

By: Van de Putte

S.B. No. 750

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operation of the child protective services and  
3 foster care systems.

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

5 SECTION 1. It is the intent of the legislature that the  
6 Department of Family and Protective Services privatize the  
7 provision of substitute care services and case management services  
8 statewide in order to improve the safety, permanency, and  
9 well-being of children placed in substitute care and focus on the  
10 department's primary mission of ensuring child safety. While  
11 recognizing that some local governments are presently funding  
12 portions of certain substitute care services programs and may  
13 choose to expand that funding in the future, by privatizing  
14 substitute care services, the legislature does not intend to  
15 require any county, municipality, or special district to assist in  
16 funding programs that previously have been funded by the state. It  
17 is the intent of the legislature to engage community ownership and  
18 participation in protecting and serving the children and families  
19 in their community and to increase accountability at all levels in  
20 the Department of Family and Protective Services and in contracted  
21 agencies for performance standards and achievement of targeted  
22 client outcomes.

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

1           CHAPTER 45. PRIVATIZATION OF SUBSTITUTE CARE AND

2                           CASE MANAGEMENT SERVICES

3                                   SUBCHAPTER A. GENERAL PROVISIONS

4           Sec. 45.001. DEFINITIONS. In this chapter:

5                   (1) "Case management services" means the provision of  
6 case management services to a child for whom the department has been  
7 appointed temporary or permanent managing conservator, including  
8 caseworker-child visits, family visits, the convening of family  
9 group conferences, the development and revision of the case plan,  
10 the coordination and monitoring of services needed by the child and  
11 family, and the assumption of court-related duties, including  
12 preparing court reports, attending judicial hearings and  
13 permanency hearings, and ensuring that the child is progressing  
14 toward permanency within state and federal mandates.

15                   (2) "Commission" means the Health and Human Services  
16 Commission.

17                   (3) "Department" means the Department of Family and  
18 Protective Services.

19                   (4) "Executive commissioner" means the executive  
20 commissioner of the Health and Human Services Commission.

21                   (5) "Independent administrator" means an independent  
22 nonprofit agency selected through a competitive procurement  
23 process to:

24                           (A) secure, coordinate, and manage substitute  
25 care services and case management services in a geographically  
26 designated area of the state; and

27                           (B) ensure continuity of care for a child

1 referred to the administrator by the department and the child's  
2 family from the day a child enters the child protective services  
3 system until the child leaves the system.

4 (6) "Privatize" means to contract with a private  
5 entity to provide certain governmental services.

6 (7) "Substitute care provider" means a child-care  
7 institution or a child-placing agency, as defined by Section  
8 42.002.

9 (8) "Substitute care services" means services  
10 provided to or for children in substitute care and their families,  
11 including the recruitment, training, and management of foster  
12 parents, the recruitment of adoptive families, and the facilitation  
13 of the adoption process, family preservation, independent living,  
14 emergency shelter, residential group care, foster care,  
15 therapeutic foster care, and post-placement supervision, including  
16 relative placement. The term does not include the regulation of  
17 facilities under Subchapter C, Chapter 42.

18 Sec. 45.002. PRIVATIZING SUBSTITUTE CARE AND CASE  
19 MANAGEMENT SERVICES; DEPARTMENT DUTIES. (a) Not later than  
20 September 1, 2008, the department shall complete the statewide  
21 privatization of the provision of substitute care and case  
22 management services in this state.

23 (b) On and after September 1, 2008:

24 (1) all substitute care and case management services  
25 for children for whom the department has been appointed temporary  
26 or permanent managing conservator must be provided by child-care  
27 institutions and child-placing agencies and managed by independent

1 administrators; and

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

4 (c) On and after September 1, 2008, the department shall:

5 (1) monitor the quality of services for which the  
6 department and each independent administrator contract under this  
7 chapter; and

8 (2) ensure that the services are provided in  
9 accordance with federal law and the laws of this state, including  
10 department rules and rules of the Department of State Health  
11 Services and the Texas Commission on Environmental Quality.

