contractor's facilities in accordance with commission rules and to
 38-3 report the employees' findings to the commission.

38-4 (b) Subdivision (4), Subsection (b), Subsection (b-1),
 38-5 Subdivision (3), Subsection (c), and Subsections (f), (g), and (i),
 38-6 Section 40.058, Human Resources Code, as added by this section,
 38-7 apply only to a contract entered into or renewed on or after the
 38-8 effective date of this section. A contract entered into or renewed
 38-9 before that date is governed by the law in effect on the date the
 38-10 contract is entered into or renewed, and the former law is continued
 38-11 in effect for that purpose.

38-12 SECTION 1.79. (a) Subchapter C, Chapter 40, Human
 38-13 Resources Code, is amended by adding Section 40.071 to read as
 38-14 follows:

38-15 Sec. 40.071. MISSING CHILDREN WEBSITE. (a) The department
 38-16 shall develop and implement a program to display on the
 38-17 department's Internet website the name, age, and photograph of, and
 38-18 location information relating to, any child in the foster care
 38-19 system who has been reported missing. The department may also
 38-20 display other relevant information that the department determines
 38-21 will be useful in efforts to locate and ensure the safety of that
 38-22 child.

38-23 (b) Notwithstanding any other law, information required to
 38-24 be provided under this section is public information.

38-25 (c) The department shall regularly update the website by
 38-26 adding additional information that becomes available and by
 38-27 deleting the information relating to a child who is no longer
 38-28 missing.

38-29 (b) Not later than January 1, 2006, the executive
 38-30 commissioner of the Health and Human Services Commission shall
 38-31 adopt rules and establish standards, policies, and procedures to
 38-32 implement and administer Section 40.071, Human Resources Code, as
 38-33 added by this section.

38-34 SECTION 1.80. Section 42.002, Human Resources Code, is
 38-35 amended by adding Subdivisions (18) and (19) to read as follows:

38-36 (18) "Controlling person" means a person who, either
 38-37 alone or in connection with others, has the ability to directly or
 38-38 indirectly influence or direct the management, expenditures, or
 38-39 policies of a residential child-care facility.

38-40 (19) "Residential child-care facility" means a
 38-41 facility licensed or certified by the department to provide
 38-42 assessment, care, training, education, custody, treatment, or
 38-43 supervision for a child who is not related by blood, marriage, or
 38-44 adoption to the owner or operator of the facility, for all of the
 38-45 24-hour day, whether or not the facility is operated for profit or
 38-46 charges for the services it offers. The term includes child-care
 38-47 institutions, foster group homes, foster homes, agency foster group
 38-48 homes, and agency foster homes.

38-49 SECTION 1.81. Subsections (b) and (d), Section 42.021,
 38-50 Human Resources Code, are amended to read as follows:

38-51 (b) The commissioner [~~executive director of the department~~]
 38-52 shall appoint as director of a division designated under Subsection
 38-53 (a) a person who meets the qualifications set by the executive
 38-54 commissioner [~~board~~].

38-55 (d) The commissioner [~~director~~] may divide the state into
 38-56 regions for the purpose of administering this chapter.

38-57 SECTION 1.82. Subsections (a) and (b), Section 42.023,
 38-58 Human Resources Code, are amended to read as follows:

38-59 (a) The department [~~executive director~~] shall prepare an
 38-60 annual written report regarding the department's activities under
 38-61 this chapter.

38-62 (b) The annual report shall include:

38-63 (1) a report by regions of applications for licensure
 38-64 or certification, of initial [~~provisional~~] licenses issued,
 38-65 denied, or revoked, of licenses issued, denied, suspended or
 38-66 revoked, of emergency closures and injunctions, and of the
 38-67 compliance of state-operated agencies with certification
 38-68 requirements;

38-69 (2) a summary of the amount and kind of in-service

39-1 training and other professional development opportunities provided
39-2 for department staff;

39-3 (3) a summary of training and other professional
39-4 development opportunities offered to facilities' staffs; and

39-5 (4) a report of new administrative procedures, of the
39-6 number of staff and staff changes, and of plans for the coming year.

39-7 SECTION 1.83. (a) Subsection (c), Section 42.041, Human
39-8 Resources Code, is amended to read as follows:

39-9 (c) A single license that lists addresses and the
39-10 appropriate facilities may be issued to a child-care institution
39-11 that operates noncontiguous facilities that are across the street
39-12 from, in the same city block as, or on the same property as one
39-13 another [nearby] and that are demonstrably a single operation as
39-14 indicated by patterns of staffing, finance, administrative
39-15 supervision, and programs.

39-16 (b) Subsection (c), Section 42.041, Human Resources Code,
39-17 as amended by this section, applies only to a license issued or
39-18 renewed on or after the effective date of this section. A license
39-19 issued or renewed before the effective date of this section is
39-20 governed by the law in effect at the time the license is issued or
39-21 renewed, and the former law is continued in effect for that purpose.

39-22 SECTION 1.84. (a) Section 42.042, Human Resources Code, is
39-23 amended by adding Subsections (h-1) and (q) to read as follows:

39-24 (h-1) The executive commissioner shall adopt rules
39-25 governing:

39-26 (1) the placement and care of children by a
39-27 child-placing agency, as necessary to ensure the health and safety
39-28 of those children;

39-29 (2) the verification and monitoring of agency foster
39-30 homes, agency foster group homes, and adoptive homes by a
39-31 child-placing agency; and

39-32 (3) if appropriate, child-placing agency staffing
39-33 levels, office locations, and administration.

39-34 (q) Each residential child-care facility shall notify the
39-35 department and the appropriate local law enforcement agency
39-36 immediately on determining that a child is missing from the
39-37 facility.

39-38 (b) Not later than January 1, 2006, the executive
39-39 commissioner of the Health and Human Services Commission shall
39-40 adopt rules and establish standards, policies, and procedures to
39-41 implement and administer Subsections (h-1) and (q), Section 42.042,
39-42 Human Resources Code, as added by this section.

39-43 SECTION 1.85. Section 42.044, Human Resources Code, is
39-44 amended by adding Subsections (e) and (f) to read as follows:

39-45 (e) The department shall periodically conduct inspections
39-46 of a random sample of agency foster homes and agency foster group
39-47 homes. The department shall use the inspections to monitor and
39-48 enforce compliance by a child-placing agency with rules and
39-49 standards established under Section 42.042.

39-50 (f) The department shall use an inspection checklist that
39-51 includes a list of all required items for inspection in conducting a
39-52 monitoring inspection under this section.

39-53 SECTION 1.86. Section 42.0441, Human Resources Code, is
39-54 amended to read as follows:

39-55 Sec. 42.0441. INSPECTION RESULTS AND EXIT CONFERENCE.

39-56 (a) Immediately after completing a monitoring inspection of a
39-57 licensed day-care center, licensed group day-care home, or
39-58 registered family home under Section 42.044, the inspector
39-59 [authorized representative of the department] shall review the
39-60 results of the monitoring inspection with a representative of the
39-61 facility and give the facility an opportunity to respond to the
39-62 inspection results.

39-63 (b) Immediately after completing a monitoring inspection of
39-64 a residential child-care facility under Section 42.044, the
39-65 inspector shall hold an exit conference with a representative of
39-66 the facility. The inspector shall provide to the representative:

39-67 (1) a copy of the inspection checklist used by the
39-68 inspector; and

39-69 (2) a list of violations discovered during the

40-1 inspection that includes specific references to the rules and
 40-2 minimum standards related to the violations.

40-3 (c) An inspector acting under Subsection (b) shall provide
 40-4 the residential child-care facility representative an opportunity
 40-5 to respond to the violations discovered during the inspection.

40-6 (d) If after holding an exit conference under Subsection (b)
 40-7 the inspector finds additional violations in a subsequent
 40-8 inspection of the residential child-care facility, the inspector
 40-9 shall conduct another exit conference to provide the information
 40-10 required by Subsection (b) with respect to the additional
 40-11 violations.

40-12 SECTION 1.87. Subchapter C, Chapter 42, Human Resources
 40-13 Code, is amended by adding Section 42.04411 to read as follows:

40-14 Sec. 42.04411. INFORMAL DISPUTE RESOLUTION. (a) The
 40-15 executive commissioner by rule shall establish an informal dispute
 40-16 resolution process under which a disinterested individual may
 40-17 resolve a dispute between the department and a residential
 40-18 child-care facility regarding a violation discovered during an
 40-19 inspection, a proposed enforcement action relating to the
 40-20 violation, or another related proceeding under this chapter. The
 40-21 process must require:

40-22 (1) the aggrieved residential child-care facility to
 40-23 request informal dispute resolution not later than the 15th day
 40-24 after the date the facility is notified of the violation, proposed
 40-25 enforcement action, or other proceeding that is the basis of the
 40-26 dispute; and

40-27 (2) an individual representing the aggrieved
 40-28 residential child-care facility in the process to register with the
 40-29 commission and disclose the following:

40-30 (A) the individual's employment history during
 40-31 the preceding five years, including employment with a regulatory
 40-32 agency of this state or another state;

40-33 (B) the ownership, including the identity of the
 40-34 controlling person or persons, of the aggrieved residential
 40-35 child-care facility the individual is representing; and

40-36 (C) the identity of other entities the individual
 40-37 is representing, or has represented during the preceding 24 months,
 40-38 before the commission.

40-39 (b) The executive commissioner shall adopt rules to resolve
 40-40 disputes under the informal dispute resolution process. The rules
 40-41 must require that the process be completed not later than the 30th
 40-42 day after the date the aggrieved residential child-care facility
 40-43 requests informal dispute resolution.

40-44 (c) The commission may not delegate to another state agency
 40-45 the responsibility to administer the informal dispute resolution
 40-46 process established under this section.

40-47 SECTION 1.88. Subchapter C, Chapter 42, Human Resources
 40-48 Code, is amended by adding Section 42.04431 to read as follows:

40-49 Sec. 42.04431. RESIDENTIAL CHILD-CARE INSPECTION
 40-50 INFORMATION DATABASE. (a) The department shall establish a
 40-51 computerized database containing inspection information, including
 40-52 violations of minimum standards, on residential child-care
 40-53 facilities and child-placing agencies inspected under Section
 40-54 42.044.

40-55 (b) The department shall make the information collected by
 40-56 the department available to another state agency or political
 40-57 subdivision of the state for the purpose of administering programs
 40-58 or enforcing laws within the jurisdiction of that agency or
 40-59 subdivision. If feasible using available information systems, the
 40-60 department shall make the information directly available to the
 40-61 Department of State Health Services and the commission through
 40-62 electronic information systems. The department, the Department of
 40-63 State Health Services, and the commission shall jointly plan the
 40-64 development of inspection databases that, to the extent feasible,
 40-65 are similar in their design and architecture to promote the sharing
 40-66 of information.

40-67 (c) The department shall categorize information regarding
 40-68 violations of minimum standards collected under this section by:

40-69 (1) the type and size of the residential child-care

41-1 facility in which the violation occurred;
 41-2 (2) the region of this state in which the violation
 41-3 occurred; and
 41-4 (3) the type of violation.

41-5 (d) The department shall use the information to:
 41-6 (1) identify trends in violations in relation to
 41-7 regions of this state and types of residential child-care
 41-8 facilities;
 41-9 (2) identify minimum standards that are subject to
 41-10 inconsistent interpretation;
 41-11 (3) identify training needs;
 41-12 (4) direct training and other resources to residential
 41-13 child-care facilities that present the greatest risk to child
 41-14 safety; and
 41-15 (5) improve the quality of residential child-care
 41-16 services without increasing expenditures.

41-17 SECTION 1.89. Section 42.046, Human Resources Code, is
 41-18 amended by amending Subsection (c) and adding Subsection (e) to
 41-19 read as follows:

41-20 (c) After receiving an application, the department shall
 41-21 investigate the applicant and the plan of care for children, if
 41-22 applicable. As part of the investigation of an applicant for a
 41-23 license to operate a residential child-care facility, the
 41-24 department shall require the applicant to provide information about
 41-25 the applicant's and each controlling person's compliance history
 41-26 with the regulatory requirements in any other state in which the
 41-27 applicant or controlling person operates or previously operated a
 41-28 residential child-care facility.

41-29 (e) The department may deny an application under this
 41-30 section if the applicant:

41-31 (1) has a residential child-care facility license
 41-32 revoked in another state; or
 41-33 (2) is barred from operating a residential child-care
 41-34 facility in another state.

41-35 SECTION 1.90. Subsections (f) and (g), Section 42.0461,
 41-36 Human Resources Code, are amended to read as follows:

41-37 (f) A child-placing agency that proposes to verify an agency
 41-38 foster home or agency foster group home that is located in a county
 41-39 with a population of less than 300,000 that provides child care for
 41-40 24 hours a day at a location other than the actual residence of a
 41-41 child's primary caretaker shall:

41-42 (1) comply with the notice and hearing requirements
 41-43 imposed by Subsections (a) and (b); and

41-44 (2) after conducting the required public hearing,
 41-45 provide the department with information relating to the
 41-46 considerations specified in Subsection (d).

41-47 (g) The department may prohibit the child-placing agency
 41-48 from verifying the proposed agency foster home or agency foster
 41-49 group home on the same grounds that the department may deny an
 41-50 application under Subsection (e). The department may invalidate
 41-51 the verification of an agency foster home or agency foster group
 41-52 home that was not verified using the procedures required by
 41-53 Subsection (f) on or after September 1, 1997.

41-54 SECTION 1.91. Section 42.051, Human Resources Code, is
 41-55 amended to read as follows:

41-56 Sec. 42.051. INITIAL [~~PROVISIONAL~~] LICENSE. (a) The
 41-57 department shall issue an initial [~~a provisional~~] license when a
 41-58 facility's plans meet the department's licensing requirements and
 41-59 one of the following situations exists:

41-60 (1) the facility is not currently operating;
 41-61 (2) the facility has relocated and has made changes in
 41-62 the type of child-care service it provides; or

41-63 (3) there is a change in ownership of the facility
 41-64 resulting in changes in policy and procedure or in the staff who
 41-65 have direct contact with the children.

41-66 (b) An initial [~~A provisional~~] license is valid for six
 41-67 months from the date it is issued and may be renewed for an
 41-68 additional six months.

41-69 SECTION 1.92. Subsection (b), Section 42.054, Human

Resources Code, is amended to read as follows:

(b) The department shall charge each child-care facility a fee of \$35 for an initial [~~a provisional~~] license. The department shall charge each child-placing agency a fee of \$50 for an initial [~~a provisional~~] license.

SECTION 1.93. (a) Section 42.056, Human Resources Code, is amended by adding Subsections (a-1), (d), (e), and (f) and amending Subsection (b) to read as follows:

(a-1) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a residential child-care facility shall submit to the department for use in conducting background and criminal history checks the name of each prospective employee who will provide direct care or have direct access to a child in the residential child-care facility.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsections [~~Subsection~~] (a) and (a-1);

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, and [~~or~~] by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) A person described by Subsection (a) or (a-1) may not provide direct care or have direct access to a child in a residential child-care facility before completion of the person's background check and criminal history check.

(e) The department shall 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) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a residential child-care facility to the person submitting the request.

(b) The director, owner, or operator of a residential child-care facility shall begin providing information to the Department of Family and Protective Services as required by Subsection (a-1), Section 42.056, 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) Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.057 to read as follows:

Sec. 42.057. DRUG TESTING. (a) Each residential child-care facility shall establish a drug testing policy for employees. A residential child-care facility may adopt the model employee drug testing policy adopted by the executive commissioner under Subsection (b) or may use another employee drug testing policy approved by the executive commissioner.

(b) The executive commissioner by rule shall adopt a model employee drug testing policy for use by a residential child-care facility. The policy must be designed to ensure the safety of resident children through appropriate drug testing of employees while protecting the rights of employees. 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) The department shall require a drug test of a person 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) An employee may not provide direct care or have direct access to a child in a residential child-care facility before completion of the employee's initial drug test.

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

43-1 (b) Not later than December 1, 2005, the executive
 43-2 commissioner of the Health and Human Services Commission shall
 43-3 adopt the model drug testing policy required by Section 42.057,
 43-4 Human Resources Code, as added by this section.

43-5 (c) Not later than January 1, 2006, each residential
 43-6 child-care facility shall adopt a drug testing policy required by
 43-7 Section 42.057, Human Resources Code, as added by this section.

43-8 SECTION 1.95. (a) Subchapter C, Chapter 42, Human
 43-9 Resources Code, is amended by adding Section 42.061 to read as
 43-10 follows:

43-11 Sec. 42.061. RISK ASSESSMENT. (a) If an employee or
 43-12 volunteer at a residential child-care facility has been convicted
 43-13 of a crime, the department shall perform a risk assessment of the
 43-14 person before the person is allowed access to a child in the
 43-15 facility. The department shall also perform a similar risk
 43-16 assessment of a person who is at least 14 years of age and who will
 43-17 regularly or frequently be staying at the facility while children
 43-18 are being provided care.

43-19 (b) The executive commissioner by rule shall develop and
 43-20 maintain risk assessment criteria to ensure the safety and
 43-21 well-being of a child's physical or mental health or welfare.

43-22 (b) Not later than January 1, 2006, the executive
 43-23 commissioner of the Health and Human Services Commission shall
 43-24 adopt rules required by Section 42.061, Human Resources Code, as
 43-25 added by this section.

43-26 SECTION 1.96. Subchapter C, Chapter 42, Human Resources
 43-27 Code, is amended by adding Section 42.062 to read as follows:

43-28 Sec. 42.062. CERTAIN EMPLOYMENT PROHIBITED. A residential
 43-29 child-care facility may not employ in any capacity a person who is
 43-30 not eligible to receive a license or certification for the
 43-31 operation of a residential child-care facility under Section
 43-32 42.072(c-1) or who has been denied a license under Section 42.046.

43-33 SECTION 1.97. Subchapter C, Chapter 42, Human Resources
 43-34 Code, is amended by adding Section 42.063 to read as follows:

43-35 Sec. 42.063. REPORTING OF INCIDENTS AND VIOLATIONS.
 43-36 (a) In this section, "serious incident" means a suspected or
 43-37 actual incident that threatens or impairs the basic health, safety,
 43-38 or well-being of a child. The term includes:

43-39 (1) the arrest, abuse, neglect, exploitation, running
 43-40 away, attempted suicide, or death of a child;

43-41 (2) a critical injury of a child; and

43-42 (3) an illness of a child that requires
 43-43 hospitalization.

43-44 (b) A person licensed under this chapter shall report to the
 43-45 department each serious incident involving a child who receives
 43-46 services from the person, regardless of whether the department is
 43-47 the managing conservator of the child.

43-48 (c) An employee of a person described by Subsection (b)
 43-49 shall report suspected abuse or neglect directly to the statewide
 43-50 intake system.

43-51 (d) An employee or volunteer of a child-care institution,
 43-52 child-placing agency, foster home, or foster group home shall
 43-53 report any serious incident directly to the department if the
 43-54 incident involves a child under the care of the institution,
 43-55 agency, or home.

43-56 (e) A foster parent shall report any serious incident
 43-57 directly to the department if the incident involves a child under
 43-58 the care of the parent.

43-59 (f) The executive commissioner by rule shall prescribe:

43-60 (1) procedures governing reporting required under
 43-61 this section; and

43-62 (2) the manner in which a report under this section
 43-63 must be provided.

43-64 SECTION 1.98. (a) Section 42.0705, Human Resources Code,
 43-65 is amended to read as follows:

43-66 Sec. 42.0705. RANGE OF PENALTIES. (a) The department
 43-67 shall revoke, suspend, or refuse to renew a license or
 43-68 registration, place on probation a person whose license or
 43-69 registration has been suspended, or reprimand a license holder or

44-1 registration holder for a violation of this chapter or a rule of the
44-2 board.

44-3 (b) If a license or registration suspension is probated, the
44-4 department may require the license holder or registration holder
44-5 to:

44-6 (1) report regularly to the department on matters that
44-7 are the basis of the probation;

44-8 (2) limit services to the areas prescribed by the
44-9 department;

44-10 (3) continue or review professional education until
44-11 the license holder or registration holder attains a degree of skill
44-12 satisfactory to the department in those areas that are the basis of
44-13 the probation; or

44-14 (4) take corrective action relating to the violation
44-15 on which the probation is based.

44-16 (c) The executive commissioner by rule shall establish
44-17 gradations of penalties in accordance with the relative seriousness
44-18 of the violation. The rules shall prescribe the violations or
44-19 number of violations that will result in the department's
44-20 automatically revoking a facility's license, certification, or
44-21 registration under Section 42.072.

44-22 (d) In determining the penalty to impose, the department
44-23 shall consider any matter that justice may require, including:

44-24 (1) the gradations of penalties established under
44-25 Subsection (c);

44-26 (2) the seriousness of the violation, including the
44-27 nature, circumstances, extent, and gravity of the prohibited act
44-28 and the hazard or potential hazard created by the act to the health
44-29 or safety of a resident child;

44-30 (3) the history of previous violations;

44-31 (4) deterrence of future violations; and

44-32 (5) efforts to correct the violation.

44-33 (b) Not later than December 31, 2005, the executive
44-34 commissioner of the Health and Human Services Commission shall
44-35 establish the gradations of penalties required under Section
44-36 42.0705, Human Resources Code, as amended by this section.