12 Sec. 45.003. HIRING PREFERENCE. A substitute care or case  
13 management services provider that contracts with the department to  
14 provide substitute care services or case management services shall  
15 give a preference in hiring to qualified department employees in  
16 good standing with the department who provide substitute care or  
17 case management services and whose positions with the department  
18 may be eliminated as a result of the privatization of substitute  
19 care and case management services.

20 [Sections 45.004-45.050 reserved for expansion]

21 SUBCHAPTER B. DEPARTMENT DUTIES

22 Sec. 45.051. REORGANIZING STAFF RESPONSIBILITIES. Not  
23 later than March 1, 2006, the department shall develop a plan for  
24 reorganizing the department's operation to support future  
25 procurement of, contracting with, and monitoring of private  
26 contractors and enforcement of the licensing of facilities. The  
27 plan must include provisions for reducing duplication of the

1 department's program monitoring activities.

2 Sec. 45.052. FINANCING. The department shall create  
3 financing and payment arrangements that provide incentives for an  
4 independent administrator and its subcontract providers to achieve  
5 safety, permanency, and well-being outcomes and improved system  
6 performance. In developing this financing arrangement, the  
7 department shall examine:

8 (1) the use of case rates or performance-based  
9 fee-for-service contracts that include incentive payments or  
10 payment schedules that link reimbursement to results; and

11 (2) ways to reduce a contractor's financial risk that  
12 could jeopardize the solvency of the contractor, including the use  
13 of a risk-reward corridor that limits risk of loss and potential  
14 profits or the establishment of a statewide risk pool.

15 Sec. 45.053. ADOPTION OF TRANSITION PLAN. (a) Not later  
16 than September 30, 2005, the commission and the department shall  
17 submit to the legislature a plan for the development of the  
18 transition plan, including the planning structure and process,  
19 engagement of stakeholders, and access to experienced consultation  
20 and technical assistance.

21 (b) Not later than March 1, 2006, the commission and the  
22 department shall, in consultation with private entities under  
23 contract to provide substitute care services for the department,  
24 including members of the boards of directors of the private  
25 entities and other community stakeholders, develop and adopt a  
26 substitute care and case management services transition plan  
27 consistent with the requirements of Subchapter C.

1       (c) The executive commissioner shall adopt rules to  
2 implement the privatization of substitute care and case management  
3 services in this state.

4       Sec. 45.054. REGIONAL IMPLEMENTATION. (a) The department  
5 shall implement the privatization of substitute care and case  
6 management services on a regional basis. The transition plan must  
7 include a schedule with deadlines for implementation of the plan in  
8 each region of the state. The plan must ensure that the transition  
9 is completed in the first region not later than September 1, 2006,  
10 and that the transition is completed statewide not later than  
11 September 1, 2008.

12       (b) The department may not implement the privatization of  
13 substitute care and case management services in a region of the  
14 state before the department certifies in writing to the governor  
15 and the presiding officer of each house of the legislature that the  
16 independent administrator and the private substitute care  
17 providers with whom the independent administrator has contracted  
18 are ready to provide services and assume all responsibilities  
19 transferred under the contract. In making this certification, the  
20 department must conduct a readiness assessment before implementing  
21 contracts with an independent administrator or a substitute care or  
22 case management provider in a region.