44-37 SECTION 1.99. Section 42.072, Human Resources Code, is
44-38 amended by adding Subsection (c-1) to read as follows:

44-39 (c-1) Notwithstanding Subsection (c), the department shall
44-40 refuse to issue a license or certification for the operation of a
44-41 residential child-care facility to a person who previously held
44-42 more than a 20 percent ownership interest in or served as an
44-43 officer, director, board member, or administrator of a residential
44-44 child-care facility at the time of the occurrence of conduct that
44-45 resulted in:

44-46 (1) the license or certification of the facility being
44-47 revoked by the department or by court order; or

44-48 (2) the facility being voluntarily closed or its
44-49 license or certification relinquished after:

44-50 (A) the department took an action under
44-51 Subsection (a) in relation to the facility; or

44-52 (B) the facility received notice that the
44-53 department intended to take an action under Subsection (a) in
44-54 relation to the facility.

44-55 SECTION 1.100. Subsection (c), Section 42.073, Human
44-56 Resources Code, is amended to read as follows:

44-57 (c) An order is valid for 10 days after the effective date of
44-58 the order, except that an order relating to a residential
44-59 child-care facility is valid for 30 days after the effective date of
44-60 the order.

44-61 SECTION 1.101. Section 42.077, Human Resources Code, is
44-62 amended by adding Subsection (d-1) to read as follows:

44-63 (d-1) If the department determines that the license of a
44-64 residential child-care facility should be revoked or suspended, the
44-65 facility shall mail notification of the action or proposed action
44-66 by certified mail to a parent of each child served by the facility,
44-67 if the person's parental rights have not been terminated, and to the
44-68 child's managing conservator, as appropriate. The residential
44-69 child-care facility shall mail the notification not later than the

45-1 fifth day after the date the facility is notified of the
 45-2 department's determination that revocation or suspension of the
 45-3 license is appropriate.

45-4 SECTION 1.102. (a) Section 42.078, Human Resources Code,
 45-5 is amended by amending Subsections (a) through (i) and (l), (m), and
 45-6 (n) and adding Subsection (a-1) to read as follows:

45-7 (a) The department may impose an administrative penalty
 45-8 against a facility or family home licensed or registered under this
 45-9 chapter that violates this chapter or a rule or order adopted under
 45-10 this chapter. In addition, the department may impose an
 45-11 administrative penalty against a residential child-care facility
 45-12 or a controlling person of a residential child-care facility if the
 45-13 facility or controlling person:

45-14 (1) violates a term of a license or registration
 45-15 issued under this chapter;

45-16 (2) makes a statement about a material fact that the
 45-17 facility or person knows or should know is false:

45-18 (A) on an application for the issuance or renewal
 45-19 of a license or registration or an attachment to the application; or

45-20 (B) in response to a matter under investigation;

45-21 (3) refuses to allow a representative of the
 45-22 department to inspect:

45-23 (A) a book, record, or file required to be
 45-24 maintained by the facility; or

45-25 (B) any part of the premises of the facility;

45-26 (4) purposefully interferes with the work of a
 45-27 representative of the department or the enforcement of this
 45-28 chapter; or

45-29 (5) fails to pay a penalty assessed under this chapter
 45-30 on or before the date the penalty is due, as determined under this
 45-31 section.

45-32 (a-1) Nonmonetary, administrative penalties or remedies,
 45-33 including but not limited to corrective action plans, probation,
 45-34 and evaluation periods, shall be imposed when appropriate before
 45-35 monetary penalties.

45-36 (b) Each day a violation continues or occurs is a separate
 45-37 violation for purposes of imposing a penalty. The penalty for a
 45-38 violation may be in an amount not to exceed the following limits,
 45-39 based on the maximum number of children for whom the facility or
 45-40 family home was authorized to provide care or the number of children
 45-41 under the care of the child-placing agency when the violation
 45-42 occurred [~~receiving care at the facility or family home at the time~~
 45-43 of the violation]:

45-44 (1) for violations that occur in a facility other than
 45-45 a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$20
21-40	\$30
41-60	\$40
61-80	\$50
81-100	\$75
More than 100	\$100 <u>and</u>

45-53 (2) for violations that occur in a residential
 45-54 child-care facility:

Number of children	Maximum amount of penalty
<u>20 or less</u>	<u>\$100</u>
<u>21-40</u>	<u>\$150</u>
<u>41-60</u>	<u>\$200</u>
<u>61-80</u>	<u>\$250</u>
<u>81-100</u>	<u>\$375</u>
<u>More than 100</u>	<u>\$500</u>

45-62 (c) In addition to the number of children, the [The] amount
 45-63 of the penalty shall be based on:

45-64 (1) the seriousness of the violation, including the
 45-65 nature, circumstances, extent, and gravity of any prohibited acts,
 45-66 and the hazard or potential hazard created to the health, safety, or
 45-67 economic welfare of the public;

45-68 (2) the economic harm to property or the environment
 45-69 caused by the violation;

- 46-1 (3) the history of previous violations;
 46-2 (4) the amount necessary to deter future violations;
 46-3 (5) efforts to correct the violation; and
 46-4 (6) any other matter that justice may require.

46-5 (d) Monetary penalties shall not be assessed for violations
 46-6 ~~that are the result of clerical errors [or standards which do not~~
 46-7 ~~clearly apprise the facility or family home of the action required~~
 46-8 ~~by the standard].~~

46-9 (e) If the department [~~executive director~~] determines that
 46-10 a violation has occurred, the department [~~executive director~~] may
 46-11 issue a recommendation on the imposition of a penalty, including a
 46-12 recommendation on the amount of the penalty.

46-13 (f) Within 14 days after the date the recommendation is
 46-14 issued, the department [~~executive director~~] shall give written
 46-15 notice of the recommendation to the person owning or operating the
 46-16 facility or family home or to the controlling person, if
 46-17 applicable. The notice may be given by certified mail. The notice
 46-18 must include a brief summary of the alleged violation and a
 46-19 statement of the amount of the recommended penalty and must inform
 46-20 the person that the person has a right to a hearing on the
 46-21 occurrence of the violation, the amount of the penalty, or both the
 46-22 occurrence of the violation and the amount of the penalty.

46-23 (g) Within 20 days after the date the person receives the
 46-24 notice, the person in writing may accept the determination and
 46-25 recommended penalty of the department [~~executive director~~] or may
 46-26 make a written request for a hearing on the occurrence of the
 46-27 violation, the amount of the penalty, or both the occurrence of the
 46-28 violation and the amount of the penalty.

46-29 (h) If the person accepts the determination and recommended
 46-30 penalty of the department [~~executive director~~] or fails to respond
 46-31 to the notice in a timely manner, the department [~~executive~~
 46-32 ~~director~~] shall issue an order and impose the recommended penalty.

46-33 (i) If the person requests a hearing, the department
 46-34 [~~executive director~~] shall set a hearing and give notice of the
 46-35 hearing to the person. The hearing shall be held by an
 46-36 administrative law judge of the State Office of Administrative
 46-37 Hearings. The administrative law judge shall make findings of fact
 46-38 and conclusions of law and issue a final decision finding that a
 46-39 violation has occurred and imposing a penalty or finding that no
 46-40 violation occurred.

46-41 (l) Within the 30-day period, a person who acts under
 46-42 Subsection (k)(3) may:

46-43 (1) stay enforcement of the penalty by:

46-44 (A) paying the amount of the penalty to the court
 46-45 for placement in an escrow account; or

46-46 (B) giving to the court a supersedeas bond that
 46-47 is approved by the court for the amount of the penalty and that is
 46-48 effective until all judicial review of the order is final; or

46-49 (2) request the court to stay enforcement of the
 46-50 penalty by:

46-51 (A) filing with the court a sworn affidavit of
 46-52 the person stating that the person is financially unable to pay the
 46-53 amount of the penalty and is financially unable to give the
 46-54 supersedeas bond; and

46-55 (B) giving a copy of the affidavit to the
 46-56 department [~~executive director~~] by certified mail.

46-57 (m) On receipt of a copy of an affidavit under Subsection
 46-58 (1)(2), the department [~~executive director~~] may file with the
 46-59 court, within five days after the date the copy is received, a
 46-60 contest to the affidavit. The court shall hold a hearing on the
 46-61 facts alleged in the affidavit as soon as practicable and shall stay
 46-62 the enforcement of the penalty on finding that the alleged facts are
 46-63 true. The person who files an affidavit has the burden of proving
 46-64 that the person is financially unable to pay the amount of the
 46-65 penalty and to give a supersedeas bond.

46-66 (n) If the person does not pay the amount of the penalty and
 46-67 the enforcement of the penalty is not stayed, the department
 46-68 [~~executive director~~] may refer the matter to the attorney general
 46-69 for collection of the amount of the penalty.

(b) Section 42.078, Human Resources Code, as amended by this section, applies to conduct that occurs on or after the effective date of this section. Conduct that occurs before the effective date of this section is governed by Section 42.078, Human Resources Code, as it existed before amendment by this section, and the former law is continued in effect for that purpose.

SECTION 1.103. The heading to Chapter 43, Human Resources Code, is amended to read as follows:

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

SECTION 1.104. Section 43.001, Human Resources Code, is amended by amending Subdivision (1) and adding Subdivisions (3) and (4) to read as follows:

(1) "Child-care institution" has the meaning assigned by Section 42.002 [~~means a profit or nonprofit children's home, orphanage, institution, or other place that receives and provides 24-hour-a-day care for more than six children who are dependent, neglected, handicapped, delinquent, in danger of becoming delinquent, or in need of group care~~].

(3) "Child-placing agency" has the meaning assigned in Section 42.002.

(4) "Child-placing agency administrator" means a person who supervises and exercises direct control over a child-placing agency and who is responsible for the child-placing agency's program and personnel, regardless of whether the person has an ownership interest in the child-placing agency or shares duties with other persons.

SECTION 1.105. (a) Section 43.003, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) A person may not serve as a child-placing agency administrator without a license issued by the department under this chapter.

(b) Notwithstanding Subsection (c), Section 43.003, Human Resources Code, as added by this section, a person is not required to hold a license issued under Chapter 43, Human Resources Code, to act as a child-placing agency administrator until January 1, 2006.

SECTION 1.106. (a) Section 43.004, Human Resources Code, is amended to read as follows:

Sec. 43.004. QUALIFICATIONS FOR LICENSE. (a) To be eligible for a child-care administrator's license a person must:

(1) provide information for the department's use in conducting a criminal history and background check under Subsection (c) [~~present evidence in writing of good moral character, ethical commitment, and sound physical and emotional health~~];

(2) pass an examination developed [~~devised~~] and administered by the department that demonstrates competence in the field of child-care administration;

(3) have one year of full-time experience in management or supervision of child-care personnel and programs; and

(4) have one of the following educational and experience qualifications:

(A) a master's or doctor of philosophy degree in social work or other area of study; or

(B) a bachelor's degree and two years' full-time experience in child care or a closely related field [+

~~[(C) an associate degree from a junior college and four years' experience in child care or a closely related field, or~~

~~[(D) a high school diploma or its equivalent and six years' experience in child care or a closely related field].~~

(b) To be eligible for a child-placing agency administrator's license a person must:

(1) provide information for the department's use in conducting a criminal history and background check under Subsection (c);

(2) pass an examination developed and administered by the department that demonstrates competence in the field of placing children in residential settings or adoptive homes;

(3) have one year of full-time experience in

48-1 management or supervision of child-placing personnel and programs;
48-2 and

48-3 (4) have one of the following educational and
48-4 experience qualifications:

48-5 (A) a master's or doctor of philosophy degree in
48-6 social work or other area of study; or

48-7 (B) a bachelor's degree and two years' full-time
48-8 experience in the field of placing children in residential settings
48-9 or adoptive homes or a closely related field.

48-10 (c) Before the department issues a license under this
48-11 chapter, the department must conduct a criminal history and
48-12 background check of the applicant using:

48-13 (1) the information made available by the Department
48-14 of Public Safety under Section 411.114, Government Code, or by the
48-15 Federal Bureau of Investigation or other criminal justice agency
48-16 under Section 411.087, Government Code; and

48-17 (2) the information in the central registry of
48-18 reported cases of child abuse or neglect established under Section
48-19 261.002, Family Code.

48-20 (b) Subsection (a), Section 43.004, Human Resources Code,
48-21 as added by this section, applies only to a person who applies for a
48-22 license or license renewal on or after the effective date of this
48-23 section.

48-24 SECTION 1.107. (a) Section 43.0041, Human Resources Code,
48-25 is amended by adding Subsection (c) to read as follows:

48-26 (c) A person who fails an examination three times may not
48-27 submit a new application for a license until after the first
48-28 anniversary of the date the person last failed the examination.

48-29 (b) Subsection (c), Section 43.0041, Human Resources Code,
48-30 as added by this section, applies only to an examination taken on or
48-31 after the effective date of this section. An examination taken
48-32 before the effective date of this section is not considered in
48-33 determining whether a person is prohibited from seeking a new
48-34 license for the period specified by Subsection (c), Section
48-35 43.0041, Human Resources Code, as added by this section.

48-36 SECTION 1.108. Subsection (a), Section 43.0081, Human
48-37 Resources Code, is amended to read as follows:

48-38 (a) The department may issue a provisional child-care
48-39 administrator's license to an applicant licensed in another state
48-40 who applies for a license in this state. An applicant for a
48-41 provisional license under this section must:

48-42 (1) be licensed in good standing as a child-care
48-43 administrator for at least two years in another state, the District
48-44 of Columbia, a foreign country, or a territory of the United States
48-45 that has licensing requirements that are substantially equivalent
48-46 to the requirements of this chapter;

48-47 (2) have passed a national or other examination
48-48 recognized by the department that demonstrates competence in the
48-49 field of child-care administration; and

48-50 (3) be sponsored by a person licensed by the
48-51 department under this chapter with whom the provisional license
48-52 holder may practice under this section.

48-53 SECTION 1.109. (a) Subsection (a), Section 43.009, Human
48-54 Resources Code, is amended to read as follows:

48-55 (a) To be eligible for license renewal, a license holder
48-56 shall present evidence to the department of participation in a
48-57 program of continuing education for 15 [~~approximating 15 actual~~]
48-58 hours of formal study each year during the two-year period before
48-59 the renewal.

48-60 (b) Subsection (a), Section 43.009, Human Resources Code,
48-61 as amended by this section, applies to a person who seeks license
48-62 renewal on or after September 1, 2007. A person who seeks license
48-63 renewal before September 1, 2007, is governed by the law in effect
48-64 before amendment by this section, and the former law is continued in
48-65 effect for that purpose.

48-66 SECTION 1.110. The heading to Section 43.010, Human
48-67 Resources Code, is amended to read as follows:

48-68 Sec. 43.010. LICENSE DENIAL, REVOCATION, SUSPENSION, OR
48-69 REFUSAL TO RENEW; REPRIMAND OR PROBATION.

49-1 SECTION 1.111. (a) Subsections (a), (b), and (d), Section
49-2 43.010, Human Resources Code, are amended to read as follows:

49-3 (a) The department may deny, [shall] revoke, suspend, or
49-4 refuse to renew a license, or place on probation [a person whose
49-5 license has been suspended,] or reprimand a license holder for:

49-6 (1) violating [a violation by the license holder of]
49-7 this chapter or a rule adopted under this chapter;

49-8 (2) circumventing or attempting to circumvent the
49-9 requirements of this chapter or a rule adopted under this chapter;

49-10 (3) engaging in fraud or deceit related to the
49-11 requirements of this chapter or a rule adopted under this chapter;

49-12 (4) providing false or misleading information to the
49-13 department during the license application or renewal process for
49-14 any person's license;

49-15 (5) making a statement about a material fact during
49-16 the license application or renewal process that the person knows or
49-17 should know is false;

49-18 (6) having a criminal history or central registry
49-19 record that would prohibit a person from working in a child-care
49-20 facility, as defined by Section 42.002, under rules applicable to
49-21 that type of facility;

49-22 (7) using drugs or alcohol in a manner that
49-23 jeopardizes the person's ability to function as an administrator;
49-24 or

49-25 (8) [of the board.

49-26 ~~[(b) The department may revoke a license if the license~~
49-27 ~~holder is:~~

49-28 ~~[(1) convicted of a felony;~~

49-29 ~~[(2) convicted of a misdemeanor involving fraud or~~
49-30 ~~deceit;~~

49-31 ~~[(3) addicted to a dangerous drug or intemperate in~~
49-32 ~~the use of alcohol; or~~

49-33 ~~[(4) grossly negligent in] performing duties as a~~
49-34 ~~child-care administrator in a negligent manner.~~

49-35 (b) A person whose license is revoked under Subsection (a)
49-36 is not eligible to apply for another license under this chapter.

49-37 (d) If a license holder is placed on probation [suspension
49-38 is probated], the department may require the license holder:

49-39 (1) to report regularly to the department on the
49-40 conditions of the probation;

49-41 (2) to limit practice to the areas prescribed by the
49-42 department; or

49-43 (3) to continue or renew professional education until
49-44 the practitioner attains a degree of skill satisfactory to the
49-45 department in those areas in which improvement is a condition of the
49-46 probation.

49-47 (b) Subsection (b), Section 43.010, Human Resources Code,
49-48 as amended by this section, applies only to a person whose license
49-49 is revoked on or after the effective date of this section. A person
49-50 whose license is revoked before the effective date of this section
49-51 is governed by the law in effect at the time of the revocation, and
49-52 the former law is continued in effect for that purpose.

49-53 SECTION 1.112. Section 43.0105, Human Resources Code, is
49-54 amended to read as follows:

49-55 Sec. 43.0105. REVOCATION OF PROBATION. The department may
49-56 revoke the probation of a license holder ~~[whose license is~~
49-57 ~~suspended]~~ if the license holder violates a term of the conditions
49-58 of probation.

49-59 SECTION 1.113. Section 43.0106, Human Resources Code, is
49-60 amended to read as follows:

49-61 Sec. 43.0106. ADMINISTRATIVE [DISCIPLINARY] HEARING.

49-62 (a) If the department denies a license or proposes to suspend,
49-63 revoke, or refuse to renew a person's license, the person is
49-64 entitled to a hearing conducted by the State Office of
49-65 Administrative Hearings. Proceedings for a disciplinary action are
49-66 governed by the administrative procedure law, Chapter 2001,
49-67 Government Code. Rules of practice adopted by the executive
49-68 commissioner [board] under Section 2001.004, Government Code,
49-69 applicable to the proceedings for a disciplinary action may not

50-1 conflict with rules adopted by the State Office of Administrative
50-2 Hearings.

50-3 (b) A person may not continue to operate as a licensed
50-4 child-care administrator or child-placing agency administrator
50-5 during the appeal process if the department determines that the
50-6 person is an immediate threat to the health or safety of a child.

50-7 (c) The department must notify the person, and if
50-8 applicable, the governing body of the facility that employs the
50-9 person, of the department's determination under Subsection (b).

50-10 SECTION 1.114. Section 43.012, Human Resources Code, is
50-11 amended to read as follows:

50-12 Sec. 43.012. PENALTY. A person who serves as a child-care
50-13 or child-placing agency administrator without the license required
50-14 by this chapter commits a Class C misdemeanor.

50-15 SECTION 1.115. Subdivision (3), Article 56.01, Code of
50-16 Criminal Procedure, is amended to read as follows:

50-17 (3) "Victim" means a person who is the victim of the
50-18 offense of sexual assault, kidnapping, [or] aggravated robbery, or
50-19 injury to a child, elderly individual, or disabled individual or
50-20 who has suffered bodily injury or death as a result of the criminal
50-21 conduct of another.

50-22 SECTION 1.116. (a) Section 22.04, Penal Code, is amended
50-23 by amending Subsections (b) through (g) and adding Subsection (a-1)
50-24 to read as follows:

50-25 (a-1) A person commits an offense if the person is an owner,
50-26 operator, or employee of a group home, nursing facility, assisted
50-27 living facility, intermediate care facility for persons with mental
50-28 retardation, or other institutional care facility and the person
50-29 intentionally, knowingly, recklessly, or with criminal negligence
50-30 by omission causes to a child, elderly individual, or disabled
50-31 individual who is a resident of that group home or facility:

50-32 (1) serious bodily injury;

50-33 (2) serious mental deficiency, impairment, or injury;

50-34 (3) bodily injury; or

50-35 (4) exploitation.

50-36 (b) An omission that causes a condition described by
50-37 Subsection (a)(1), (2), or (3) or (a-1)(1), (2), (3), or (4)
50-38 [Subsections (a)(1) through (a)(3)] is conduct constituting an
50-39 offense under this section if:

50-40 (1) the actor has a legal or statutory duty to act; or

50-41 (2) the actor has assumed care, custody, or control of
50-42 a child, elderly individual, or disabled individual.

50-43 (c) In this section:

50-44 (1) "Child" means a person 14 years of age or younger.

50-45 (2) "Elderly individual" means a person 65 years of
50-46 age or older.

50-47 (3) "Disabled individual" means a person older than 14
50-48 years of age who by reason of age or physical or mental disease,
50-49 defect, or injury is substantially unable to protect himself from
50-50 harm or to provide food, shelter, or medical care for himself.

50-51 (4) "Exploitation" means the illegal or improper use
50-52 of an individual or of the resources of the individual for monetary
50-53 or personal benefit, profit, or gain.

50-54 (d) For purposes of an omission that causes a condition
50-55 described by Subsection (a)(1), (2), or (3), the [The] actor has
50-56 assumed care, custody, or control if he has by act, words, or course
50-57 of conduct acted so as to cause a reasonable person to conclude that
50-58 he has accepted responsibility for protection, food, shelter, and
50-59 medical care for a child, elderly individual, or disabled
50-60 individual. For purposes of an omission that causes a condition
50-61 described by Subsection (a-1)(1), (2), (3), or (4), the actor
50-62 acting during the actor's capacity as owner, operator, or employee
50-63 of a group home or facility described by Subsection (a-1) is
50-64 considered to have accepted responsibility for protection, food,
50-65 shelter, and medical care for the child, elderly individual, or
50-66 disabled individual who is a resident of the group home or facility.

50-67 (e) An offense under Subsection (a)(1) or (2) or (a-1)(1) or
50-68 (2) is a felony of the first degree when the conduct is committed
50-69 intentionally or knowingly. When the conduct is engaged in

51-1 recklessly, the offense is [it shall be] a felony of the second
51-2 degree.

51-3 (f) An offense under Subsection (a)(3) or (a-1)(3) or (4) is
51-4 a felony of the third degree when the conduct is committed
51-5 intentionally or knowingly. When the conduct is engaged in
51-6 recklessly, the offense is [it shall be] a state jail felony.

51-7 (g) An offense under Subsection (a) is a state jail felony
51-8 when the person acts with criminal negligence [shall be a state jail
51-9 felony]. An offense under Subsection (a-1) is a state jail felony
51-10 when the person, with criminal negligence and by omission, causes a
51-11 condition described by Subsection (a-1)(1), (2), (3), or (4).

51-12 (b) The change in law made by this section applies only to an
51-13 offense committed on or after the effective date of this section.
51-14 An offense committed before the effective date of this section is
51-15 covered by the law in effect when the offense was committed, and the
51-16 former law is continued in effect for that purpose. For the
51-17 purposes of this subsection, an offense was committed before the
51-18 effective date of this section if any element of the offense was
51-19 committed before that date.

51-20 SECTION 1.117. AT-RISK PREVENTION SERVICES TASK FORCE.

51-21 (a) In this section:

51-22 (1) "Department" means the Department of Family and
51-23 Protective Services.

51-24 (2) "Executive commissioner" means the executive
51-25 commissioner of the Health and Human Services Commission.

51-26 (3) "Prevention service" means a community-based
51-27 prevention program to alleviate the conditions that lead to child
51-28 abuse or neglect and juvenile crime.

51-29 (4) "Task force" means the at-risk prevention services
51-30 task force established under this section.

51-31 (b) The at-risk prevention services task force is
51-32 established to create a strategic plan to improve the availability
51-33 of prevention services in this state and the manner in which those
51-34 services are provided.

51-35 (c) The task force is composed of 11 members appointed by
51-36 the governor.

51-37 (d) Each member of the task force must have demonstrated
51-38 experience in the prevention of child abuse or neglect, or juvenile
51-39 crime. Consideration shall be given to inclusion of prevention
51-40 service providers, research professionals, representatives from
51-41 mental health and juvenile justice fields, and the judicial system.

51-42 (e) The task force shall:

51-43 (1) examine the provision of prevention services in
51-44 this state and identify gaps in services and opportunities to
51-45 coordinate service delivery;

51-46 (2) identify federal, state, and community sources of
51-47 funding for prevention services and methods for combining resources
51-48 for those services; and

51-49 (3) create a strategic plan that would address current
51-50 gaps in services and would result in the extension of prevention
51-51 services that are evidence-based and utilize best practices to more
51-52 at-risk families in this state.

51-53 (f) To the extent that money is appropriated for this
51-54 purpose, the department shall establish and administer a child
51-55 abuse and neglect prevention grant program that addresses gaps and
51-56 strategies recommended by the task force. The grant program shall
51-57 fund evidence-based programs offered by community-based or county
51-58 organizations that are designed to prevent or ameliorate child
51-59 abuse and neglect. The task force shall advise the department in
51-60 the evaluation of the evidence-based abuse and neglect prevention
51-61 programs to determine the continued effectiveness of the programs.

51-62 (g) The department shall provide administrative support and
51-63 services to the task force.

51-64 (h) Not later than September 1, 2006, the task force shall
51-65 present to the department and executive commissioner the strategic
51-66 plan created under Subsection (e) of this section.

51-67 (i) Not later than the 90th day after the date on which the
51-68 task force presents the strategic plan, the executive commissioner
51-69 shall submit to the governor, the lieutenant governor, the speaker

52-1 of the house of representatives, and the presiding officer of each
 52-2 house and senate standing committee having jurisdiction over family
 52-3 protective services a written report concerning the strategic plan
 52-4 of the task force. The report shall include:

52-5 (1) recommendations for implementing the strategic
 52-6 plan of the task force, if appropriate;

52-7 (2) recommendations for modifications to the
 52-8 strategic plan of the task force; and

52-9 (3) recommendations for legislation that the task
 52-10 force or executive commissioner considers necessary to implement
 52-11 the strategic plan.

52-12 (j) This section expires and the task force is abolished
 52-13 June 1, 2007.

52-14 SECTION 1.118. THINK TANK MEETING ON CHILD ABUSE AND
 52-15 NEGLECT INVESTIGATIONS. Not later than January 1, 2006, the
 52-16 Department of Family and Protective Services shall conduct a
 52-17 meeting with employees of the department and law enforcement
 52-18 professionals who have responsibility for investigating reports of
 52-19 child abuse and neglect to explore standards for:

52-20 (1) training to be provided for personnel who conduct
 52-21 investigations of child abuse and neglect, including techniques for
 52-22 interviewing, investigating, and communicating with children with
 52-23 disabilities;

52-24 (2) protocols for conducting investigations; and

52-25 (3) the coordination of investigations between the
 52-26 department and law enforcement agencies.

52-27 SECTION 1.119. CASEWORKER FUNCTION STUDY. (a) The
 52-28 Department of Family and Protective Services shall conduct a study
 52-29 on the merits of revising the functions performed by caseworkers
 52-30 employed by the department. In conducting the study required by
 52-31 this section, the department shall explore the benefits of using
 52-32 one caseworker to coordinate efforts on behalf of the child and the
 52-33 child's parents.

52-34 (b) The department shall report the results of the study
 52-35 conducted under Subsection (a) of this section to the lieutenant
 52-36 governor and the speaker of the house of representatives not later
 52-37 than January 1, 2006.

52-38 SECTION 1.120. USE OF LOCAL CASEWORKERS. If the Department
 52-39 of Family and Protective Services places a child in a home in an
 52-40 administrative region other than the region in which the child's
 52-41 caseworker is located, the department shall consider using a
 52-42 caseworker from the region in which the child is placed to conduct
 52-43 home visits for that child.

52-44 SECTION 1.121. The following provisions of the Human
 52-45 Resources Code are repealed:

52-46 (1) Subdivision (1), Section 40.001;

52-47 (2) Section 40.028;

52-48 (3) Section 40.029;

52-49 (4) Subsections (b), (c), and (e), Section 40.0305;

52-50 and

52-51 (5) Subsection (c), Section 43.010.

52-52 ARTICLE 2. ADULT PROTECTIVE SERVICES

52-53 SECTION 2.01. Subchapter B, Chapter 40, Human Resources
 52-54 Code, is amended by adding Section 40.0315 to read as follows:

52-55 Sec. 40.0315. INVESTIGATION UNIT FOR ADULT PROTECTIVE
 52-56 SERVICES. (a) The adult protective services division of the
 52-57 department shall maintain an investigation unit to investigate
 52-58 allegations of abuse, neglect, and exploitation of elderly and
 52-59 disabled persons reported to the division.

52-60 (b) An investigator in the unit shall determine whether an
 52-61 elderly or disabled person who is the subject of a report made under
 52-62 Section 48.051(a) may have suffered from abuse, neglect, or
 52-63 exploitation as a result of the criminal conduct of another person.
 52-64 If the investigator determines that criminal conduct may have
 52-65 occurred, the investigator shall immediately notify the
 52-66 appropriate law enforcement agency.

52-67 (c) Not later than the 30th day after the date a law
 52-68 enforcement agency is notified by an investigator as provided by
 52-69 Subsection (b), the agency shall, if feasible, provide to the unit

53-1 information regarding the disposition of the agency's
53-2 investigation of the conduct that was the subject of the notice.

53-3 SECTION 2.02. Subchapter B, Chapter 40, Human Resources
53-4 Code, is amended by adding Section 40.0323 to read as follows:

53-5 Sec. 40.0323. QUALIFICATIONS FOR ADULT PROTECTIVE SERVICES
53-6 PERSONNEL. (a) In hiring department employees whose duties
53-7 include providing services as part of, or relating to, the
53-8 provision of adult protective services directly to an elderly or
53-9 disabled person, the commissioner shall ensure that the department
53-10 gives preference to applicants with professional credentials
53-11 related to adult protective services, including applicants who are
53-12 licensed master social workers, as defined by Section 505.002,
53-13 Occupations Code, or licensed professional counselors.

53-14 (b) Subject to the availability of funds, the executive
53-15 commissioner by rule shall develop and the department shall
53-16 implement an incentive program to encourage each department
53-17 employee whose duties include the duties described by Subsection
53-18 (a) to obtain professional credentials described by that subsection
53-19 if the employee does not have those credentials.

53-20 SECTION 2.03. Subchapter B, Chapter 40, Human Resources
53-21 Code, is amended by adding Section 40.035 to read as follows:

53-22 Sec. 40.035. TRAINING PROGRAM FOR ADULT PROTECTIVE
53-23 SERVICES; CONTINUING EDUCATION. (a) The department shall develop
53-24 and implement a training program that each newly hired or assigned
53-25 department employee must complete before:

53-26 (1) initiating an investigation of a report of alleged
53-27 abuse, neglect, or exploitation of an elderly or disabled person
53-28 under Chapter 48; or

53-29 (2) providing protective services to elderly or
53-30 disabled persons under that chapter.

53-31 (b) The training program must:

53-32 (1) provide the person with appropriate comprehensive
53-33 information regarding:

53-34 (A) the incidence and types of reports of abuse,
53-35 neglect, and exploitation of elderly or disabled persons that are
53-36 received by the department, including information concerning false
53-37 reports; and

53-38 (B) the use and proper implementation of:
53-39 (i) the risk assessment criteria developed
53-40 under Section 48.004; and

53-41 (ii) the legal procedures available under
53-42 Chapter 48 for the protection of elderly or disabled persons,
53-43 including the procedures for obtaining a court order for emergency
53-44 protective services under Section 48.208;

53-45 (2) include best practices for management of a case
53-46 from the intake process to the provision of protective services, if
53-47 any, including criteria that specify the circumstances under which
53-48 an employee should:

53-49 (A) consult a supervisor regarding a case; or

53-50 (B) refer an elderly or disabled person to an
53-51 appropriate public agency or community service provider for
53-52 guardianship or other long-term services after the delivery of
53-53 protective services to that person has been completed;

53-54 (3) provide appropriate specialized training in any
53-55 necessary topics, including:

53-56 (A) investigation of suspected financial
53-57 exploitation and self-neglect; and

53-58 (B) establishment and maintenance of working
53-59 relationships with community organizations and other local
53-60 providers who provide services to elderly and disabled persons;

53-61 (4) include on-the-job training, which must require:

53-62 (A) a supervisor to accompany and train a
53-63 department caseworker in the field throughout the first case
53-64 assigned to the caseworker; and

53-65 (B) the supervisor to make a detailed, written
53-66 progress report regarding the caseworker's performance during a
53-67 three-month review period that:

53-68 (i) identifies the strengths and weaknesses
53-69 of the caseworker that the supervisor observed during that period;

54-1 and

54-2 (ii) specifies the policies and tools the
54-3 caseworker used during that period;

54-4 (5) provide for the development of individualized
54-5 training plans;

54-6 (6) include training in working with law enforcement
54-7 agencies and the court system when legal intervention is sought for
54-8 investigations or emergency orders; and

54-9 (7) to the maximum extent possible, include nationally
54-10 recognized best practices in addition to the best practices
54-11 required under Subdivision (2).

54-12 (c) The department at least annually shall provide
54-13 comprehensive case management training to supervisors of
54-14 department employees who conduct investigations under Chapter 48.
54-15 The training must be designed to enable the supervisors to provide
54-16 guidance on investigations of reports of alleged abuse, neglect, or
54-17 exploitation that are complex or present unique problems.

54-18 (d) The department shall develop and implement appropriate
54-19 continuing education programs for employees of the adult protective
54-20 services division who have completed initial training under this
54-21 section. The continuing education programs must include nationally
54-22 recognized best practices to the maximum extent possible and must
54-23 be designed to provide an annual update regarding changes in:

54-24 (1) adult protective services division policies and
54-25 procedures; and

54-26 (2) applicable law, including statutory changes
54-27 affecting the adult protective services division or elderly or
54-28 disabled persons served by the division.

54-29 (e) A department employee required to participate in a
54-30 continuing education program under this section must complete the
54-31 program at least once each calendar year.

54-32 (f) The department shall:

54-33 (1) make curriculum developed for a training or
54-34 continuing education program under this section readily available
54-35 to department employees in written form; and

54-36 (2) periodically revise a training and continuing
54-37 education program established under this section as necessary to
54-38 satisfy training needs identified by the department or department
54-39 employees.

54-40 (g) The circumstances specified under Subsection (b)(2)
54-41 under which an employee should consult a supervisor regarding a
54-42 case must be consistent with the risk assessment criteria developed
54-43 under Section 48.004 that require consultation with a supervisor.

54-44 (h) The executive commissioner by rule shall provide
54-45 policies and procedures by which the department incorporates
54-46 examples of actual cases investigated by the department in the
54-47 training programs under this section for use as training tools.

54-48 (i) In implementing the training program and continuing
54-49 education programs under this section, the department, to the
54-50 maximum extent possible, shall contract with persons who are not
54-51 department employees to conduct the programs.

54-52 SECTION 2.04. (a) Subchapter C, Chapter 40, Human
54-53 Resources Code, is amended by adding Section 40.0515 to read as
54-54 follows:

54-55 Sec. 40.0515. QUALITY ASSURANCE PROGRAM FOR ADULT
54-56 PROTECTIVE SERVICES; QUARTERLY REPORTS. (a) The department shall
54-57 develop and implement a quality assurance program for adult
54-58 protective services provided by or on behalf of the department.

54-59 (b) In developing the program, the department shall
54-60 establish:

54-61 (1) client-centered outcome measures for each of the
54-62 following functions of the adult protective services program:

54-63 (A) intake process;

54-64 (B) investigations;

54-65 (C) risk assessment determinations; and

54-66 (D) delivery of protective services;

54-67 (2) minimum job performance standards for personnel
54-68 and each work department of the adult protective services division
54-69 of the department; and

55-1 (3) procedures for conducting periodic performance
 55-2 reviews to monitor compliance with the standards established under
 55-3 Subdivision (2), which must include requirements that, for each
 55-4 caseworker in the adult protective services division of the
 55-5 department, a supervisor shall conduct:

55-6 (A) at least two performance reviews each year,
 55-7 if the employee has less than two years of adult protective services
 55-8 casework experience; and

55-9 (B) at least one performance review each year, if
 55-10 the employee has at least two years of adult protective services
 55-11 casework experience.

55-12 (c) The department shall promptly address a person's or work
 55-13 department's failure to meet minimum job performance standards
 55-14 established under Subsection (b)(2):

55-15 (1) by issuing to the person or work department, as
 55-16 appropriate, a corrective action plan detailing the actions
 55-17 required to comply with the standards; or

55-18 (2) if necessary, through disciplinary action,
 55-19 including a person's demotion or discharge, for repeated failure to
 55-20 meet the standards.

55-21 (d) A performance review conducted under Subsection (b)(3)
 55-22 is considered a performance evaluation for purposes of Section
 55-23 40.032(c). The department shall ensure that disciplinary or other
 55-24 corrective action is taken against a supervisor or other managerial
 55-25 employee who is required to conduct a performance evaluation under
 55-26 Section 40.032(c) or a performance review under Subsection (b)(3)
 55-27 and who fails to complete that evaluation or review in a timely
 55-28 manner.

55-29 (e) The annual performance evaluation required under
 55-30 Section 40.032(c) of the performance of a supervisor in the adult
 55-31 protective services division must:

55-32 (1) be performed by an appropriate program
 55-33 administrator; and

55-34 (2) include:

55-35 (A) an evaluation of the supervisor with respect
 55-36 to the job performance standards applicable to the supervisor's
 55-37 assigned duties; and

55-38 (B) an evaluation of the supervisor with respect
 55-39 to the compliance of employees supervised by the supervisor with
 55-40 the job performance standards applicable to those employees'
 55-41 assigned duties.

55-42 (f) A summary of the findings of outcome measures
 55-43 established and performance reviews conducted under this section
 55-44 must be reported to regional directors and other senior management
 55-45 employees of the adult protective services division.

55-46 (g) Each fiscal quarter the department shall file with the
 55-47 governor and the presiding officer of each house of the legislature
 55-48 a report that includes:

55-49 (1) a comprehensive review of the adult protective
 55-50 services division's overall performance during the preceding
 55-51 quarter; and

55-52 (2) a summary of the adult protective services
 55-53 division's performance during the preceding quarter on each of the
 55-54 outcome measures established under Subsection (b)(1).

55-55 (b) The Department of Family and Protective Services shall
 55-56 submit the initial report required under Section 40.0515, Human
 55-57 Resources Code, as added by this section, not later than October 1,
 55-58 2005.

55-59 SECTION 2.05. Subdivision (4), Subsection (a), Section
 55-60 48.002, Human Resources Code, is amended to read as follows:

55-61 (4) "Neglect" means the failure to provide for one's
 55-62 self the goods or services, including medical services, which are
 55-63 necessary to avoid physical or emotional harm or pain or the failure
 55-64 of a caretaker to provide such goods or services. This term
 55-65 includes a person leaving a facility that provides medical care,
 55-66 against medical advice, if leaving places the person at imminent
 55-67 risk of physical or emotional harm and a physician has issued a
 55-68 written letter or certificate stating the person is not mentally
 55-69 competent.

56-1 SECTION 2.06. Subchapter A, Chapter 48, Human Resources
56-2 Code, is amended by adding Section 48.004 to read as follows:

56-3 Sec. 48.004. RISK ASSESSMENT. The executive commissioner
56-4 by rule shall develop and maintain risk assessment criteria for use
56-5 by department personnel in determining whether an elderly or
56-6 disabled person is in imminent risk of abuse, neglect, or
56-7 exploitation or in a state of abuse, neglect, or exploitation and
56-8 needs protective services. The criteria must:

56-9 (1) provide for a comprehensive assessment of the
56-10 person's:

56-11 (A) environmental, physical, medical, mental
56-12 health, and financial condition;

56-13 (B) social interaction and support; and

56-14 (C) need for legal intervention; and

56-15 (2) specify the circumstances under which a caseworker
56-16 must consult with a supervisor regarding a case.

56-17 SECTION 2.07. Subchapter A, Chapter 48, Human Resources
56-18 Code, is amended by adding Sections 48.005 and 48.006 to read as
56-19 follows:

56-20 Sec. 48.005. MAINTENANCE OF RECORDS. Notwithstanding
56-21 Chapter 441, Government Code, or any other law, the department
56-22 shall maintain in an electronic format a summary of all records
56-23 related to investigations of reports made under Section 48.051 that
56-24 includes only critical information with respect to those
56-25 investigations that will enable the department to research the
56-26 history of a person's involvement in the investigated cases.

56-27 Sec. 48.006. COMMUNITY SATISFACTION SURVEY. (a) The
56-28 department shall develop a community satisfaction survey that
56-29 solicits information regarding the department's performance with
56-30 respect to providing investigative and adult protective services.
56-31 In each region, the department shall send the survey at least
56-32 annually to:

56-33 (1) stakeholders in the adult protective services
56-34 system, including local law enforcement agencies and prosecutors'
56-35 offices;

56-36 (2) protective services agencies, including nonprofit
56-37 agencies; and

56-38 (3) courts with jurisdiction over probate matters.

56-39 (b) The department shall send the results of each region's
56-40 survey to:

56-41 (1) the region for evaluation by regional and program
56-42 administrators and implementation of changes necessary to address
56-43 community concerns;

56-44 (2) the presiding judge of the statutory probate
56-45 courts in that region; and

56-46 (3) courts with jurisdiction over probate matters in
56-47 that region.

56-48 (c) The department may not include any confidential
56-49 information in the results of the survey provided under Subsection
56-50 (b)(2) or (3) unless ordered by a court.

56-51 SECTION 2.08. Section 48.051, Human Resources Code, is
56-52 amended by adding Subsection (e) to read as follows:

56-53 (e) If a person who makes a report under this section
56-54 chooses to give self-identifying information, the caseworker who
56-55 investigates the report shall contact the person if necessary to
56-56 obtain any additional information required to assist the person who
56-57 is the subject of the report.

56-58 SECTION 2.09. Section 48.101, Human Resources Code, is
56-59 amended by amending Subsections (d) and (e) and adding Subsections
56-60 (d-1), (e-1), (g), and (g-1) to read as follows:

56-61 (d) The executive commissioner shall adopt rules providing
56-62 [department or investigating state agency by rule shall provide]
56-63 for the release, on request, to a person who is the subject of a
56-64 report of abuse, neglect, or exploitation or to that person's legal
56-65 representative of otherwise confidential information relating to
56-66 that report. The department or investigating state agency shall
56-67 edit the information before release to protect the confidentiality
56-68 of information relating to the reporter's identity and to protect
56-69 any other individual whose safety or welfare may be endangered by

57-1 disclosure.

57-2 (d-1) Subject to Subsection (e-1), the executive
 57-3 commissioner shall adopt rules providing for the release, on
 57-4 request, by the department or investigating state agency of
 57-5 otherwise confidential information relating to a person who is the
 57-6 subject of a report or investigation of abuse, neglect, or
 57-7 exploitation or to whom the department has provided protective
 57-8 services, to:

57-9 (1) a court that has a matter pending before it that
 57-10 involves the person;

57-11 (2) the attorney ad litem or any other legal
 57-12 representative, other than a guardian, appointed for the person;
 57-13 and

57-14 (3) the person's legal guardian.