23       [Sections 45.055-45.100 reserved for expansion]

24                   SUBCHAPTER C. TRANSITION PLAN

25       Sec. 45.101. GOALS FOR PRIVATIZATION. The transition plan  
26 adopted under Section 45.053 must provide for a new structural  
27 model for the community-centered delivery of substitute care and

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

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

9 (1) identify barriers to privatization, including  
10 regional disparities in resources, provider capacity, and  
11 population, and propose solutions to stimulate capacity and adjust  
12 program delivery;

13 (2) provide details regarding the target population  
14 and services by region that will be part of the system redesign,  
15 including the number of children and families, historic caseload  
16 trends and service utilization information, and projected  
17 caseloads;

18 (3) provide details regarding the roles,  
19 responsibilities, and authority assigned to the public and private  
20 entities, including the department, independent administrators,  
21 and substitute care and case management providers, in making key  
22 decisions throughout the child and family case;

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

27 (5) include a process for assessing each child who is

1 transferred to a private nonprofit substitute care provider to  
2 verify the child's service needs;

3 (6) include an implementation plan to transfer all  
4 adoption services to private agencies, including details of how and  
5 when cases will be transferred and how adoption provider contracts  
6 and reimbursements methods will be structured;

7 (7) describe the process to transfer the duties of  
8 case management and family services from department staff to  
9 private agency staff, including the integration of family group  
10 conferencing into private agency case management;

11 (8) describe the manner in which the department will  
12 procure and contract for kinship services that are funded by the  
13 state;

14 (9) provide details regarding financial arrangements  
15 and performance expectations for independent administrators and  
16 substitute care and case management providers that:

17 (A) provide incentives for desired results and  
18 explicit contract performance and outcome indicators;

19 (B) describe how various risk-based arrangements  
20 will be weighed and realistically assessed using sound actuarial  
21 data and risk modeling and how mechanisms will be selected to limit  
22 uncontrollable risks that could threaten provider stability and  
23 quality;

24 (C) describe how financing options will increase  
25 flexibility to promote innovation and efficiency in service  
26 delivery; and

27 (D) provide balance between control over key



1 decisions and the level of risk the contractor assumes;

2 (10) require the department to enter into contracts  
3 for the provision of substitute care and case management services  
4 as required by Section 264.106, Family Code, and describe the  
5 procurement and contracting process, including:

6 (A) stating how the department will shift from an  
7 open-enrollment system to a competitive procurement system;

8 (B) identifying the services that will be  
9 procured and contracted for directly with the department and the  
10 services that will be procured by an independent administrator; and

11 (C) developing a procurement and contracting  
12 schedule to ensure full implementation not later than September 1,  
13 2008;

14 (11) provide for the implementation of Sections  
15 264.1062 and 264.107, Family Code, by describing each party's  
16 responsibility and ensuring that the department retains the legal  
17 authority to effectively provide oversight;

18 (12) describe formal training required for department  
19 staff, independent administrators, and substitute care and case  
20 management providers;

21 (13) define roles and expectations related to  
22 reporting and managing data required to ensure quality services and  
23 meet state and federal requirements, including data collection  
24 responsibilities for an independent administrator and service  
25 provider;

26 (14) describe how the transition will impact the  
27 state's ability to obtain federal funding and examine options to

1 further maximize federal funding opportunities and increased  
2 flexibility; and

3 (15) describe the costs of the transition, the initial  
4 start-up costs, and mechanisms to periodically assess the overall  
5 adequacy of funds and the fiscal impact of the change.

6 [Sections 45.103-45.150 reserved for expansion]

7 SUBCHAPTER D. MISCELLANEOUS PROVISIONS

8 Sec. 45.151. EXPIRATION. This chapter expires September 1,  
9 2010.

10 SECTION 3. Section 264.106, Family Code, is amended to read  
11 as follows:

12 Sec. 264.106. REQUIRED CONTRACTS FOR SUBSTITUTE CARE AND  
13 CASE MANAGEMENT SERVICES. (a) In this section:

14 (1) "Case management services" has the meaning  
15 assigned by Section 45.001, Human Resources Code.

16 (2) "Independent administrator" has the meaning  
17 assigned by Section 45.001, Human Resources Code.

18 (3) "Substitute care provider" has the meaning  
19 assigned by Section 45.001, Human Resources Code.

20 (4) "Substitute care services" has the meaning  
21 assigned by Section 45.001, Human Resources Code.