57-15 (e) The executive commissioner [~~department or investigating~~
 57-16 state agency] may adopt rules relating to the release of
 57-17 information by the department or investigating state agency that is
 57-18 contained in the record of a deceased individual who was the subject
 57-19 of an investigation conducted by the department or investigating
 57-20 state agency or to whom the department has provided protective
 57-21 services. The rules must be consistent with the purposes of this
 57-22 chapter and any applicable state or federal law. The executive
 57-23 commissioner shall adopt rules, subject to Subsection (e-1), that
 57-24 provide for the release, on request, of otherwise confidential
 57-25 information in the deceased person's record to the personal
 57-26 representative appointed for the person's estate.

57-27 (e-1) Information released by the department or an
 57-28 investigating state agency under Subsection (d-1) or to a personal
 57-29 representative under Subsection (e) may not include the identity of
 57-30 the person who made the report of abuse, neglect, or exploitation.

57-31 (g) The department may establish procedures to exchange
 57-32 with a community service provider or local governmental entity
 57-33 confidential information relating to a report made under Section
 57-34 48.051(a) that is necessary for the department, provider, or entity
 57-35 to provide protective services, health care services, housing
 57-36 services, or social services to the person who is the subject of the
 57-37 report. An exchange of information under this subsection does not
 57-38 affect whether the information is subject to disclosure under
 57-39 Chapter 552, Government Code.

57-40 (g-1) The executive commissioner by rule shall provide
 57-41 policies and procedures that are designed to guard against the
 57-42 unauthorized release or dissemination of confidential information
 57-43 that is exchanged under Subsection (g).

57-44 SECTION 2.10. (a) Subchapter D, Chapter 48, Human
 57-45 Resources Code, is amended by adding Section 48.1521 to read as
 57-46 follows:

57-47 Sec. 48.1521. INVESTIGATION OF COMPLEX CASES. (a) The
 57-48 department shall develop and implement a system to ensure that, to
 57-49 the greatest extent possible, investigations conducted by the
 57-50 department that involve especially complex issues of abuse,
 57-51 neglect, or exploitation, such as issues associated with
 57-52 self-neglect, mental health, or financial exploitation, are:

57-53 (1) assigned to personnel who have experience and
 57-54 training in those issues; and

57-55 (2) monitored by a special task unit for complex
 57-56 cases.

57-57 (b) Each county with a population of 250,000 or more shall
 57-58 appoint persons to serve as standing members of a special task unit
 57-59 to monitor cases that arise in the county and require monitoring as
 57-60 provided by Subsection (a). The standing members of each special
 57-61 task unit must include:

57-62 (1) a provider of mental health services or aging
 57-63 services or a representative of a nonprofit entity serving persons
 57-64 with disabilities;

57-65 (2) a representative of a law enforcement agency; and

57-66 (3) a legal expert.

57-67 (c) In addition to the standing members specified by
 57-68 Subsection (b), the special task unit:

57-69 (1) must include, for purposes of monitoring a

particular case, the caseworker on the case and the caseworker's supervisor; and

(2) may include a financial forensics expert and any other person with expertise that would be useful in monitoring a particular case.

(d) The department shall 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. The manual must describe:

(1) the purpose and potential benefits of the unit;

(2) a description of the monitoring process the unit is expected to follow and potential problems the unit may encounter;

(3) the composition and administration of the unit; and

(4) the department's criteria for selecting cases to be monitored by the unit.

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

(b) Subchapter D, Chapter 48, Human Resources Code, is amended by adding Section 48.1521 to read as follows:

Sec. 48.1521. INVESTIGATION OF COMPLEX CASES. (a) In this section, "local aging and disabled authority" means a local aging and disabled authority that provides aging and disabled services in a local service region under Subchapter M, Chapter 531, Government Code.

(b) The department shall develop and implement a system to ensure that, to the greatest extent possible, investigations conducted by the department that involve especially complex issues of abuse, neglect, or exploitation, such as issues associated with self-neglect, mental health, or financial exploitation, are:

(1) assigned to personnel who have experience and training in those issues; and

(2) monitored by a special task unit for complex cases.

(c) Each local aging and disabled authority shall appoint persons 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). The standing members of each special task unit must include:

(1) a provider of mental health services or aging services or a representative of a nonprofit entity serving persons with disabilities;

(2) a representative of a law enforcement agency; and

(3) a legal expert.

(d) In addition to the standing members specified by Subsection (c), the special task unit:

(1) must include, for purposes of monitoring a particular case, the caseworker on the case and the caseworker's supervisor; and

(2) may include a financial forensics expert and any other person with expertise that would be useful in monitoring a particular case.

(e) The department shall 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. The manual must describe:

(1) the purpose and potential benefits of the unit;

(2) a description of the monitoring process the unit is expected to follow and potential problems the unit may encounter;

(3) the composition and administration of the unit; and

(4) the department's criteria for selecting cases to be monitored by the unit.

(f) Before the special task unit makes a recommendation that a guardian be appointed for a person in a case being monitored by

59-1 the unit, the unit shall thoroughly consider all less-restrictive
 59-2 alternatives for legal intervention in the case.

59-3 (c) The Department of Family and Protective Services shall
 59-4 develop the manual required by Subsection (d), Section 48.1521,
 59-5 Human Resources Code, as added by Subsection (a) of this section, or
 59-6 Subsection (e), Section 48.1521, Human Resources Code, as added by
 59-7 Subsection (b) of this section, as soon as possible after the
 59-8 effective date of this article. In developing the manual, the
 59-9 department shall use Wisconsin's Elder Abuse Interdisciplinary
 59-10 Team Manual as a model.

59-11 (d) Section 48.1521, Human Resources Code, as added by
 59-12 Subsection (a) of this section, takes effect only if neither Senate
 59-13 Bill 194 nor House Bill 470, proposed by the 79th Legislature,
 59-14 Regular Session, 2005, relating to the local delivery of aging,
 59-15 disability, behavioral health, and mental retardation services, is
 59-16 enacted and becomes law. If Senate Bill 194 or House Bill 470 is
 59-17 enacted and becomes law, Subsection (a) of this section has no
 59-18 effect and Section 48.1521, Human Resources Code, as added by
 59-19 Subsection (b) of this section, takes effect. If neither bill is
 59-20 enacted or becomes law, Subsection (b) of this section has no
 59-21 effect.

59-22 SECTION 2.11. Subchapter D, Chapter 48, Human Resources
 59-23 Code, is amended by adding Section 48.1522 to read as follows:

59-24 Sec. 48.1522. MANAGEMENT REVIEW FOLLOWING CERTAIN
 59-25 INVESTIGATIONS. If the department receives and investigates a
 59-26 report made under Section 48.051, the subject of which is a person
 59-27 with respect to whom the department received and investigated two
 59-28 previous reports under that section and closed those
 59-29 investigations, an adult protective services supervisor shall:

59-30 (1) classify the case as a recidivist case;
 59-31 (2) review the reports and investigation files
 59-32 concerning that person; and
 59-33 (3) assist the caseworker and supervisor
 59-34 investigating the third report in developing a long-term plan for
 59-35 resolving the issues involved in the case.

59-36 SECTION 2.12. Subchapter D, Chapter 48, Human Resources
 59-37 Code, is amended by adding Section 48.158 to read as follows:

59-38 Sec. 48.158. STATUS REPORT OF INVESTIGATION.
 59-39 (a) Notwithstanding any other law, the department, on written
 59-40 request, shall provide to a person who makes a report of alleged
 59-41 abuse, neglect, or exploitation under Section 48.051(a)
 59-42 information on the status of the investigation conducted with
 59-43 respect to the report, unless the department determines that
 59-44 providing the information would:

59-45 (1) jeopardize the investigation; or
 59-46 (2) endanger the safety or welfare of the person who is
 59-47 the subject of the report.

59-48 (b) For purposes of Subsection (a), the status of an
 59-49 investigation must be designated as:

59-50 (1) ongoing;
 59-51 (2) closed, with a determination that the person who
 59-52 was the subject of the report needs protective services; or
 59-53 (3) closed, with a determination that the person who
 59-54 was the subject of the report does not need protective services.

59-55 (c) The information provided under Subsection (a) must
 59-56 include information relating to whether protective services are
 59-57 being provided to the person who was the subject of the report.

59-58 SECTION 2.13. Subchapter D, Chapter 48, Human Resources
 59-59 Code, is amended by adding Section 48.159 to read as follows:

59-60 Sec. 48.159. INTERNAL REVIEW OF DEPARTMENT INVESTIGATION.
 59-61 (a) The department shall establish procedures for conducting an
 59-62 internal review of completed investigations conducted by the
 59-63 department under this chapter to:

59-64 (1) determine whether information obtained during the
 59-65 intake process was sufficient and accurate;

59-66 (2) assess whether telephone calls were appropriately
 59-67 routed;

59-68 (3) assess whether investigations were appropriately
 59-69 classified and prioritized;

60-1 (4) evaluate the case reports for any special issues
 60-2 or requirements;

60-3 (5) assess whether appropriate law enforcement
 60-4 agencies were notified of any suspected criminal conduct; and

60-5 (6) identify other relevant information to enable the
 60-6 department to take any corrective action necessary to improve the
 60-7 process of conducting investigations under this chapter.

60-8 (b) The department shall ensure that an internal review of a
 60-9 completed investigation is conducted before the investigation is
 60-10 closed or before the case results in the delivery of protective
 60-11 services.

60-12 SECTION 2.14. Section 48.202, Human Resources Code, is
 60-13 amended to read as follows:

60-14 Sec. 48.202. SERVICE DETERMINATION BY DEPARTMENT OR AGENCY.
 60-15 (a) In an investigation the department or state agency, as
 60-16 appropriate, shall determine:

60-17 (1) whether the person needs protective services from
 60-18 the department;

60-19 (2) what services are needed;

60-20 (3) whether services are available from the
 60-21 department, from the state agency, or in the community and how they
 60-22 can be provided;

60-23 (4) whether the person, acting alone, would be capable
 60-24 of obtaining needed services and could bear the cost or would be
 60-25 eligible for services from the department or state agency;

60-26 (5) whether a caretaker would be willing to provide
 60-27 services or would agree to their provision [~~provisions~~];

60-28 (6) whether the elderly or disabled person desires the
 60-29 services; [~~and~~]

60-30 (7) whether the person needs legal intervention to
 60-31 resolve the person's abuse, neglect, or exploitation and, if so,
 60-32 what type of intervention is needed; and

60-33 (8) other pertinent data.

60-34 (b) If the department or state agency, as appropriate,
 60-35 determines under Subsection (a)(1) that a person needs protective
 60-36 services, the department or agency shall, in determining how those
 60-37 services can be provided as required by Subsection (a)(3),
 60-38 determine whether the person is eligible for community-based
 60-39 long-term care services and whether those services are available.
 60-40 If the person is eligible for those services, but the services are
 60-41 not immediately available, the department or state agency shall
 60-42 ensure that the person is placed on an appropriate waiting list for
 60-43 the services and that the person's abuse, neglect, or exploitation
 60-44 is resolved before the department closes the case.

60-45 SECTION 2.15. Subchapter E, Chapter 48, Human Resources
 60-46 Code, is amended by adding Section 48.2055 to read as follows:

60-47 Sec. 48.2055. TEMPORARY EMERGENCY SHELTERS. (a) The
 60-48 department, in conjunction with the Department of Aging and
 60-49 Disability Services and the Department of State Health Services,
 60-50 shall develop and implement a program to provide, subject to
 60-51 availability of funds, temporary emergency shelter to an elderly or
 60-52 disabled person for whom the department obtains an emergency order
 60-53 under Section 48.208 requiring that the person be moved to safer
 60-54 surroundings.

60-55 (b) The department, the Department of Aging and Disability
 60-56 Services, and the Department of State Health Services shall enter
 60-57 into a memorandum of understanding to clearly define the
 60-58 responsibilities of each agency under this section.

60-59 (c) Temporary emergency shelter under this section:

60-60 (1) may not be provided for more than 30 days; and

60-61 (2) must be provided in a community-based facility
 60-62 that is the least restrictive environment available, if possible.

60-63 (d) If temporary emergency shelter described by Subsection
 60-64 (c)(2) is not available and a person is placed in an institution,
 60-65 including a nursing facility, an ICF-MR, as defined by Section
 60-66 531.002, Health and Safety Code, and an institution for the
 60-67 mentally retarded licensed by a health and human services agency,
 60-68 as defined by Section 531.001, Government Code, the department
 60-69 shall ensure that the person is evaluated for community-based

61-1 services and, if appropriate, is provided transition services
 61-2 through Department of Aging and Disability Services programs to
 61-3 enable the person to leave the institution and receive
 61-4 community-based services.

61-5 (e) The executive commissioner shall adopt rules to
 61-6 implement this section.

61-7 SECTION 2.16. Section 48.208, Human Resources Code, is
 61-8 amended by amending Subsections (c) and (e) and adding Subsections
 61-9 (c-1), (c-2), and (c-3) to read as follows:

61-10 (c) The petition shall be verified and shall include:

61-11 (1) the name, age, and address of the elderly or
 61-12 disabled person who needs protective services;

61-13 (2) the nature of the abuse, neglect, or exploitation;

61-14 (3) the services needed; and

61-15 (4) a medical report signed by a physician, physician
 61-16 assistant, registered nurse, or advanced practice nurse, subject to
 61-17 Subsection (c-3), that contains the information required by
 61-18 Subsection (c-1) or a psychological report signed by a psychologist
 61-19 licensed under Chapter 501, Occupations Code, or a licensed master
 61-20 social worker, as defined by Section 505.002, Occupations Code,
 61-21 that contains the information required by Subsection (c-2),
 61-22 ~~[stating that the person is suffering from abuse, neglect, or~~
 61-23 ~~exploitation presenting a threat to life or physical safety and~~
 61-24 ~~stating that the person is physically or mentally incapable of~~
 61-25 ~~consenting to services]~~ unless the court finds that an immediate
 61-26 danger to the health or safety of the elderly or disabled person
 61-27 exists and there is not sufficient time to obtain the medical or
 61-28 psychological report.

61-29 (c-1) A medical report obtained from a physician, physician
 61-30 assistant, registered nurse, or advanced practice nurse under
 61-31 Subsection (c)(4) must state:

61-32 (1) that the person is reported to be suffering from
 61-33 abuse, neglect, or exploitation, which may present a threat to life
 61-34 or physical safety;

61-35 (2) that the person has impaired judgment that results
 61-36 in the person being physically or mentally incapable of consenting
 61-37 to services; and

61-38 (3) whether the person has provided the person's
 61-39 medical history to the physician, physician assistant, registered
 61-40 nurse, or advanced practice nurse, as applicable.

61-41 (c-2) A psychological report obtained from a licensed
 61-42 psychologist or licensed master social worker under Subsection
 61-43 (c)(4) must state that the person:

61-44 (1) is reported to be suffering from abuse, neglect,
 61-45 or exploitation, which may present a threat to life or physical
 61-46 safety; and

61-47 (2) is believed to be mentally incapable of consenting
 61-48 to services.

61-49 (c-3) The department shall determine whether a medical or
 61-50 psychological report required under Subsection (c)(4) is most
 61-51 appropriate, considering the circumstances of the person with
 61-52 respect to whom the petition is filed under Subsection (b), and
 61-53 shall obtain that report from the appropriate professional. If the
 61-54 department determines that a medical report is most appropriate,
 61-55 the department may obtain that report from a physician assistant,
 61-56 registered nurse, or advanced practice nurse only if a physician is
 61-57 not available.

61-58 (e) The emergency order expires at the end of 72 hours from
 61-59 the time of the order unless the 72-hour period ends on a Saturday,
 61-60 Sunday, or legal holiday in which event the order is automatically
 61-61 extended to 4 p.m. on the first succeeding business day. An order
 61-62 may be renewed for not more than 30 [14] additional days. A renewal
 61-63 order that ends on a Saturday, Sunday, or legal holiday is
 61-64 automatically extended to 4 p.m. on the first succeeding business
 61-65 day. The court may modify or terminate the emergency order on
 61-66 petition of the department, the incapacitated person, or any person
 61-67 interested in his welfare.

61-68 SECTION 2.17. Chapter 48, Human Resources Code, is amended
 61-69 by adding Subchapter J to read as follows:

62-1 SUBCHAPTER J. OPTION FOR LOCAL PROVISION OF SERVICES

62-2 Sec. 48.451. DEFINITION. In this subchapter, "local
 62-3 entity" means a local public or private agency, corporation, board,
 62-4 or organization.

62-5 Sec. 48.452. PRELIMINARY INFORMATION PROVIDED BY
 62-6 DEPARTMENT. On the request of the commissioners court of a county
 62-7 or the commissioners courts of two or more counties that want to
 62-8 explore forming a cooperative for purposes of this subchapter, the
 62-9 department shall provide sufficient information to the
 62-10 commissioners court or commissioners courts, as applicable, to
 62-11 enable an assessment of whether one or more functions and duties of
 62-12 the department under this chapter could be performed by the county
 62-13 or counties directly, through contracts with local entities, or
 62-14 both, in a more efficient and effective manner than the manner in
 62-15 which the functions and duties are performed by the department.

62-16 Sec. 48.453. PROVISION OF SERVICES BY COUNTIES AUTHORIZED.
 62-17 (a) A county or two or more counties that form a cooperative as
 62-18 provided by Section 48.454 may, subject to the requirements of this
 62-19 subchapter, opt to perform one or more functions and duties of the
 62-20 department under this chapter if the county or counties, as
 62-21 applicable, determine that those functions and duties could be
 62-22 performed more efficiently and effectively in the manner described
 62-23 by Section 48.452.

62-24 (b) Functions and duties of the department that a county or
 62-25 counties may opt to perform include:

62-26 (1) conducting investigations of reports of abuse,
 62-27 neglect, or exploitation of an elderly or disabled person, other
 62-28 than an investigation under Subchapter F, G, or H; and

62-29 (2) providing protective services as necessary to a
 62-30 person who is the subject of an investigation.

62-31 (c) A county or cooperative that opts to conduct
 62-32 investigations described by Subsection (b)(1) and to provide
 62-33 protective services described by Subsection (b)(2) shall ensure
 62-34 that:

62-35 (1) if the county or cooperative directly conducts
 62-36 investigations, the county or cooperative does not also directly
 62-37 provide protective services; and

62-38 (2) if a local entity conducts investigations under a
 62-39 contract with the county or cooperative, that local entity does not
 62-40 also provide protective services.

62-41 Sec. 48.454. FORMATION OF COUNTY COOPERATIVE. Two or more
 62-42 counties may form a cooperative to perform functions and duties of
 62-43 the department as authorized by Section 48.453. To form a
 62-44 cooperative, the counties must:

62-45 (1) enter into an interlocal cooperation contract
 62-46 under Chapter 791, Government Code; and

62-47 (2) designate one of the counties that is a party to
 62-48 the interlocal cooperation contract as the entity that, on behalf
 62-49 of the cooperative, will contract with the department under this
 62-50 subchapter and monitor and enforce any contracts the cooperative
 62-51 enters into with local entities.

62-52 Sec. 48.455. LOCAL ADULT PROTECTIVE SERVICES PLAN.
 62-53 (a) Before a county or cooperative may perform one or more
 62-54 functions and duties of the department as authorized by Section
 62-55 48.453, the county or cooperative must submit to the department for
 62-56 approval a local adult protective services plan under which the
 62-57 county or cooperative will assume and provide for the performance
 62-58 of those functions and duties.

62-59 (b) If a county or cooperative intends to perform all or
 62-60 part of those functions and duties through contracts with local
 62-61 entities, the county or cooperative, as applicable, shall solicit
 62-62 and accept proposals from local entities for performing those
 62-63 functions and duties.

62-64 (c) A local adult protective services plan required under
 62-65 this section must:

62-66 (1) specify which of the department's functions and
 62-67 duties the county or cooperative is proposing to perform directly
 62-68 or through contracts with local entities;

62-69 (2) include proposals submitted to the county or

63-1 cooperative, as applicable, by local entities, if the county or
 63-2 cooperative intends to perform all or part of the specified
 63-3 functions and duties through contracts with local entities; and

63-4 (3) demonstrate that the county or cooperative or the
 63-5 local entities through which the county or cooperative would
 63-6 perform the specified functions and duties will:

63-7 (A) on entering into a contract to perform the
 63-8 functions and duties, have sufficient resources, including
 63-9 personnel, and adequate technological support, training, and
 63-10 expertise to perform those functions and duties; and

63-11 (B) if appropriate, provide persons needing
 63-12 adult protective services with immediate access to community-based
 63-13 services that may prevent the need for the appointment of guardians
 63-14 for those persons.

63-15 (d) The department shall evaluate the local adult
 63-16 protective services plan submitted under Subsection (a) and, not
 63-17 later than the 60th day after the plan is submitted, approve or
 63-18 disapprove the plan in writing. If during the 60-day period the
 63-19 department determines that additional information is needed to
 63-20 adequately assess the plan, the department shall:

63-21 (1) notify the county or cooperative, as applicable,
 63-22 of that determination;

63-23 (2) request the necessary information with sufficient
 63-24 specificity as to allow the county or cooperative, as applicable,
 63-25 to respond with the information; and

63-26 (3) provide the county or cooperative, as applicable,
 63-27 a reasonable period in which to respond with the necessary
 63-28 information.

63-29 Sec. 48.456. DEPARTMENT CONTRACT WITH COUNTY OR
 63-30 COOPERATIVE. (a) Not later than the 30th day after the date the
 63-31 department approves a local adult protective services plan under
 63-32 Section 48.455, the department shall enter into a contract with the
 63-33 county or cooperative, as applicable, under which the county or
 63-34 cooperative, either directly or through contracts with the local
 63-35 entities whose proposals were included in the plan, performs the
 63-36 department's functions and duties that are specified in the plan.