22 (b) The department shall:

23 (1) assess the need for substitute care and case  
24 management services throughout the state; ~~and~~

25 (2) contract with private agencies as part of regional  
26 community-centered networks managed by independent administrators

27 ~~[substitute care providers only to the extent necessary to meet the~~

1 ~~need]~~ for the provision of all necessary substitute care and case  
2 management [those] services; and

3 (3) contract with an independent administrator to  
4 coordinate and manage all services needed for children in the  
5 temporary or permanent managing conservatorship of the department  
6 in a designated geographic area.

7 (c) Administrative services to be provided by an  
8 independent administrator include:

9 (1) recruiting and subcontracting with  
10 community-based substitute care providers to ensure a full array of  
11 services in defined geographic areas;

12 (2) managing placements and making referrals for  
13 placement based on department-approved protocols;

14 (3) monitoring services delivered by subcontractors;

15 (4) providing training and technical assistance to  
16 contract providers;

17 (5) maintaining data systems that support tracking and  
18 reporting key performance and outcome data; and

19 (6) ensuring accountability for achieving defined  
20 client and system outcomes.

21 (d) [~~(b) Before contracting with a substitute care~~  
22 ~~provider, the department shall determine whether:~~

23 ~~(1) community resources are available to support~~  
24 ~~children placed under the provider's care; and~~

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

1           ~~[(c)]~~ In addition to the requirements of Section 40.058(b),  
2 Human Resources Code, a contract with an independent administrator  
3 ~~[a substitute care provider]~~ must include provisions that:

4           (1) enable the department to monitor the effectiveness  
5 of the ~~[provider's]~~ services; ~~[and]~~

6           (2) specify performance outcomes; and

7           (3) authorize the department to terminate the contract  
8 or impose sanctions for a violation of a provision of the contract  
9 that specifies performance criteria.

10          (e) A contract with an independent administrator for  
11 substitute care and case management services must include  
12 department-approved provisions that:

13           (1) enable the independent administrator and the  
14 department to:

15                   (A) monitor the effectiveness of substitute care  
16 and case management services; and

17                   (B) specify performance standards and authorize  
18 termination of the contract for cause;

19           (2) describe how performance is linked to  
20 reimbursement amounts or schedules to provide incentives for  
21 desired results; and

22           (3) ensure the ability of small agencies to  
23 participate in the provision of services.

24          (f) ~~[(d)]~~ In determining whether to contract with a  
25 substitute care provider or an independent administrator, the  
26 department shall consider the provider's or administrator's  
27 performance under any previous contract ~~[for substitute care~~

1 ~~services]~~ between the department and the provider or administrator.

2 (g) In consultation with the department, the executive  
3 commissioner of the Health and Human Services Commission, by rule,  
4 shall establish contracting guidelines for the department under  
5 this section designed to prevent potential conflicts of interest  
6 between the department and an independent administrator that  
7 contracts with the department and between an independent  
8 administrator and a provider of substitute care or case management  
9 services with whom the independent administrator contracts for  
10 services.

11 (h) A contract under this section does not affect the rights  
12 and duties of the department in the department's capacity as the  
13 temporary or permanent managing conservator of a child.

14 (i) Notwithstanding any other law, on and after September 1,  
15 2008, the department may not directly provide substitute care  
16 services for children for whom the department has been appointed  
17 temporary or permanent managing conservator.

18 ~~[(c) In this section, "substitute care provider" means a~~  
19 ~~person who provides residential care for children for 24 hours a~~  
20 ~~day, including:~~

21 ~~[(1) a child-care institution, as defined by Section~~  
22 ~~42.002, Human Resources Code,~~

23 ~~[(2) a child-placing agency, as defined by Section~~  
24 ~~42.002, Human Resources Code,~~

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

27 ~~[(4) an agency group home or agency home, as defined by~~

1 ~~Section 42.002, Human Resources Code, other than an agency group~~  
2 ~~home, agency home, or a foster home verified or certified by the~~  
3 ~~department.]~~

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

6 Sec. 264.1062. MONITORING PERFORMANCE OF SUBSTITUTE CARE  
7 AND CASE MANAGEMENT PROVIDERS. (a) The department, in  
8 consultation with private entities under contract with an  
9 independent administrator to provide substitute care or case  
10 management services, shall establish a quality assurance program  
11 that uses comprehensive, multitiered assurance and improvement  
12 systems based on real-time data to evaluate performance.