63-37 (b) The department may not pay less under the terms of a
 63-38 contract under this section for the performance of the functions
 63-39 and duties specified in the contract than the department would
 63-40 otherwise spend in directly performing those functions and duties
 63-41 in the county or counties included in the cooperative.

63-42 (c) A contract under Subsection (a) between the department
 63-43 and a county or cooperative must:

63-44 (1) provide for a 90-day transition period during
 63-45 which:

63-46 (A) the performance of functions and duties
 63-47 specified in the contract will transfer from the department to the
 63-48 county, cooperative, or local entity that will ultimately perform
 63-49 the functions and duties; and

63-50 (B) the department will cooperate with each
 63-51 county, cooperative, or local entity that will perform the
 63-52 specified functions and duties to provide technical assistance,
 63-53 adequate training, and expertise to the county, cooperative, or
 63-54 entity before the transfer occurs;

63-55 (2) require the county or cooperative to file a report
 63-56 with the department once each calendar quarter that includes
 63-57 information required by rules adopted by the executive commissioner
 63-58 regarding the performance of the functions and duties; and

63-59 (3) include provisions:

63-60 (A) imposing fiscal accountability measures; and
 63-61 (B) allowing the department to monitor the
 63-62 performance of the functions and duties by local entities with
 63-63 which the county or cooperative contracts under Section 48.457, if
 63-64 applicable.

63-65 (d) The department shall ensure that, under a contract
 63-66 entered into with a county or cooperative under this section, the
 63-67 department's functions and duties under this chapter are performed
 63-68 in accordance with all applicable laws. The department shall
 63-69 monitor and enforce the terms of the contract, including the fiscal

64-1 accountability measures. The department shall include a provision
 64-2 in the contract that allows the department to terminate the
 64-3 contract and resume performing the functions and duties specified
 64-4 in the contract if, under the contract between the department and
 64-5 the county or cooperative or under a contract between the county or
 64-6 cooperative and a local entity, the functions and duties are not
 64-7 performed in accordance with all applicable laws or the terms of the
 64-8 applicable contract.

64-9 Sec. 48.457. COUNTY OR COOPERATIVE CONTRACTS WITH LOCAL
 64-10 ENTITIES. (a) A county or cooperative may contract with a local
 64-11 entity whose proposal was included in the county's or cooperative's
 64-12 local adult protective services plan to perform one or more of the
 64-13 department's functions and duties specified in the plan. The
 64-14 county or cooperative may contract with any other local entity to
 64-15 perform one or more of those functions and duties with the
 64-16 department's written approval.

64-17 (b) A contract under this section must require the local
 64-18 entity to provide the county or cooperative with information as
 64-19 needed to enable the county or cooperative to comply with the
 64-20 reporting requirement specified by Section 48.456(c)(2). The
 64-21 contract must also specify that the department is authorized to
 64-22 monitor the local entity's performance of functions and duties
 64-23 specified in the contract and require the entity to cooperate with
 64-24 that monitoring.

64-25 Sec. 48.458. DEPARTMENT PROHIBITED FROM DIRECT PROVISION OF
 64-26 CERTAIN SERVICES. Except as provided by Section 48.456(d) and
 64-27 notwithstanding any other provision of this chapter, beginning on
 64-28 the 91st day after the date the department enters into a contract
 64-29 with a county or cooperative under Section 48.456:

64-30 (1) the department may not directly perform the
 64-31 functions and duties specified in the contract; and

64-32 (2) the county or cooperative and any local entities
 64-33 with which the county or cooperative contracts under Section 48.457
 64-34 have all powers and privileges granted to and duties imposed on the
 64-35 department under this chapter with respect to those functions and
 64-36 duties.

64-37 SECTION 2.18. (a) Subchapter B, Chapter 531, Government
 64-38 Code, is amended by adding Section 531.0551 to read as follows:

64-39 Sec. 531.0551. MEMORANDUM OF UNDERSTANDING ON SERVICES FOR
 64-40 CERTAIN ELDERLY OR DISABLED PERSONS NEEDING MULTIAGENCY SERVICES.

64-41 (a) In this section, "disabled person," "elderly person," and
 64-42 "protective services" have the meanings assigned by Section 48.002,
 64-43 Human Resources Code.

64-44 (b) The commission and each health and human services agency
 64-45 shall adopt a joint memorandum of understanding to implement a
 64-46 system of local-level interagency staffing groups to coordinate
 64-47 services for an elderly or disabled person who needs multiagency
 64-48 services in addition to receiving protective services from or on
 64-49 behalf of the Department of Family and Protective Services.

64-50 (c) The memorandum must:

64-51 (1) clarify the financial and statutory
 64-52 responsibilities of each agency with respect to elderly or disabled
 64-53 persons needing multiagency services in addition to protective
 64-54 services, including subcategories of funding for different
 64-55 services such as case management, arranging for psychiatric and
 64-56 health evaluation, home care, health care, and investigation
 64-57 services;

64-58 (2) include a functional definition of "elderly and
 64-59 disabled persons needing multiagency services in addition to
 64-60 protective services";

64-61 (3) define procedures for cost sharing among the
 64-62 commission and the health and human services agencies adopting the
 64-63 memorandum;

64-64 (4) define procedures aimed at eliminating
 64-65 duplication of services relating to assessment and diagnosis,
 64-66 treatment, social services, residential placement and care, and
 64-67 case management of elderly and disabled persons needing multiagency
 64-68 services in addition to protective services;

64-69 (5) define procedures for addressing disputes between

65-1 the agencies that relate to the agencies' areas of service
 65-2 responsibilities;

65-3 (6) provide that each local-level interagency
 65-4 staffing group includes:

65-5 (A) a local representative of each agency;

65-6 (B) one or more representatives of local private
 65-7 sector agencies;

65-8 (C) a representative of a local law enforcement
 65-9 agency;

65-10 (D) a health care provider; and

65-11 (E) one or more family members or caregivers of
 65-12 elderly or disabled persons needing multiagency services in
 65-13 addition to protective services;

65-14 (7) provide that the local representative of each
 65-15 agency has authority to contribute agency resources to solving
 65-16 problems identified by the local-level interagency staffing group;

65-17 (8) provide that if an elderly or disabled person's
 65-18 needs exceed the resources of an agency or an agency is not able to
 65-19 provide all the services an elderly or disabled person requires,
 65-20 the agency may, with the consent of the person's legal guardian, if
 65-21 applicable, submit a referral on behalf of the person or the
 65-22 person's case history to the local-level interagency staffing group
 65-23 for consideration;

65-24 (9) provide that a local-level interagency staffing
 65-25 group may be called together by a representative of any member
 65-26 agency;

65-27 (10) provide that an agency representative may be
 65-28 excused from attending a meeting if the staffing group determines
 65-29 that the age or needs of the person to be considered are clearly not
 65-30 within the agency's service responsibilities, provided that each
 65-31 agency representative is encouraged to attend all meetings to
 65-32 contribute to the collective ability of the staffing group to solve
 65-33 an elderly or disabled person's need for multiagency services in
 65-34 addition to protective services;

65-35 (11) provide that records that are used or developed
 65-36 by a local-level interagency staffing group or its members and that
 65-37 relate to a particular elderly or disabled person are confidential
 65-38 and may not be released to any other person or agency except as
 65-39 provided by this section or by other law; and

65-40 (12) subject to the requirements of the Health
 65-41 Insurance Portability and Accountability Act of 1996 (42 U.S.C.
 65-42 Section 1320d et seq.), provide a procedure that permits the
 65-43 agencies and local-level interagency staffing groups to share
 65-44 confidential information while preserving the confidential nature
 65-45 of the information.

65-46 (d) The agencies that participate in the formulation of the
 65-47 memorandum of understanding shall consult with and solicit input
 65-48 from advocacy and consumer groups.

65-49 (e) Each agency shall adopt the memorandum of understanding
 65-50 and all revisions to the memorandum. Not later than the last month
 65-51 of each state fiscal year, each agency shall review and update the
 65-52 memorandum. The agencies shall develop revisions as necessary to
 65-53 reflect major agency reorganizations or statutory changes
 65-54 affecting the agencies.

65-55 (f) The agencies shall ensure that a state-level
 65-56 interagency staffing group provides to the executive commissioner
 65-57 of the Health and Human Services Commission, the commissioner of
 65-58 each agency, the governor, the lieutenant governor, the speaker of
 65-59 the house of representatives, and the presiding officers of each
 65-60 house and senate standing committee having jurisdiction over adult
 65-61 protective services a biennial report that includes:

65-62 (1) the number of elderly or disabled persons served
 65-63 through the local-level interagency staffing groups established
 65-64 under this section and the outcomes of the services provided;

65-65 (2) a description of any barriers identified to the
 65-66 state's ability to provide effective services to elderly or
 65-67 disabled persons needing multiagency services in addition to
 65-68 protective services; and

65-69 (3) any other information relevant to improving the

66-1 delivery of services to elderly or disabled persons needing
 66-2 multiagency services in addition to protective services.

66-3 (b) Not later than March 1, 2006, the Department of Family
 66-4 and Protective Services, the Health and Human Services Commission,
 66-5 the Department of Aging and Disability Services, the Department of
 66-6 State Health Services, and the Department of Assistive and
 66-7 Rehabilitative Services shall adopt a joint memorandum of
 66-8 understanding as prescribed by Section 531.0551, Government Code,
 66-9 as added by this section.

66-10 SECTION 2.19. The heading of Section 531.055, Government
 66-11 Code, is amended to read as follows:

66-12 Sec. 531.055. MEMORANDUM OF UNDERSTANDING ON SERVICES FOR
 66-13 CERTAIN PERSONS NEEDING MULTIAGENCY SERVICES.

66-14 SECTION 2.20. Subsections (a), (b), and (e), Section
 66-15 531.055, Government Code, are amended to read as follows:

66-16 (a) Each health and human services agency, the Texas Council
 66-17 on Offenders with Mental Impairments, the Texas Department of
 66-18 Criminal Justice, the Texas Department of Housing and Community
 66-19 Affairs, the Texas Education Agency, the Texas Workforce
 66-20 Commission, and the Texas Youth Commission shall adopt a joint
 66-21 memorandum of understanding to promote a system of local-level
 66-22 interagency staffing groups to coordinate services for persons
 66-23 needing multiagency services other than elderly or disabled persons
 66-24 served through the local-level interagency staffing groups
 66-25 established under Section 531.0551.

66-26 (b) The memorandum must:

66-27 (1) clarify the statutory responsibilities of each
 66-28 agency in relation to persons needing multiagency services other
 66-29 than elderly or disabled persons served under Section 531.0551,
 66-30 including subcategories for different services such as prevention,
 66-31 family preservation and strengthening, aging in place, emergency
 66-32 shelter, diagnosis and evaluation, residential care, after-care,
 66-33 information and referral, medical care, and investigation
 66-34 services;

66-35 (2) include a functional definition for purposes of
 66-36 this section of "persons needing multiagency services";

66-37 (3) outline membership, officers, and necessary
 66-38 standing committees of local-level interagency staffing groups;

66-39 (4) define procedures aimed at eliminating
 66-40 duplication of services relating to assessment and diagnosis,
 66-41 treatment, residential placement and care, and case management of
 66-42 persons needing multiagency services;

66-43 (5) define procedures for addressing disputes between
 66-44 the agencies that relate to the agencies' areas of service
 66-45 responsibilities;

66-46 (6) provide that each local-level interagency
 66-47 staffing group includes:

66-48 (A) a local representative of each agency;

66-49 (B) representatives of local private sector
 66-50 agencies; and

66-51 (C) family members or caregivers of persons,
 66-52 other than elderly or disabled persons served under Section
 66-53 531.0551, who need [needing] multiagency services or other current
 66-54 or previous consumers of multiagency services acting as general
 66-55 consumer advocates;

66-56 (7) provide that the local representative of each
 66-57 agency has authority to contribute agency resources to solving
 66-58 problems identified by the local-level interagency staffing group;

66-59 (8) provide that if a person's needs exceed the
 66-60 resources of an agency, the agency may, with the consent of the
 66-61 person's legal guardian, if applicable, submit a referral on behalf
 66-62 of the person to the local-level interagency staffing group for
 66-63 consideration;

66-64 (9) provide that a local-level interagency staffing
 66-65 group may be called together by a representative of any member
 66-66 agency;

66-67 (10) provide that an agency representative may be
 66-68 excused from attending a meeting if the staffing group determines
 66-69 that the age or needs of the person to be considered are clearly not

67-1 within the agency's service responsibilities, provided that each
 67-2 agency representative is encouraged to attend all meetings to
 67-3 contribute to the collective ability of the staffing group to solve
 67-4 a person's need for multiagency services;

67-5 (11) define the relationship between state-level
 67-6 interagency staffing groups and local-level interagency staffing
 67-7 groups in a manner that defines, supports, and maintains local
 67-8 autonomy;

67-9 (12) provide that records that are used or developed
 67-10 by a local-level interagency staffing group or its members that
 67-11 relate to a particular person are confidential and may not be
 67-12 released to any other person or agency except as provided by this
 67-13 section or by other law; and

67-14 (13) provide a procedure that permits the agencies to
 67-15 share confidential information while preserving the confidential
 67-16 nature of the information.

67-17 (e) The agencies shall ensure that a state-level
 67-18 interagency staffing group provides a biennial report to the
 67-19 executive director of each agency, the legislature, and the
 67-20 governor that includes:

67-21 (1) the number of persons served through the
 67-22 local-level interagency staffing groups established under this
 67-23 section and the outcomes of the services provided;

67-24 (2) a description of any barriers identified to the
 67-25 state's ability to provide effective services to persons needing
 67-26 multiagency services other than elderly or disabled persons served
 67-27 through the local-level interagency staffing groups established
 67-28 under Section 531.0551; and

67-29 (3) any other information relevant to improving the
 67-30 delivery of services to persons needing multiagency services other
 67-31 than elderly or disabled persons described by Subdivision (2).

67-32 SECTION 2.21. IMPLEMENTATION MONITORING; REPORT. (a) In
 67-33 this section, "caseload" means the total number of open cases that
 67-34 an adult protective services caseworker is assigned, regardless of
 67-35 the number of cases with respect to which the caseworker performs
 67-36 functions on a specified day.

67-37 (b) The Legislative Budget Board shall:

67-38 (1) monitor the implementation of this article by the
 67-39 Department of Family and Protective Services; and

67-40 (2) not later than January 1, 2007, report to the
 67-41 legislature regarding:

67-42 (A) the status of the implementation of this
 67-43 article;

67-44 (B) whether department personnel are meeting
 67-45 expectations with respect to the client-centered outcome measures
 67-46 and minimum job performance standards established under Section
 67-47 40.0515, Human Resources Code, as added by this article;

67-48 (C) the average caseload of each adult protective
 67-49 services caseworker;

67-50 (D) the average amount of time spent
 67-51 investigating an adult protective services case from the initial
 67-52 report made under Section 48.051, Human Resources Code, as amended
 67-53 by this article, to final disposition of the case, including the
 67-54 average amount of time a caseworker spends writing reports and
 67-55 completing other documentation in the case;

67-56 (E) the incidence of reports made under Section
 67-57 48.051, Human Resources Code, as amended by this article, that
 67-58 involve as their subject an elderly or disabled person with respect
 67-59 to whom a report was previously made under that section; and

67-60 (F) the average amount of time department
 67-61 personnel spend providing non-investigative services to a person
 67-62 who is the subject of a report made under Section 48.051, Human
 67-63 Resources Code, as amended by this article.

67-64 SECTION 2.22. LOCAL ADULT PROTECTIVE SERVICES BOARDS.
 67-65 (a) The standing committee of the senate having jurisdiction over
 67-66 adult protective services shall conduct a study regarding the
 67-67 feasibility of establishing a system by which adult protective
 67-68 services are provided through a statewide network of local adult
 67-69 protective services boards. Each local adult protective services

board would:

(1) serve a designated local adult protective services area;

(2) develop a local adult protective services plan for approval by the Department of Family and Protective Services; and

(3) receive a block grant through the department to provide adult protective services in accordance with the approved local adult protective services plan.

(b) The standing committee of the senate having jurisdiction over adult protective services must 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. The heading to Subchapter E, Chapter 48, Human Resources Code, is amended to read as follows:

SUBCHAPTER E. PROVISION OF SERVICES; ~~[GUARDIANSHIP SERVICES,]~~ EMERGENCY PROTECTION

SECTION 3.02. The heading to Section 48.209, Human Resources Code, is amended to read as follows:

Sec. 48.209. SUBMISSION OF INFORMATION TO PROBATE COURT [GUARDIANSHIPS].

SECTION 3.03. Subsections (a), (b), and (c), Section 48.209, Human Resources Code, are amended to read as follows:

(a) At least six months before the individual's 18th birthday, the [The] department shall submit to the appropriate court having probate jurisdiction an information letter about [file an application under Section 682 or 875, Texas Probate Code, to be appointed guardian of the person or estate or both of] an individual who is a minor, is a conservatee of the department, and, because of a physical or mental condition, will be substantially unable to provide food, clothing, or shelter for himself or herself, to care for the individual's own physical health, or to manage the individual's own financial affairs when the individual becomes an adult. The information letter must satisfy the requirements of Section 683A, Texas Probate Code. If a less restrictive alternative to guardianship is available for an individual, the department shall pursue the alternative before submitting the information letter. On exhausting the alternative and determining that no other less restrictive alternative to guardianship is available, the department shall inform the appropriate court that a guardianship may be necessary for the individual by submitting the letter under this section [instead of applying for appointment as a guardian].

(b) The [As a last resort, the] department shall submit to the appropriate court having probate jurisdiction an information letter about [may apply to be appointed guardian of the person or estate of] an elderly or disabled person who is found by the department to be in a state of abuse, neglect, or exploitation, and who, because of a physical or mental condition, will be substantially unable to provide food, clothing, or shelter for himself or herself, to care for the individual's own physical health, or to manage the individual's own financial affairs. The information letter must:

(1) satisfy the requirements of Section 683A, Texas Probate Code;

(2) include information relating to whether the department is providing protective services to the individual;

(3) state whether [A representative of the department shall take the oath required by the Texas Probate Code on behalf of the department if the department is appointed guardian. If] the department is aware of any [knows that an] individual who is willing and able to serve as the guardian; and

(4) be submitted not later than the 14th day after the date the department finds the individual [the department may inform the court of that individual's willingness and ability].

(c) [If appropriate, the department may contract with a political subdivision of this state, a private agency, or another

~~state agency for the provision of guardianship services under this section.] The department [or a political subdivision of the state or state agency with which the department contracts under this section] is not required to [post a bond or] pay any cost or fee otherwise required by the Texas Probate Code, including a fee associated with the appointment of a guardian ad litem or attorney ad litem.~~

SECTION 3.04. Section 161.071, Human Resources Code, is amended to read as follows:

Sec. 161.071. GENERAL POWERS AND DUTIES OF DEPARTMENT. The department is responsible for administering human services programs for the aging and disabled, including:

(1) administering and coordinating programs to provide community-based care and support services to promote independent living for populations that would otherwise be institutionalized;

(2) providing institutional care services, including services through convalescent and nursing homes and related institutions under Chapter 242, Health and Safety Code;

(3) providing and coordinating programs and services for persons with disabilities, including programs for the treatment, rehabilitation, or benefit of persons with developmental disabilities or mental retardation;

(4) operating state facilities for the housing, treatment, rehabilitation, or benefit of persons with disabilities, including state schools for persons with mental retardation;

(5) serving as the state unit on aging required by the federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) and its subsequent amendments, including performing the general functions under Section 101.022 to ensure:

(A) implementation of the federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) and its subsequent amendments, including implementation of services and volunteer opportunities under that Act for older residents of this state through area agencies on aging;

(B) advocacy for residents of nursing facilities through the office of the state long-term care ombudsman;

(C) fostering of the state and community infrastructure and capacity to serve older residents of this state; and

(D) availability of a comprehensive resource for state government and the public on trends related to and services and programs for an aging population;

(6) performing all licensing and enforcement activities and functions related to long-term care facilities, including licensing and enforcement activities related to convalescent and nursing homes and related institutions under Chapter 242, Health and Safety Code;

(7) performing all licensing and enforcement activities related to assisted living facilities under Chapter 247, Health and Safety Code;

(8) performing all licensing and enforcement activities related to intermediate care facilities for persons with mental retardation under Chapter 252, Health and Safety Code; ~~and~~

(9) performing all licensing and enforcement activities and functions related to home and community support services agencies under Chapter 142, Health and Safety Code; and

(10) serving as last resort as the guardian of the person or estate, or both, of an incapacitated person under Chapter XIII, Texas Probate Code.

SECTION 3.05. Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.074 to read as follows:

Sec. 161.074. GUARDIANSHIP SERVICES AS LAST RESORT. (a) A representative of the department shall take the oath required by the Texas Probate Code on behalf of the department if the department is appointed guardian of the person or estate, or both, of a ward under Chapter XIII of that code.

(b) The department is not required to post a bond or pay any

70-1 cost or fee associated with a guardianship proceeding under the
 70-2 Texas Probate Code, including any fee associated with the
 70-3 appointment of a guardian ad litem or attorney ad litem.

70-4 (c) If the department is appointed guardian, the department
 70-5 is not liable for funding services provided to the department's
 70-6 ward, including long-term care or burial expenses.

70-7 (d) The department shall review each of the department's
 70-8 pending guardianship cases at least annually to determine whether a
 70-9 more suitable person, including a guardianship program or private
 70-10 professional guardian, is willing and able to serve as successor
 70-11 guardian for a ward of the department. If the department becomes
 70-12 aware of any person's willingness and ability to serve as successor
 70-13 guardian, the department shall notify the court in which the
 70-14 guardianship is pending as required by Section 695A, Texas Probate
 70-15 Code.