13 (b) The contract performance outcomes specified in a  
14 contract under Section 264.106 must be consistent with the fiscal  
15 goals of privatizing substitute care and case management services  
16 and must be within the contractor's authority to deliver. The  
17 contract must clearly define the manner in which the substitute  
18 care or case management provider's performance will be measured and  
19 identify the information sources the department and independent  
20 administrator will use to evaluate the performance.

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

23 (c) The contract between the department and an independent  
24 administrator must require the use of real-time technology in the  
25 independent administrator's placement system to screen possible  
26 placement options for a child and match the child's needs with the  
27 most qualified providers with vacancies.

1       (d) The department shall institute a quality assurance  
2 system in monitoring the independent administrators to ensure that  
3 placement decisions are reliable and are made in a consistent  
4 manner.

5       (e) In making placement decisions, an independent  
6 administrator shall use clinical protocols to match a child to the  
7 most appropriate placement resource.

8       (f) The department shall create a regional advisory council  
9 in each region to assist the department and independent  
10 administrator in:

11             (1) assessing the need for resources in the region;  
12 and

13             (2) locating substitute care services in the region  
14 for hard-to-place children.

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

17       (c) The department and the Title IV-D agency shall execute a  
18 memorandum of understanding for the implementation of the  
19 provisions of this section and for the allocation to ~~[between]~~ the  
20 department ~~[and the agency]~~, consistent with federal laws and  
21 regulations, of any child support funds recovered by the Title IV-D  
22 agency in substitute care cases. All child support funds recovered  
23 under this section and retained by the department ~~[or the Title IV-D~~  
24 ~~agency]~~ and any federal matching or incentive funds resulting from  
25 child support collection efforts in substitute care cases shall be  
26 in excess of amounts otherwise appropriated to ~~[either]~~ the  
27 department ~~[or the Title IV-D agency]~~ by the legislature.

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

3 Sec. 264.1095. CHILD SUPPORT. Unless the department has  
4 been assigned support rights under Section 264.109, the department  
5 shall file suit for child support under Section 154.001(b) for a  
6 child for whom the department has been named temporary managing  
7 conservator.

8 SECTION 8. Section 264.113(b), Family Code, as added by  
9 Chapter 957, Acts of the 78th Legislature, Regular Session, 2003,  
10 is amended to read as follows:

11 (b) An independent administrator [~~The department~~] shall  
12 encourage private substitute care providers [~~develop a program~~] to  
13 recruit and retain foster parents from faith-based organizations.  
14 As part of the program, the independent administrator or  
15 subcontract provider [~~department~~] shall:

16 (1) collaborate with faith-based organizations to  
17 inform prospective foster parents about the [~~department's~~] need for  
18 foster parents, the requirements for becoming a foster parent, and  
19 any other aspect of the foster care program that is necessary to  
20 recruit foster parents;

21 (2) provide training for prospective foster parents  
22 recruited under this section; and

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

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



1       Sec. 264.117. MEDICAL PASSPORT. (a) The department shall  
2 develop a medical passport for each foster child. The passport must  
3 include the child's complete medication, medical, and therapy  
4 history, including:

5           (1) immunization history;

6           (2) known medical conditions and allergies or other  
7 special health needs;

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

9           (4) medications prescribed; and

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

11       (b) The child or the child's caretaker shall present the  
12 passport during each physician or therapist visit to ensure that  
13 the physician or therapist has a complete record of the child's  
14 medical treatment.