70-16 (e) The number of wards of the department at any one time may
 70-17 not exceed 1,500.

70-18 SECTION 3.06. Section 601, Texas Probate Code, is amended
 70-19 by amending Subdivisions (13), (21), and (24) and adding
 70-20 Subdivision (12-a) to read as follows:

70-21 (12-a) "Guardianship Alliance Office" means the
 70-22 Guardianship Alliance Office established under Chapter 111,
 70-23 Government Code.

70-24 (13) "Guardianship program" has the meaning assigned
 70-25 by Section 111.001, Government Code [~~means a local, county, or~~
 70-26 ~~regional program that provides guardianship and related services to~~
 70-27 ~~an incapacitated person or other person who needs assistance in~~
 70-28 ~~making decisions concerning the person's own welfare or financial~~
 70-29 ~~affairs].~~

70-30 (21) "Person" includes natural persons, corporations,
 70-31 governmental entities, private professional guardians, and
 70-32 guardianship programs.

70-33 (24) "Private professional guardian" has the meaning
 70-34 assigned by Section 111.001, Government Code [~~means a person, other~~
 70-35 ~~than an attorney or a corporate fiduciary, who is engaged in the~~
 70-36 ~~business of providing guardianship services].~~

70-37 SECTION 3.07. Section 625, Texas Probate Code, is amended
 70-38 to read as follows:

70-39 Sec. 625. CASE FILES. (a) The county clerk shall maintain
 70-40 a case file for each person's filed guardianship proceedings. The
 70-41 case file must contain all orders, judgments, and proceedings of
 70-42 the court and any other guardianship filing with the court,
 70-43 including all:

- 70-44 (1) applications for the granting of guardianship;
- 70-45 (2) citations and notices, whether published or
- 70-46 posted, with the returns on the citations and notices;
- 70-47 (3) bonds and official oaths;
- 70-48 (4) inventories, appraisements, and lists of claims;
- 70-49 (5) exhibits and accounts;
- 70-50 (6) reports of hiring, renting, or sale;
- 70-51 (7) applications for sale or partition of real estate
- 70-52 and reports of sale and of commissioners of partition;
- 70-53 (8) applications for authority to execute leases for
- 70-54 mineral development, or for pooling or unitization of lands,
- 70-55 royalty, or other interest in minerals, or to lend or invest money;
- 70-56 (9) reports of lending or investing money; and
- 70-57 (10) reports of guardians of the persons.

70-58 (b) The county clerk may not post any information contained
 70-59 in a person's case file on the Internet.

70-60 SECTION 3.08. The heading to Subpart J, Part 2, Chapter
 70-61 XIII, Texas Probate Code, is amended to read as follows:

70-62 SUBPART J. LIABILITY OF GUARDIAN [~~FOR CONDUCT OF WARD]~~

70-63 SECTION 3.09. The heading to Section 673, Texas Probate
 70-64 Code, is amended to read as follows:

70-65 Sec. 673. LIABILITY OF GUARDIAN FOR CONDUCT OF WARD.

70-66 SECTION 3.10. Subpart J, Part 2, Chapter XIII, Texas
 70-67 Probate Code, is amended by adding Section 674 to read as follows:

70-68 Sec. 674. IMMUNITY OF GUARDIANSHIP PROGRAM. A guardianship
 70-69 program is not liable for civil damages arising from an action taken

71-1 or omission made by a person while providing guardianship services
 71-2 to a ward on behalf of the guardianship program, unless the action
 71-3 or omission:

- 71-4 (1) was wilfully wrongful;
 71-5 (2) was taken or made with conscious indifference or
 71-6 reckless disregard to the safety of the incapacitated person or
 71-7 another;
 71-8 (3) was taken or made in bad faith or with malice; or
 71-9 (4) was grossly negligent.

71-10 SECTION 3.11. Section 677, Texas Probate Code, is amended
 71-11 by adding Subsection (f) to read as follows:

71-12 (f) If there is no eligible person willing and able to serve
 71-13 as guardian, the court shall determine whether it is in the adult
 71-14 individual's best interests to appoint as guardian a guardianship
 71-15 program, a private professional guardian, or, as last resort, the
 71-16 Department of Aging and Disability Services. Before appointing the
 71-17 department as guardian, the court must enter a specific finding
 71-18 that the department is the most suitable person to serve as guardian
 71-19 for the proposed ward and that the appointment is in the best
 71-20 interest of the proposed ward.

71-21 SECTION 3.12. Section 682, Texas Probate Code, is amended
 71-22 to read as follows:

71-23 Sec. 682. APPLICATION; CONTENTS. Any person may commence a
 71-24 proceeding for the appointment of a guardian by filing a written
 71-25 application in a court having jurisdiction and venue. The
 71-26 application must be sworn to by the applicant and state:

71-27 (1) the name, sex, date of birth, and address of the
 71-28 proposed ward;

71-29 (2) the name, relationship, and address of the person
 71-30 the applicant desires to have appointed as guardian;

71-31 (3) whether guardianship of the person or estate, or
 71-32 both, is sought;

71-33 (4) the nature and degree of the alleged incapacity,
 71-34 the specific areas of protection and assistance requested, and the
 71-35 limitation of rights requested to be included in the court's order
 71-36 of appointment;

71-37 (5) the facts requiring that a guardian be appointed
 71-38 and the interest of the applicant in the appointment;

71-39 (6) the nature and description of any guardianship of
 71-40 any kind existing for the proposed ward in any other state;

71-41 (7) the name and address of any person or institution
 71-42 having the care and custody of the proposed ward;

71-43 (8) the approximate value and description of the
 71-44 proposed ward's property, including any compensation, pension,
 71-45 insurance, or allowance to which the proposed ward may be entitled;

71-46 (9) the name and address of any person whom the
 71-47 applicant knows to hold a power of attorney signed by the proposed
 71-48 ward and a description of the type of power of attorney;

71-49 (10) if the proposed ward is a minor and if known by
 71-50 the applicant:

71-51 (A) the name of each parent of the proposed ward
 71-52 and state the parent's address or that the parent is deceased;

71-53 (B) the name and age of each sibling, if any, of
 71-54 the proposed ward and state the sibling's address or that the
 71-55 sibling is deceased; and

71-56 (C) if each of the proposed ward's parents and
 71-57 siblings are deceased, the names and addresses of the proposed
 71-58 ward's next of kin who are adults;

71-59 (11) if the proposed ward is a minor, whether the minor
 71-60 was the subject of a legal or conservatorship proceeding within the
 71-61 preceding two-year period and, if so, the court involved, the
 71-62 nature of the proceeding, and the final disposition, if any, of the
 71-63 proceeding;

71-64 (12) if the proposed ward is an adult and if known by
 71-65 the applicant:

71-66 (A) the name of the proposed ward's spouse, if
 71-67 any, and state the spouse's address or that the spouse is deceased;

71-68 (B) the name of each of the proposed ward's
 71-69 parents and state the parent's address or that the parent is

72-1 deceased;

72-2 (C) the name and age of each of the proposed
72-3 ward's siblings, if any, and state the sibling's address or that the
72-4 sibling is deceased;

72-5 (D) the name and age of each of the proposed
72-6 ward's children, if any, and state the child's address or that the
72-7 child is deceased; and

72-8 (E) if the proposed ward's spouse and each of the
72-9 proposed ward's parents, siblings, and children are deceased, or,
72-10 if there is no spouse, parent, adult sibling, or adult child, the
72-11 names and addresses of the proposed ward's next of kin who are
72-12 adults;

72-13 (13) facts showing that the court has venue over the
72-14 proceeding; and

72-15 (14) if applicable, that the person whom the applicant
72-16 desires to have appointed as a guardian is a private professional
72-17 guardian who is certified under Subchapter D, Chapter 111,
72-18 Government Code, and has complied with the requirements of Section
72-19 697 of this code.

72-20 SECTION 3.13. Section 683, Texas Probate Code, is amended
72-21 by amending Subsection (a) and adding Subsection (a-1) to read as
72-22 follows:

72-23 (a) If a court has probable cause to believe that a person
72-24 domiciled or found in the county in which the court is located is an
72-25 incapacitated person, including the receipt of an information
72-26 letter about a person submitted under Section 48.209, Human
72-27 Resources Code, and the person does not have a guardian in this
72-28 state, the court, except as provided by Subsection (a-1) of this
72-29 section, shall appoint a guardian ad litem or court investigator to
72-30 investigate and file an application for the appointment of a
72-31 guardian of the person or estate, or both, of the person believed to
72-32 be incapacitated.

72-33 (a-1) The court in a county that does not have a statutory
72-34 probate court, in lieu of appointing a guardian ad litem under
72-35 Subsection (a) of this section, may appoint the Department of
72-36 Family and Protective Services, subject to the availability of
72-37 funds, to investigate and file a report with the court as to whether
72-38 a guardian may be necessary or whether a less restrictive
72-39 alternative to guardianship might meet the needs of the proposed
72-40 ward. If the court, after considering the report filed under this
72-41 subsection, determines that a guardianship may be necessary, the
72-42 court shall appoint a guardian ad litem, the county attorney, the
72-43 district attorney, or a guardianship program, to file an
72-44 application for the appointment of a suitable person to serve as
72-45 guardian for the proposed ward.

72-46 SECTION 3.14. Section 684, Texas Probate Code, is amended
72-47 by amending Subsection (b) and adding Subsection (b-1) to read as
72-48 follows:

72-49 (b) Before appointing a guardian and except as provided by
72-50 Subsection (b-1) of this section, the court must find by a
72-51 preponderance of the evidence that:

72-52 (1) the court has venue of the case;
72-53 (2) the person to be appointed guardian is eligible to
72-54 act as guardian and is entitled to appointment, or, if no eligible
72-55 person entitled to appointment applies, the person appointed is:

72-56 (A) a proper person to act as guardian; and
72-57 (B) the most suitable person to serve as guardian
72-58 for the proposed ward;

72-59 (3) if a guardian is appointed for a minor, the
72-60 guardianship is not created for the primary purpose of enabling the
72-61 minor to establish residency for enrollment in a school or school
72-62 district for which the minor is not otherwise eligible for
72-63 enrollment; and

72-64 (4) the proposed ward is totally without capacity as
72-65 provided by this code to care for himself or herself and to manage
72-66 the individual's property, or the proposed ward lacks the capacity
72-67 to do some, but not all, of the tasks necessary to care for himself
72-68 or herself or to manage the individual's property.

72-69 (b-1) Before appointing the Department of Aging and

73-1 Disability Services as guardian, the court, in addition to making
 73-2 the findings required by Subsection (a) of this section, must:

73-3 (1) make the findings required by Subsections (b)(1),
 73-4 (b)(3), and (b)(4) of this section; and

73-5 (2) find by clear and convincing evidence that the
 73-6 department is the person most suitable to serve as guardian of the
 73-7 proposed ward and that the appointment is in the proposed ward's
 73-8 best interest.

73-9 SECTION 3.15. Subpart A, Part 3, Chapter XIII, Texas
 73-10 Probate Code, is amended by adding Sections 691 and 691A to read as
 73-11 follows:

73-12 Sec. 691. STATE AS GUARDIAN OF LAST RESORT. (a) Except as
 73-13 a last resort, the court may not appoint the Department of Aging and
 73-14 Disability Services to serve as guardian of the person or estate, or
 73-15 both, of an incapacitated person.

73-16 (b) This section may not be construed to permit the
 73-17 appointment of a state entity other than the Department of Aging and
 73-18 Disability Services as a guardian under this chapter.

73-19 Sec. 691A. AGREEMENTS FOR APPOINTMENT AS PUBLIC GUARDIANS.

73-20 (a) A county may enter into an agreement with a person operating a
 73-21 guardianship program located in the county or in an adjacent county
 73-22 or with a private professional guardian located in the county or in
 73-23 an adjacent county regarding the willingness and ability of the
 73-24 parties to provide guardianship and related services to
 73-25 incapacitated persons who:

73-26 (1) may need guardianship services or similar
 73-27 assistance; and

73-28 (2) do not have a family member, friend, or other
 73-29 interested person who is willing, able, and qualified to serve as
 73-30 guardian of the person or estate, or both.

73-31 (b) Consideration for an agreement under Subsection (a) of
 73-32 this section may be monetary or in-kind, such as office space,
 73-33 transportation, or utilities.

73-34 (c) On execution of the agreement, the county shall provide
 73-35 a copy of the agreement to the Guardianship Alliance Office and to
 73-36 each of the courts having probate jurisdiction over a county
 73-37 participating in the agreement.

73-38 (d) A county that enters into an agreement under Subsection
 73-39 (a) of this section may determine that the county or each other
 73-40 party to the agreement may not be the person most suitable to serve
 73-41 as guardian for an incapacitated person residing in the county,
 73-42 and, if the court appoints the Department of Aging and Disability
 73-43 Services as guardian of last resort for the incapacitated person,
 73-44 the county shall reimburse the department for a portion of the costs
 73-45 incurred in providing guardianship services to the incapacitated
 73-46 person if the person's estate is insufficient to pay for the
 73-47 services.

73-48 (e) A person, including the court, may infer that a county,
 73-49 by failing to enter into or submit a copy of an agreement to the
 73-50 court under this section, has made a determination that the state
 73-51 may be more suitable than the county to provide guardianship and
 73-52 related services to residents of the county described by Subsection
 73-53 (a) of this section. If, as a last resort, the Department of Aging
 73-54 and Disability Services is appointed guardian of an incapacitated
 73-55 person residing in the county, the county shall reimburse the
 73-56 department for a portion of the costs incurred in providing
 73-57 guardianship services to the incapacitated person if the person's
 73-58 estate is insufficient to pay for the services.

73-59 (f) The amount to be reimbursed to the Department of Aging
 73-60 and Disability Services under Subsection (d) or (e) of this section
 73-61 must be a reasonable amount as determined jointly by the department
 73-62 and the Guardianship Alliance Office, and must be approved by the
 73-63 judge of the court having jurisdiction over the guardianship
 73-64 proceedings. Reimbursements paid to the Department of Aging and
 73-65 Disability Services by a county shall be paid from funds budgeted by
 73-66 the commissioners court of the county for that purpose.

73-67 (g) The Department of Aging and Disability Services shall
 73-68 deposit all amounts received from a county under Subsection (d) or
 73-69 (e) of this section to the credit of the guardianship services

74-1 account in the general revenue fund. Money in the account may be
 74-2 appropriated only to the department for the provision of
 74-3 guardianship services, as a last resort, to wards of the
 74-4 department.

74-5 (h) A county or guardianship program that enters into an
 74-6 agreement under this section remains eligible to receive
 74-7 supplemental funds from the Guardianship Alliance Office under
 74-8 Section 111.048, Government Code, to provide guardianship and
 74-9 related services to incapacitated persons.

74-10 SECTION 3.16. Section 693, Texas Probate Code, is amended
 74-11 by adding Subsection (f) to read as follows:

74-12 (f) An order appointing the Department of Aging and
 74-13 Disability Services as guardian must specify that the department is
 74-14 the most suitable person to serve as guardian for the proposed ward
 74-15 and that the appointment is in the best interest of the proposed
 74-16 ward.

74-17 SECTION 3.17. Section 695A, Texas Probate Code, is amended
 74-18 by adding Subsections (a-1) and (d) to read as follows:

74-19 (a-1) If, while serving as a guardian for a ward under this
 74-20 chapter, the Department of Aging and Disability Services becomes
 74-21 aware of a guardianship program or private professional guardian
 74-22 willing and able to serve as the ward's successor guardian and the
 74-23 department is not aware of a family member or friend of the ward or
 74-24 any other interested person who is willing and able to serve as the
 74-25 ward's successor guardian, the department shall notify the court in
 74-26 which the guardianship is pending of the guardianship program's or
 74-27 private professional guardian's willingness and ability to serve.

74-28 (d) If the court finds under Subsection (a-1) of this
 74-29 section that the proposed successor guardian for a ward is eligible
 74-30 to be appointed as the ward's successor guardian and that the
 74-31 appointment is in the ward's best interests, the Department of
 74-32 Aging and Disability Services, or the court on the court's own
 74-33 motion, may file an application to appoint the guardianship program
 74-34 or private professional guardian as the ward's successor guardian.
 74-35 Service of notice on an application filed under this subsection
 74-36 shall be made as directed by the court.

74-37 SECTION 3.18. Section 696, Texas Probate Code, is amended
 74-38 to read as follows:

74-39 Sec. 696. APPOINTMENT OF PRIVATE PROFESSIONAL GUARDIANS. A
 74-40 court may not appoint a private professional guardian to serve as a
 74-41 guardian or permit a private professional guardian to continue to
 74-42 serve as a guardian under this code if the private professional
 74-43 guardian:

74-44 (1) has not complied with the requirements of Section
 74-45 697 of this code; or

74-46 (2) is not certified as provided by Section 697B of
 74-47 this code.

74-48 SECTION 3.19. Subpart A, Part 3, Texas Probate Code, is
 74-49 amended by adding Sections 696A and 696B to read as follows:

74-50 Sec. 696A. APPOINTMENT OF PUBLIC GUARDIANS. (a) An
 74-51 individual employed by or contracting with a guardianship program
 74-52 must be certified as provided by Section 697B of this code to
 74-53 provide guardianship services to a ward of the guardianship
 74-54 program.

74-55 (b) An employee of the Department of Aging and Disability
 74-56 Services must be certified as provided by Section 697B of this code
 74-57 to provide guardianship services to a ward of the department.

74-58 Sec. 696B. APPOINTMENT OF FAMILY MEMBERS OR FRIENDS. A
 74-59 family member or friend of an incapacitated person is not required
 74-60 to be certified under Subchapter D, Chapter 111, Government Code,
 74-61 or any other law to serve as the person's guardian.

74-62 SECTION 3.20. Subsections (a), (c), and (e), Section 697,
 74-63 Texas Probate Code, are amended to read as follows:

74-64 (a) A private professional guardian must apply annually to
 74-65 the clerk of the county having venue over the proceeding for the
 74-66 appointment of a guardian for a certificate of registration
 74-67 [certification]. The application must include a sworn statement
 74-68 containing the following information concerning a private
 74-69 professional guardian or each person who represents or plans to

75-1 represent the interests of a ward as a guardian on behalf of the
 75-2 private professional guardian:

75-3 (1) educational background and professional
 75-4 experience;

75-5 (2) three or more professional references;

75-6 (3) the names of all of the wards the private
 75-7 professional guardian or person is or will be serving as a guardian;

75-8 (4) the aggregate fair market value of the property of
 75-9 all wards that is being or will be managed by the private
 75-10 professional guardian or person;

75-11 (5) place of residence, business address, and business
 75-12 telephone number; and

75-13 (6) whether the private professional guardian or
 75-14 person has ever been removed as a guardian by the court or resigned
 75-15 as a guardian in a particular case, and, if so, a description of the
 75-16 circumstances causing the removal or resignation, and the style of
 75-17 the suit, the docket number, and the court having jurisdiction over
 75-18 the proceeding.

75-19 (c) The term of the registration [~~certification~~] begins on
 75-20 the date that the requirements are met and extends through December
 75-21 31 of the initial year. After the initial year of registration
 75-22 [~~certification~~], the term of the registration [~~certification~~]
 75-23 begins on January 1 and ends on December 31 of each year. A renewal
 75-24 application must be completed during December of the year preceding
 75-25 the year for which the renewal is requested.

75-26 (e) Not later than February 1 of each year, the clerk shall
 75-27 submit to the Guardianship Alliance Office [~~Health and Human~~
 75-28 ~~Services Commission~~] the names and business addresses of private
 75-29 professional guardians who have satisfied the registration
 75-30 [~~certification~~] requirements under this section during the
 75-31 preceding year.

75-32 SECTION 3.21. Subpart A, Part 3, Texas Probate Code, is
 75-33 amended by adding Sections 697A and 697B to read as follows:

75-34 Sec. 697A. LIST OF PUBLIC GUARDIANS MAINTAINED BY COUNTY
 75-35 CLERKS. (a) Each guardianship program operating in a county shall
 75-36 submit annually to the county clerk a statement containing the
 75-37 name, address, and telephone number of each individual employed by
 75-38 or volunteering or contracting with the program to provide
 75-39 guardianship services to a ward or proposed ward of the program.

75-40 (b) The Department of Aging and Disability Services, if the
 75-41 department is appointed to serve as guardian of last resort for one
 75-42 or more incapacitated persons residing in the county, shall submit
 75-43 annually to the county clerk the information required under
 75-44 Subsection (a) of this section for each department employee who is
 75-45 or will be providing guardianship services in the county on the
 75-46 department's behalf.

75-47 (c) Not later than February 1 of each year, the county clerk
 75-48 shall submit to the Guardianship Alliance Office the information
 75-49 received under Subsection (a) of this section during the preceding
 75-50 year.

75-51 Sec. 697B. CERTIFICATION REQUIREMENT FOR PRIVATE
 75-52 PROFESSIONAL GUARDIANS AND PUBLIC GUARDIANS. (a) The following
 75-53 persons must be certified under Subchapter D, Chapter 111,
 75-54 Government Code:

75-55 (1) an individual who is a private professional
 75-56 guardian;

75-57 (2) an individual who will represent the interests of
 75-58 a ward as a guardian on behalf of a private professional guardian;

75-59 (3) an individual providing guardianship services to a
 75-60 ward of a guardianship program on the program's behalf, except as
 75-61 provided by Subsection (d) of this section; and

75-62 (4) an employee of the Department of Aging and
 75-63 Disability Services providing guardianship services to a ward of
 75-64 the department.

75-65 (b) A person whose certification has expired must obtain a
 75-66 new certification under Subchapter D, Chapter 111, Government Code,
 75-67 to be allowed to provide or continue to provide guardianship
 75-68 services to a ward under this code.

75-69 (c) The court shall notify the Guardianship Alliance Office

76-1 if the court becomes aware of a person who is not complying with the
 76-2 terms of a certification issued under Subchapter D, Chapter 111,
 76-3 Government Code, or with the standards and rules adopted under that
 76-4 subchapter.

76-5 (d) An individual volunteering with a guardianship program
 76-6 is not required to be certified as provided by this section to
 76-7 provide guardianship services on the program's behalf.

76-8 SECTION 3.22. Subsections (a) and (c), Section 698, Texas
 76-9 Probate Code, are amended to read as follows:

76-10 (a) The clerk of the county having venue over the proceeding
 76-11 for the appointment of a guardian shall obtain criminal history
 76-12 record information that is maintained by the Department of Public
 76-13 Safety or the Federal Bureau of Investigation identification
 76-14 division relating to:

76-15 (1) a private professional guardian;

76-16 (2) each person who represents or plans to represent
 76-17 the interests of a ward as a guardian on behalf of the private
 76-18 professional guardian; [~~or~~]

76-19 (3) each person employed by a private professional
 76-20 guardian who will:

76-21 (A) have personal contact with a ward or proposed
 76-22 ward;

76-23 (B) exercise control over and manage a ward's
 76-24 estate; or

76-25 (C) perform any duties with respect to the
 76-26 management of a ward's estate;

76-27 (4) each person employed by or volunteering or
 76-28 contracting with a guardianship program to provide guardianship
 76-29 services to a ward of the program on the program's behalf; or

76-30 (5) an employee of the Department of Aging and
 76-31 Disability Services who is or will be providing guardianship
 76-32 services to a ward of the department.

76-33 (c) The court shall use the information obtained under this
 76-34 section only in determining whether to appoint, remove, or continue
 76-35 the appointment of a private professional guardian, a guardianship
 76-36 program, or the Department of Aging and Disability Services.

76-37 SECTION 3.23. Subsection (b), Section 700, Texas Probate
 76-38 Code, is amended to read as follows:

76-39 (b) A representative of the Department of Aging and
 76-40 Disability [~~Protective and Regulatory~~] Services shall take the oath
 76-41 required by Subsection (a) of this section if the department is
 76-42 appointed guardian.

76-43 SECTION 3.24. Subsection (a), Section 767, Texas Probate
 76-44 Code, is amended to read as follows:

76-45 (a) The guardian of the person is entitled to take [~~the~~]
 76-46 charge [~~and control~~] of the person of the ward, and the duties of
 76-47 the guardian correspond with the rights of the guardian. A guardian
 76-48 of the person has:

76-49 (1) the right to have physical possession of the ward
 76-50 and to establish the ward's legal domicile;

76-51 (2) the duty to provide [~~of~~] care, supervision
 76-52 [~~control~~], and protection for [~~of~~] the ward;

76-53 (3) the duty to provide the ward with clothing, food,
 76-54 medical care, and shelter;

76-55 (4) the power to consent to medical, psychiatric, and
 76-56 surgical treatment other than the in-patient psychiatric
 76-57 commitment of the ward; and

76-58 (5) on application to and order of the court, the power
 76-59 to establish a trust in accordance with 42 U.S.C. Section
 76-60 1396p(d)(4)(B), as amended, and direct that the income of the ward
 76-61 as defined by that section be paid directly to the trust, solely for
 76-62 the purpose of the ward's eligibility for medical assistance under
 76-63 Chapter 32, Human Resources Code.

76-64 SECTION 3.25. Subsections (c) and (j), Section 875, Texas
 76-65 Probate Code, are amended to read as follows:

76-66 (c) A sworn, written application for the appointment of a
 76-67 temporary guardian shall be filed before the court appoints a
 76-68 temporary guardian. The application must state:

76-69 (1) the name and address of the person who is the

77-1 subject of the guardianship proceeding;
 77-2 (2) the danger to the person or property alleged to be
 77-3 imminent;
 77-4 (3) the type of appointment and the particular
 77-5 protection and assistance being requested;
 77-6 (4) the facts and reasons supporting the allegations
 77-7 and requests;
 77-8 (5) the name, address, and qualification of the
 77-9 proposed temporary guardian;
 77-10 (6) the name, address, and interest of the applicant;
 77-11 and
 77-12 (7) if applicable, that the proposed temporary
 77-13 guardian is a private professional guardian who is certified under
 77-14 Subchapter D, Chapter 111, Government Code, and has complied with
 77-15 the requirements of Section 697 of this code.

77-16 (j) The court may not customarily or ordinarily appoint the
 77-17 Department of Aging and Disability [~~Protective and Regulatory~~]
 77-18 Services as a temporary guardian under this section. The
 77-19 appointment of the department as a temporary guardian under this
 77-20 section should be made only as a last resort.

77-21 SECTION 3.26. Title 2, Government Code, is amended by
 77-22 adding Subtitle J to read as follows:

77-23 SUBTITLE J. GUARDIANSHIPS

77-24 CHAPTER 111. GUARDIANSHIP ALLIANCE OFFICE

77-25 SUBCHAPTER A. GENERAL PROVISIONS

77-26 Sec. 111.001. DEFINITIONS. In this chapter:

77-27 (1) "Administrative director" means the
 77-28 administrative director of the courts as appointed by Chapter 72.

77-29 (2) "Board" means the Guardianship Alliance Board.

77-30 (3) "Corporate fiduciary" has the meaning assigned by
 77-31 Section 601, Texas Probate Code.

77-32 (4) "Guardian" has the meaning assigned by Section
 77-33 601, Texas Probate Code.

77-34 (5) "Guardianship program" means a local, county, or
 77-35 regional program that provides guardianship and related services to
 77-36 an incapacitated person or other person who needs assistance in
 77-37 making decisions concerning the person's own welfare or financial
 77-38 affairs.

77-39 (6) "Incapacitated person" has the meaning assigned by
 77-40 Section 601, Texas Probate Code.

77-41 (7) "Office" means the Guardianship Alliance Office.

77-42 (8) "Office of Court Administration" means the Office
 77-43 of Court Administration of the Texas Judicial System.

77-44 (9) "Private professional guardian" means a person,
 77-45 other than an attorney or a corporate fiduciary, who is engaged in
 77-46 the business of providing guardianship services.

77-47 (10) "Statutory probate court" has the meaning
 77-48 assigned by Section 601, Texas Probate Code.

77-49 (11) "Ward" has the meaning assigned by Section 601,
 77-50 Texas Probate Code.

77-51 Sec. 111.002. RULES. The supreme court may adopt rules
 77-52 consistent with this chapter, including rules governing the
 77-53 certification of individuals providing guardianship services.

77-54 Sec. 111.003. SUNSET PROVISION. The office is subject to
 77-55 Chapter 325, Government Code (Texas Sunset Act). Unless continued
 77-56 in existence as provided by that chapter, the office is abolished
 77-57 and this chapter expires September 1, 2015.

77-58 [Sections 111.004-111.010 reserved for expansion]

77-59 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

77-60 Sec. 111.011. GUARDIANSHIP ALLIANCE OFFICE; ADMINISTRATIVE
 77-61 ATTACHMENT. (a) The Guardianship Alliance Office is
 77-62 administratively attached to the Office of Court Administration.

77-63 (b) Notwithstanding any other law, the Office of Court
 77-64 Administration shall:

77-65 (1) provide administrative assistance, services, and
 77-66 materials to the office;

77-67 (2) accept, deposit, and disburse money made available
 77-68 to the office;

77-69 (3) accept gifts and grants on behalf of the office

78-1 from any public or private entity;

78-2 (4) pay the salaries and benefits of the director and
78-3 staff of the office;

78-4 (5) reimburse the travel expenses and other actual and
78-5 necessary expenses of the board, director, and staff of the office
78-6 incurred in the performance of a function of the office, as provided
78-7 by the General Appropriations Act;

78-8 (6) apply for and receive on behalf of the office any
78-9 appropriations or other money from the state or federal government
78-10 or any other public or private entity, subject to limitations and
78-11 conditions prescribed by legislative appropriation; and

78-12 (7) provide the office with adequate computer
78-13 equipment and support.

78-14 Sec. 111.012. BOARD. (a) The Guardianship Alliance Board
78-15 is composed of:

78-16 (1) 11 members appointed by the presiding judge of the
78-17 statutory probate courts, elected as provided by Chapter 25;

78-18 (2) three public members appointed by the supreme
78-19 court from a list of nominees submitted by the governor; and

78-20 (3) a representative of the Department of Aging and
78-21 Disability Services appointed by the supreme court from a list of
78-22 nominees submitted by the commissioner of aging and disability
78-23 services.

78-24 (b) The presiding judge of the statutory probate courts
78-25 shall appoint members under Subsection (a)(1) from the different
78-26 geographical areas of this state.

78-27 (c) In making an appointment under Subsection (a)(2), the
78-28 supreme court may reject one or more of the nominees on a list
78-29 submitted by the governor and request a new list of different
78-30 nominees. In making an appointment under Subsection (a)(3), the
78-31 supreme court may reject one or more of the nominees on a list
78-32 submitted by the commissioner of aging and disability services and
78-33 request a new list of different nominees.

78-34 (d) To be eligible for appointment to the board other than
78-35 as a public member, an individual must have demonstrated experience
78-36 working with:

78-37 (1) a guardianship program;
78-38 (2) an organization that advocates on behalf of or in
78-39 the interest of elderly individuals;

78-40 (3) an organization that advocates on behalf of or in
78-41 the interest of individuals with mental illness or mental
78-42 retardation or individuals with physical disabilities; or

78-43 (4) incapacitated individuals.

78-44 (e) Appointments to the board shall be made without regard
78-45 to the race, color, disability, sex, religion, age, or national
78-46 origin of the appointees.

78-47 (f) The members of the board serve for staggered six-year
78-48 terms, with the terms of one-third of the members expiring on
78-49 February 1 of each odd-numbered year. Board members receive no
78-50 compensation but are entitled to reimbursement of actual and
78-51 necessary expenses incurred in the performance of their duties.

78-52 (g) The board shall elect from among its members a presiding
78-53 officer and other officers considered necessary.

78-54 (h) The board shall meet at least quarterly at the call of
78-55 the presiding officer.

78-56 (i) Any action taken by the board must be approved by a
78-57 majority vote of the members present.

78-58 Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. A person is
78-59 not eligible for appointment as a public member of the board if the
78-60 person or the person's spouse:

78-61 (1) is registered, certified, or licensed by a
78-62 regulatory agency in the field of guardianship;

78-63 (2) is employed by or participates in the management
78-64 of a business entity or other organization regulated by the office
78-65 or receiving money from the Office of Court Administration;

78-66 (3) owns or controls, directly or indirectly, more
78-67 than a 10 percent interest in a business entity or other
78-68 organization regulated by the office or receiving money from the
78-69 Office of Court Administration; or

79-1 (4) uses or receives a substantial amount of tangible
79-2 goods, services, or funds from the Office of Court Administration,
79-3 other than compensation or reimbursement authorized by law for
79-4 board membership, attendance, or expenses.

79-5 Sec. 111.014. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

79-6 (a) In this section, "Texas trade association" means a cooperative
79-7 and voluntarily joined statewide association of business or
79-8 professional competitors in this state designed to assist its
79-9 members and its industry or profession in dealing with mutual
79-10 business or professional problems and in promoting their common
79-11 interest.

79-12 (b) A person may not be a member of the board or may not be an
79-13 employee of the office employed in a "bona fide executive,
79-14 administrative, or professional capacity," as that phrase is used
79-15 for purposes of establishing an exemption to the overtime
79-16 provisions of the federal Fair Labor Standards Act of 1938 (29
79-17 U.S.C. Section 201 et seq.), if:

79-18 (1) the person is an officer, employee, or paid
79-19 consultant of a Texas trade association in the field of
79-20 guardianship; or

79-21 (2) the person's spouse is an officer, manager, or paid
79-22 consultant of a Texas trade association in the field of
79-23 guardianship.

79-24 (c) A person may not be a member of the board if the person
79-25 is required to register as a lobbyist under Chapter 305 because of
79-26 the person's activities for compensation on behalf of a profession
79-27 related to the operation of the office.

79-28 Sec. 111.015. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a
79-29 ground for removal from the board that a member:

79-30 (1) does not have at the time of appointment the
79-31 qualifications required by Section 111.012;

79-32 (2) does not maintain during service on the board the
79-33 qualifications required by Section 111.012;

79-34 (3) is ineligible for membership under Section 111.013
79-35 or 111.014;

79-36 (4) cannot, because of illness or disability,
79-37 discharge the member's duties for a substantial part of the member's
79-38 term; or

79-39 (5) is absent from more than half of the regularly
79-40 scheduled board meetings that the member is eligible to attend
79-41 during a calendar year without an excuse approved by a majority vote
79-42 of the board.

79-43 (b) The validity of an action of the board is not affected by
79-44 the fact that it is taken when a ground for removal of a board member
79-45 exists.

79-46 (c) If the director of the office has knowledge that a
79-47 potential ground for removal exists, the director shall notify the
79-48 presiding officer of the board of the potential ground. The
79-49 presiding officer shall then notify the presiding judge of the
79-50 statutory probate courts and the chief justice of the supreme court
79-51 that a potential ground for removal exists. If the potential ground
79-52 for removal involves the presiding officer, the director shall
79-53 notify the next highest ranking officer of the board, who shall then
79-54 notify the presiding judge of the statutory probate courts and the
79-55 chief justice of the supreme court that a potential ground for
79-56 removal exists.

79-57 Sec. 111.016. POWERS AND DUTIES OF BOARD. (a) The board is
79-58 charged with the executive functions necessary to carry out the
79-59 purposes of this chapter under rules adopted by the supreme court.

79-60 (b) The board shall:

79-61 (1) administer and enforce this chapter;

79-62 (2) develop and recommend proposed rules and
79-63 procedures to the supreme court as necessary to implement this
79-64 chapter;

79-65 (3) set the amount of each fee prescribed by Section
79-66 111.062, subject to the approval of the supreme court;

79-67 (4) establish the qualifications for obtaining
79-68 certification or recertification under Section 111.062;

79-69 (5) issue certificates to individuals who meet the

80-1 certification requirements of Section 111.062; and

80-2 (6) perform any other duty required by this chapter or
80-3 other law.

80-4 (c) The board may appoint any necessary or proper
80-5 subcommittee.

80-6 (d) The board shall maintain:

80-7 (1) a complete record of each board proceeding; and

80-8 (2) a complete record of each certification issued,
80-9 renewed, suspended, or revoked under Section 111.062.

80-10 Sec. 111.017. TRAINING. (a) A person who is appointed to
80-11 and qualifies for office as a member of the board may not vote,
80-12 deliberate, or be counted as a member in attendance at a meeting of
80-13 the board until the person completes a training program that
80-14 complies with this section.

80-15 (b) The training program must provide the person with
80-16 information regarding:

80-17 (1) this chapter;

80-18 (2) the role and functions of the board;

80-19 (3) the current budget for the office;

80-20 (4) the results of the most recent formal audit of the
80-21 office; and

80-22 (5) any applicable ethics policies adopted by the
80-23 board.

80-24 (c) A person appointed to the board is entitled to
80-25 reimbursement, as provided by the General Appropriations Act, for
80-26 the travel expenses incurred in attending the training program
80-27 regardless of whether the attendance at the program occurs before
80-28 or after the person qualifies for office.

80-29 Sec. 111.018. USE OF TECHNOLOGY. The Office of Court
80-30 Administration shall research and propose appropriate
80-31 technological solutions to improve the board's and office's ability
80-32 to perform its functions. The technological solutions must:

80-33 (1) ensure that the public is able to easily find
80-34 information about the board and office on the Internet;

80-35 (2) ensure that persons who want to use the office's
80-36 services are able to:

80-37 (A) interact with the board and office through
80-38 the Internet; and

80-39 (B) access any service that can be provided
80-40 effectively through the Internet; and

80-41 (3) be cost-effective and developed through the
80-42 board's and office's planning processes.

80-43 Sec. 111.019. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.
80-44 (a) The board shall develop and implement a policy to encourage
80-45 the use of appropriate alternative dispute resolution procedures to
80-46 assist in the resolution of internal and external disputes under
80-47 the office's jurisdiction.

80-48 (b) The procedures relating to alternative dispute
80-49 resolution under this section must conform, to the extent possible,
80-50 to any model guidelines issued by the State Office of
80-51 Administrative Hearings for the use of alternative dispute
80-52 resolution by state agencies.

80-53 Sec. 111.020. PUBLIC ACCESS. The board shall develop and
80-54 implement policies that provide the public with a reasonable
80-55 opportunity to appear before the board and to speak on any issue
80-56 under the jurisdiction of the office.

80-57 Sec. 111.021. DIRECTOR OF OFFICE. The administrative
80-58 director may hire a director and staff to perform the
80-59 administrative duties of the office.

80-60 Sec. 111.022. DIVISION OF RESPONSIBILITIES. The board
80-61 shall develop and implement policies that clearly separate the
80-62 policymaking responsibilities of the board and the management
80-63 responsibilities of the director and the staff of the office.

80-64 Sec. 111.023. QUALIFICATIONS AND STANDARDS OF CONDUCT
80-65 INFORMATION. The director of the office or the director's designee
80-66 shall provide to members of the board and to office staff, as often
80-67 as necessary, information regarding the requirements for office or
80-68 employment under this chapter, including information regarding a
80-69 person's responsibilities under applicable laws relating to

standards of conduct for state officers or employees.

Sec. 111.024. STRATEGIC PLAN. (a) The office shall develop a comprehensive, long-range strategic plan for its operations. Each even-numbered year, the office shall issue a plan covering five fiscal years beginning the next odd-numbered fiscal year.

(b) The strategic plan must include measurable goals and a system of performance measures that:

(1) relates directly to the purposes of the office; and
(2) focuses on the results and outcomes of the office's operations.

(c) Not later than December 15 of each year, the office shall report the performance measures included in the strategic plan under this section to:

(1) the administrative director;
(2) the supreme court;
(3) the Department of Aging and Disability Services;
(4) the governor;
(5) the lieutenant governor; and
(6) the speaker of the house of representatives.

(d) In preparing the budget for the Office of Court Administration, the administrative director shall:

(1) consider the goals and performance measures identified in the strategic plan; and
(2) identify additional goals and performance measures as necessary.

[Sections 111.025-111.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 111.041. GENERAL POWERS AND DUTIES OF OFFICE REGARDING GUARDIANSHIP MATTERS. The office shall:

(1) develop a statewide, uniform system for use by county clerks in identifying guardianships pending in each county;
(2) establish other methods to facilitate and encourage use of appropriate and less restrictive alternatives to guardianship in addition to the informational brochure developed under Section 111.049;

(3) periodically review state funding received for the provision of guardianship services or other less restrictive types of assistance to incapacitated persons and make legislative recommendations as necessary;

(4) apply for any grants or other sources of federal funds for which the office may be eligible, including any federal funds that may be available under the federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.);

(5) provide support and technical expertise regarding guardianship-related issues to members of the judiciary;

(6) educate members of the judiciary and the public about less restrictive alternatives to guardianship; and

(7) review and comment on the guardianship policies of all health and human services agencies and recommend changes to the policies the office considers necessary or advisable.

Sec. 111.042. REGISTRY OF GUARDIANSHIP PROGRAMS. The office shall establish and maintain a central registry of all guardianship programs operating in this state.

Sec. 111.043. REGISTRY OF PRIVATE PROFESSIONAL GUARDIANS. The office shall establish and maintain a central registry of all private professional guardians registered with county clerks under Section 697, Texas Probate Code.

Sec. 111.044. COLLECTION OF GUARDIANSHIP STATISTICS. (a) The Texas Judicial Council shall collect, maintain, and publish statistics by county relating to guardianship proceedings of incapacitated persons other than minors, as defined by Section 601, Texas Probate Code, in the form and manner prescribed by Section 71.035.

(b) The Texas Judicial Council shall report:

(1) the number of court-initiated guardianship requests under Section 683, Texas Probate Code;

(2) the number of applications filed for guardianship

82-1 of the person of an adult who is alleged to be incapacitated;

82-2 (3) the number of applications filed for guardianship
82-3 of the estate of an adult who is alleged to be incapacitated;

82-4 (4) the number of applications filed for guardianship
82-5 of both the person and estate of an adult who is alleged to be
82-6 incapacitated;

82-7 (5) whether the person applying for a guardianship is
82-8 a family member or friend of the proposed ward or is a guardian ad
82-9 litem, private professional guardian, or local guardianship
82-10 program;

82-11 (6) a categorical description of the alleged
82-12 incapacity of the proposed wards, such as dementia, stroke, mental
82-13 retardation, brain injury, or chronic mental illness;

82-14 (7) whether the filing fee was waived based on the fact
82-15 that the alleged incapacitated adult is indigent;

82-16 (8) the number of guardianships of the person granted
82-17 by the court during the period;

82-18 (9) the number of guardianships of the estate granted
82-19 by the court during the period;

82-20 (10) the number of guardianships of both the person
82-21 and estate that were granted by the court during the period;

82-22 (11) the number of applications for complete
82-23 restoration of a ward's capacity or for modification of a
82-24 guardianship filed during the period;

82-25 (12) the number of guardianships of the person closed
82-26 by the court during the period;

82-27 (13) the number of guardianships of the estate closed
82-28 by the court during the period;

82-29 (14) the number of guardianships of both the person
82-30 and estate that were closed by the court during the period; and

82-31 (15) any other information considered necessary by the
82-32 office.

82-33 Sec. 111.045. DIRECTORY. (a) The office shall compile, in
82-34 the most cost-efficient form, a directory of guardianship programs
82-35 and private professional guardians operating in this state.

82-36 (b) The office at least annually shall update the directory
82-37 and provide access to the directory on the Internet website of the
82-38 Office of Court Administration or in another written form.

82-39 Sec. 111.046. GUARDIANSHIP RESOURCE ACCOUNT. (a) The
82-40 guardianship resource account is created as a dedicated account in
82-41 the general revenue fund. Money in the fund may be appropriated
82-42 only to provide funding for purposes consistent with this chapter.

82-43 (b) The administrative director shall deposit in the
82-44 guardianship resource account all funds collected for the office or
82-45 appropriated to the Office of Court Administration for purposes of
82-46 the office as provided by:

82-47 (1) this chapter;

82-48 (2) Chapter X, Texas Probate Code; and

82-49 (3) Section 118.013(e), Local Government Code.

82-50 (c) Each fiscal year, the office shall set aside an amount
82-51 of funds from the guardianship resource account sufficient to pay
82-52 anticipated expenses and claims on the guardianship resource
82-53 account under Chapter X, Texas Probate Code.

82-54 Sec. 111.047. DONATIONS. The office may accept and solicit
82-55 gifts or grants of property from public or private sources for the
82-56 purposes of this chapter. Funds received under this section shall
82-57 be deposited in the guardianship resource account.

82-58 Sec. 111.048. FUNDING FOR GUARDIANSHIP AND RELATED
82-59 SERVICES. (a) The office shall develop and implement a plan for
82-60 the distribution of state and other funds received for purposes of
82-61 this chapter to guardianship programs and other providers of
82-62 services that are considered alternatives to guardianship.

82-63 (b) The plan must provide for:

82-64 (1) state funding to be distributed to guardianship
82-65 programs and providers of services that are considered alternatives
82-66 to guardianship:

82-67 (A) only as specifically directed by the terms of
82-68 a grant or contract to provide guardianship and related services;
82-69 and

83-1 (B) in a manner that rewards a county that
 83-2 chooses to make significant contributions to the funding of
 83-3 guardianship programs operated by or located in the county;

83-4 (2) procedures to ensure that funds received by the
 83-5 Office of Court Administration for purposes of the office are
 83-6 disbursed in accordance with the terms under which that agency
 83-7 received the funds; and

83-8 (3) a reporting mechanism to ensure appropriate use of
 83-9 funds.

83-10 (c) The plan must also be designed in a manner that fosters
 83-11 the establishment and growth of guardianship programs to provide
 83-12 guardianships or other less restrictive types of assistance or
 83-13 services to incapacitated individuals residing in the areas served
 83-14 by those programs.

83-15 Sec. 111.049. INFORMATIONAL BROCHURE. (a) The office
 83-16 shall develop and update as necessary an informational brochure
 83-17 describing various types of less restrictive alternatives to
 83-18 guardianship that are available to elderly or disabled persons,
 83-19 including:

83-20 (1) a durable power of attorney;

83-21 (2) a special needs trust;

83-22 (3) a representative payee designated by a federal
 83-23 agency to manage a person's federal benefits; and

83-24 (4) a bill payer.

83-25 (b) The board shall prescribe the form and contents of the
 83-26 informational brochure.

83-27 (c) Instead of publishing the informational brochure in
 83-28 written form, the office may distribute the informational brochure
 83-29 to the Department of Aging and Disability Services for purposes of
 83-30 displaying the contents of the brochure on the department's
 83-31 Internet website.

83-32 [Sections 111.050-111.060 reserved for expansion]

83-33 SUBCHAPTER D. REGULATION OF CERTAIN GUARDIANS

83-34 Sec. 111.061. STANDARDS FOR CERTAIN GUARDIANSHIPS AND
 83-35 ALTERNATIVES TO GUARDIANSHIP. (a) The board shall adopt minimum
 83-36 standards for:

83-37 (1) the provision of guardianship services or other
 83-38 similar but less restrictive types of assistance or services by:

83-39 (A) guardianship programs; and

83-40 (B) private professional guardians; and

83-41 (2) the provision of guardianship services by the
 83-42 Department of Aging and Disability Services.

83-43 (b) The board shall design the standards to protect the
 83-44 interests of an incapacitated person or other person needing
 83-45 assistance making decisions concerning the person's own welfare or
 83-46 financial affairs.

83-47 Sec. 111.062. CERTIFICATION REQUIRED FOR CERTAIN
 83-48 GUARDIANS. (a) To provide guardianship services in this state,
 83-49 the following individuals must hold a certificate issued under this
 83-50 section:

83-51 (1) an individual who is a private professional
 83-52 guardian;

83-53 (2) an individual who will provide those services to a
 83-54 ward of a private professional guardian or the Department of Aging
 83-55 and Disability Services on the guardian's or department's behalf;
 83-56 and

83-57 (3) an individual, other than a volunteer, who will
 83-58 provide those services to a ward of a guardianship program on the
 83-59 program's behalf.

83-60 (b) An applicant for a certificate under this section must:

83-61 (1) apply to the office on a form prescribed by the
 83-62 board; and

83-63 (2) submit with the application a nonrefundable
 83-64 application fee in an amount determined by the board, subject to the
 83-65 approval of the supreme court.

83-66 (c) The supreme court may adopt rules and procedures for
 83-67 issuing a certificate and for renewing, suspending, or revoking a
 83-68 certificate issued under this section. Any rules adopted by the
 83-69 supreme court under this section must:

84-1 (1) ensure compliance with the standards adopted under
 84-2 Section 111.061;

84-3 (2) provide that the board establish qualifications
 84-4 for obtaining and maintaining certification;

84-5 (3) provide that the board issue certificates under
 84-6 this section;

84-7 (4) provide that a certificate expires on the second
 84-8 anniversary of the date the certificate is issued;

84-9 (5) prescribe procedures for accepting complaints and
 84-10 conducting investigations of alleged violations of the minimum
 84-11 standards adopted under Section 111.061 or other terms of the
 84-12 certification by certificate holders; and

84-13 (6) prescribe procedures by which the office, after
 84-14 notice and hearing, may suspend or revoke the certificate of a
 84-15 holder who fails to substantially comply with appropriate standards
 84-16 or other terms of the certification.

84-17 (d) If the requirements for issuing a certificate under this
 84-18 section include passage of an examination covering guardianship
 84-19 education requirements, the office shall:

84-20 (1) develop and administer the examination; or

84-21 (2) contract with another person or entity the board
 84-22 determines has the expertise and resources to develop and
 84-23 administer the examination.

84-24 (e) In lieu of the certification requirements imposed under
 84-25 this section, the board may issue a certificate to an individual to
 84-26 engage in business as a guardian or to provide guardianship
 84-27 services in this state if the individual:

84-28 (1) submits an application to the office in the form
 84-29 prescribed by the board;

84-30 (2) pays a fee in a reasonable amount determined by the
 84-31 board, subject to the approval of the supreme court;

84-32 (3) is certified, registered, or licensed as a
 84-33 guardian by a national organization or association the board
 84-34 determines has requirements at least as stringent as those
 84-35 prescribed by the board under this subchapter; and

84-36 (4) is in good standing with the organization or
 84-37 association with whom the person is licensed, certified, or
 84-38 registered.

84-39 (f) An application or other fee collected under this section
 84-40 shall be deposited in the guardianship resource account.

84-41 Sec. 111.063. INFORMATION FROM PRIVATE PROFESSIONAL
 84-42 GUARDIANS. In addition to the information submitted under Section
 84-43 697(e), Texas Probate Code, the office may require a private
 84-44 professional guardian or a person who represents or plans to
 84-45 represent the interests of a ward as a guardian on behalf of the
 84-46 private professional guardian to submit information considered
 84-47 necessary to monitor the person's compliance with the applicable
 84-48 standards adopted under Section 111.061 or with the certification
 84-49 requirements of Section 111.062.

84-50 SECTION 3.27. Subsection (a), Section 118.011, Local
 84-51 Government Code, is amended to read as follows:

84-52 (a) A county clerk shall collect the following fees for
 84-53 services rendered to any person:

84-54 (1) Personal Property Records Filing (Sec.
 84-55 118.012)...\$2.00

84-56 (2) Real Property Records Filing (Sec. 118.013):

84-57 for the first page...\$4.00 [~~\$3.00~~]

84-58 for each additional page or part of a page on which
 84-59 there are visible marks of any kind...\$2.00

84-60 for all or part of each 8 1/2" X 14" attachment or
 84-61 rider...\$2.00

84-62 for each name in excess of five names that has to be
 84-63 indexed in all records in which the document must be
 84-64 indexed...\$0.25

84-65 (3) Certified Papers (Sec. 118.014):

84-66 for the clerk's certificate...\$5.00

84-67 plus a fee for each page or part of a page...\$1.00

84-68 (4) Noncertified Papers (Sec. 118.0145):

84-69 for each page or part of a page...\$1.00

- 85-1 (5) Birth or Death Certificate (Sec. 118.015)...same
- 85-2 as state registrar
- 85-3 (6) Bond Approval (Sec. 118.016)...\$3.00
- 85-4 (7) Marriage License (Sec. 118.018)...\$30.00
- 85-5 (8) Declaration of Informal Marriage (Sec.
- 85-6 118.019)...\$25.00
- 85-7 (9) Brand Registration (Sec. 118.020)...\$5.00
- 85-8 (10) Oath Administration (Sec. 118.021)...\$1.00

85-9 SECTION 3.28. Section 118.013, Local Government Code, is
 85-10 amended by adding Subsection (e) to read as follows:

85-11 (e) A county clerk who collects a fee under this section
 85-12 shall deposit \$1 of the total amount of that fee to be sent to the
 85-13 comptroller as provided by Subchapter B, Chapter 133, for deposit
 85-14 in the guardianship resource account established under Section
 85-15 111.046, Government Code.

85-16 SECTION 3.29. Section 3, Texas Probate Code, is amended by
 85-17 adding Subsection (nn) to read as follows:

85-18 (nn) "Guardianship Alliance Office" means the Guardianship
 85-19 Alliance Office established under Chapter 111, Government Code.

85-20 SECTION 3.30. The heading of Chapter X, Texas Probate Code,
 85-21 is amended to read as follows:

85-22 CHAPTER X. PAYMENT OF ESTATES TO GUARDIANSHIP RESOURCE ACCOUNT
 85-23 ~~[INTO STATE TREASURY]~~

85-24 SECTION 3.31. Sections 427, 430, and 431, Texas Probate
 85-25 Code, are amended to read as follows:

85-26 Sec. 427. WHEN ESTATES TO BE PAID TO GUARDIANSHIP RESOURCE
 85-27 ACCOUNT ~~[INTO STATE TREASURY]~~. (a) If any person entitled to a
 85-28 portion of an estate, except a resident minor without a guardian,
 85-29 shall not demand his portion from the executor or administrator
 85-30 within six months after an order of court approving the report of
 85-31 commissioners of partition, or within six months after the
 85-32 settlement of the final account of an executor or administrator, as
 85-33 the case may be, the court by written order shall require the
 85-34 executor or administrator to pay so much of said portion as is in
 85-35 money to the comptroller; and such portion as is in other property
 85-36 he shall order the executor or administrator to sell on such terms
 85-37 as the court thinks best, and, when the proceeds of such sale are
 85-38 collected, the court shall order the same to be paid to the
 85-39 comptroller, in all such cases allowing the executor or
 85-40 administrator reasonable compensation for his services. A suit to
 85-41 recover proceeds of the sale is governed by Section 433 of this
 85-42 Code.

85-43 (b) The comptroller shall deposit funds received under this
 85-44 section to the credit of the guardianship resource account
 85-45 established under Subchapter C, Chapter 111, Government Code.

85-46 Sec. 430. RECEIPT ~~[OF COMPTROLLER]~~. Whenever an executor
 85-47 or administrator pays the comptroller any funds of the estate he
 85-48 represents, under the preceding provisions of this Code, he shall
 85-49 take from the comptroller a receipt for such payment, with official
 85-50 seal attached, and shall file the same with the clerk of the court
 85-51 ordering such payment; and such receipt shall be recorded in the
 85-52 minutes of the court.

85-53 Sec. 431. PENALTY FOR FAILURE TO MAKE PAYMENTS ~~[TO~~
 85-54 ~~COMPTROLLER]~~. When an executor or administrator fails to pay to the
 85-55 comptroller any funds of an estate which he has been ordered by the
 85-56 court so to pay, within 30 days after such order has been made, such
 85-57 executor or administrator shall, after personal service of citation
 85-58 charging such failure and after proof thereof, be liable to pay out
 85-59 of his own estate to the comptroller damages thereon at the rate of
 85-60 five per cent per month for each month, or fraction thereof, that he
 85-61 fails to make such payment after 30 days from such order, which
 85-62 damages may be recovered in any court of competent jurisdiction.

85-63 SECTION 3.32. Subsections (a) and (c), Section 433, Texas
 85-64 Probate Code, are amended to read as follows:

85-65 (a) Mode of Recovery. When funds of an estate have been paid
 85-66 to the comptroller under this chapter, any heir, devisee, or
 85-67 legatee of the estate, or their assigns, or any of them, may recover
 85-68 the portion of such funds to which he, she, or they are entitled.
 85-69 The person claiming such funds shall institute suit on or before the

86-1 fourth anniversary of the date of the order requiring payment to the
 86-2 comptroller, by petition filed in the district court of Travis
 86-3 County, against the comptroller, setting forth the plaintiff's
 86-4 right to such funds, and the amount claimed by him.

86-5 (c) Procedure. The proceedings in such suit shall be
 86-6 governed by the rules for other civil suits; and, should the
 86-7 plaintiff establish his right to the funds claimed, he shall have a
 86-8 judgment therefor, which shall specify the amount to which he is
 86-9 entitled; and a certified copy of such judgment shall be sufficient
 86-10 authority for the comptroller to pay the same from the guardianship
 86-11 resource account established under Subchapter C, Chapter 111,
 86-12 Government Code. To the extent that funds are not available in the
 86-13 guardianship resource account, the comptroller shall pay the amount
 86-14 to which the plaintiff is entitled from the general revenue fund
 86-15 until funds become available in the guardianship resource account.

86-16 SECTION 3.33. STUDY. (a) The Guardianship Alliance Office
 86-17 shall conduct a study regarding the feasibility of establishing and
 86-18 administering a pooled income trust for families of incapacitated
 86-19 individuals in this state.

86-20 (b) Not later than January 1, 2007, the Guardianship
 86-21 Alliance Office shall report the findings and conclusions of the
 86-22 study required under this section to the governor, lieutenant
 86-23 governor, speaker of the house of representatives, and presiding
 86-24 officer of each standing committee of the senate and house of
 86-25 representatives having jurisdiction over guardianship matters.

86-26 SECTION 3.34. TRANSFERS TO THE DEPARTMENT OF AGING AND
 86-27 DISABILITY SERVICES. (a) On September 1, 2005:

86-28 (1) all powers, duties, functions, programs, and
 86-29 activities of the Department of Family and Protective Services
 86-30 related to providing guardianship services for incapacitated
 86-31 persons under Chapter 48, Human Resources Code, Chapter XIII, Texas
 86-32 Probate Code, or other law are transferred to the Department of
 86-33 Aging and Disability Services;

86-34 (2) all employees of the Department of Family and
 86-35 Protective Services who primarily perform duties related to
 86-36 providing guardianship services for incapacitated persons under
 86-37 Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code,
 86-38 or other law become employees of the Department of Aging and
 86-39 Disability Services;

86-40 (3) a rule or form adopted by the executive
 86-41 commissioner of the Health and Human Services Commission that
 86-42 relates to the provision of guardianship services by the Department
 86-43 of Family and Protective Services for incapacitated persons under
 86-44 Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code,
 86-45 or other law, as those laws existed immediately before that date, is
 86-46 a rule or form of the Department of Aging and Disability Services
 86-47 and remains in effect until altered by the executive commissioner;

86-48 (4) a reference in law to the Department of Family and
 86-49 Protective Services that relates to providing guardianship
 86-50 services for incapacitated persons under Chapter 48, Human
 86-51 Resources Code, Chapter XIII, Texas Probate Code, or other law
 86-52 means the Department of Aging and Disability Services;

86-53 (5) a waiver in effect that was issued by the
 86-54 Department of Family and Protective Services relating to the
 86-55 provision of guardianship services for incapacitated persons under
 86-56 Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code,
 86-57 or other law is continued in effect as a waiver of the Department of
 86-58 Aging and Disability Services;

86-59 (6) a proceeding involving the Department of Family
 86-60 and Protective Services that is related to providing guardianship
 86-61 services for incapacitated persons under Chapter 48, Human
 86-62 Resources Code, Chapter XIII, Texas Probate Code, or other law is
 86-63 transferred without change in status to the Department of Aging and
 86-64 Disability Services, and the Department of Aging and Disability
 86-65 Services assumes, without a change in status, the position of the
 86-66 Department of Family and Protective Services in a proceeding
 86-67 relating to guardianship matters to which the Department of Family
 86-68 and Protective Services is a party;

86-69 (7) all money, contracts, leases, rights, and

87-1 obligations of the Department of Family and Protective Services
 87-2 related to providing guardianship services for incapacitated
 87-3 persons under Chapter 48, Human Resources Code, Chapter XIII, Texas
 87-4 Probate Code, or other law are transferred to the Department of
 87-5 Aging and Disability Services, subject to Subsection (b) of this
 87-6 section;

87-7 (8) all property and records in the custody of the
 87-8 Department of Family and Protective Services related to providing
 87-9 guardianship services for incapacitated persons under Chapter 48,
 87-10 Human Resources Code, Chapter XIII, Texas Probate Code, or other
 87-11 law shall be transferred to the Department of Aging and Disability
 87-12 Services; and

87-13 (9) all funds appropriated by the legislature to the
 87-14 Department of Family and Protective Services for purposes related
 87-15 to providing guardianship services for incapacitated persons under
 87-16 Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code,
 87-17 or other law are transferred to the Department of Aging and
 87-18 Disability Services.

87-19 (b) The Department of Aging and Disability Services shall
 87-20 administer a contract of the Department of Family and Protective
 87-21 Services transferred under Subdivision (7), Subsection (a), of this
 87-22 section, until the contract expires or is otherwise lawfully
 87-23 terminated. The Department of Aging and Disability Services,
 87-24 however, may not renew the contract.

87-25 SECTION 3.35. TRANSITION PLAN. The executive commissioner
 87-26 of the Health and Human Services Commission shall establish a plan
 87-27 for the transfer of guardianship cases of the Department of Family
 87-28 and Protective Services to the Department of Aging and Disability
 87-29 Services on or before the period prescribed by the executive
 87-30 commissioner.

87-31 SECTION 3.36. PLAN TO TRANSFER STATE GUARDIANSHIPS TO LOCAL
 87-32 ENTITIES. (a) Notwithstanding any other provision of this Act,
 87-33 the Guardianship Alliance Office established under Chapter 111,
 87-34 Government Code, as added by this Act, shall develop a plan for the
 87-35 transfer of all powers, duties, functions, programs, and activities
 87-36 of the Department of Aging and Disability Services related to
 87-37 providing guardianship services for incapacitated persons under
 87-38 Chapter 161, Human Resources Code, as amended by this Act, Chapter
 87-39 XIII, Texas Probate Code, as amended by this Act, or other law to
 87-40 the counties.

87-41 (b) Not later than November 1, 2006, the Guardianship
 87-42 Alliance Office shall submit to the 79th Legislature a report
 87-43 regarding the plan developed by the office under this section. The
 87-44 report must include the office's recommendations for any statutory
 87-45 changes required to facilitate the plan and any modifications to
 87-46 the Department of Aging and Disability Services' policies,
 87-47 procedures, or administration that are necessary to facilitate the
 87-48 transfer.

87-49 SECTION 3.37. ABOLITION OF GUARDIANSHIP ADVISORY BOARD. On
 87-50 the effective date of this Act:

87-51 (1) the term of a member of the Guardianship Advisory
 87-52 Board created under Subchapter D, Chapter 531, Government Code,
 87-53 repealed by this Act, serving immediately before that date expires;
 87-54 and

87-55 (2) the advisory board is abolished.

87-56 SECTION 3.38. PROPOSED RULES AND PROCEDURES. Not later
 87-57 than March 1, 2006, the Guardianship Alliance Board established
 87-58 under Chapter 111, Government Code, as added by this Act, shall
 87-59 develop rules and procedures for consideration by the supreme court
 87-60 as required by Chapter 111, Government Code, as added by this Act.

87-61 SECTION 3.39. APPOINTMENT OF BOARD MEMBERS. (a) As soon
 87-62 as practicable after the effective date of this Act, the presiding
 87-63 judge of the statutory probate courts shall appoint 11 members to
 87-64 the Guardianship Alliance Board in accordance with Chapter 111,
 87-65 Government Code, as added by this Act. In making the initial
 87-66 appointments, the presiding judge shall designate three members for
 87-67 terms expiring February 1, 2007, four members for terms expiring
 87-68 February 1, 2009, and four members for terms expiring February 1,
 87-69 2011.

(b) As soon as practicable after the effective date of this Act, the supreme court shall appoint four members to the Guardianship Alliance Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the supreme court shall 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. 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 to provide guardianship services to a ward before September 1, 2007.

SECTION 3.41. The following are repealed:

(1) Subsections (d), (e), and (f), Section 48.209, Human Resources Code; and

(2) Subchapter D, Chapter 531, Government Code.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. This Act takes effect September 1, 2005.

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