15       (c) The passport shall be part of the department's record  
16 for the child as long as the child remains in foster care. The  
17 passport shall remain with the child as the child changes  
18 placements, physicians, or therapists.

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

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

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

25       (b) To accomplish the goals stated in Subsection (a), the  
26 department shall:

27           (1) establish time frames for the initial screening of

1 families seeking to adopt children;

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

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

8 (4) emphasize and centralize the monitoring and  
9 promoting of the permanent placement of children receiving  
10 department services;

11 (5) establish goals and performance measures in the  
12 permanent placement of children;

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

18 (7) provide information to private licensed  
19 child-placing agencies concerning children under Subdivision (6);

20 (8) provide incentives for a private licensed  
21 child-placing agency that places a child, as defined by Section  
22 162.301, under Subdivision (6);

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

25 (10) [~~address failures by the department's service~~  
26 ~~regions in making permanent placements for children in a reasonable~~  
27 ~~time, and~~

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

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

5           (18) "Residential child-care facility" means a  
6 facility licensed or certified by the department to provide  
7 assessment, care, training, education, custody, treatment, or  
8 supervision for a child who is not related by blood, marriage, or  
9 adoption to the owner or operator of the facility, for all of the  
10 24-hour day, whether or not the facility is operated for profit or  
11 charges for the services it offers. The term includes child-care  
12 institutions, foster group homes, foster homes, agency foster group  
13 homes, and agency foster homes.

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

16           (b) The annual report shall include:

17           (1) a report by regions of applications for licensure  
18 or certification, of provisional licenses issued, denied, or  
19 revoked, of licenses issued, denied, suspended, or revoked, of  
20 emergency closures and injunctions, and of the compliance of  
21 state-operated agencies, if such agencies exist, with  
22 certification requirements;

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

27           (3) a summary of training and other professional

1 development opportunities offered to facilities' staffs; ~~and~~

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

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

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

10 Sec. 42.025. STATE ADVISORY COMMITTEE ON LICENSING. (a)  
11 The executive commissioner shall establish a State Advisory  
12 Committee on Licensing.

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

15 (1) representatives of each type of licensed  
16 residential child-care facility;

17 (2) a department employee who performs functions  
18 relating to licensing; and

19 (3) a representative of the community.

20 (c) The department shall provide staff necessary for the  
21 advisory committee.

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

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

26 (1) improving consistency in the enforcement of  
27 licensing requirements;

1           (2) the provision of advanced training;  
2           (3) the revision of licensing standards; and  
3           (4) technical assistance necessary to improve the  
4 quality of care based on the information reported regarding  
5 violations of licensing standards.

6           (f) Chapter 2110, Government Code, does not apply to the  
7 committee.

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

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

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

- 17                   (1) classify each minimum standard as:  
18                           (A) an immediate health and safety issue;  
19                           (B) a procedural issue; or  
20                           (C) an administrative function; and

21                   (2) assign a priority designation to each standard  
22 within a classification that identifies the degree of risk that the  
23 issue that is the subject of the standard presents to a child's  
24 health and safety.

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

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

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

6           (g) The executive commissioner shall require residential  
7 child-care facilities and child-placing agencies to immediately  
8 report to the department when the facility or agency determines  
9 that a child is missing or if there is a serious incident involving  
10 a child, including death or serious injury, abuse or neglect, or  
11 arrest or truancy.

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

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

17           (2) classify and assign priority designations to each  
18 minimum standard described by Section 42.042(h-1), Human Resources  
19 Code, as added by this section.

20           SECTION 15. The heading to Section 42.0441, Human Resources  
21 Code, is amended to read as follows:

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

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

26           Sec. 42.04411. INSPECTION RESULTS AND EXIT CONFERENCE FOR  
27 RESIDENTIAL CHILD-CARE FACILITIES. (a) On completion of an

1 inspection of a residential child-care facility under Section  
2 42.044, the inspector shall hold an exit conference with a  
3 representative of the inspected facility. The inspector shall  
4 provide to the representative:

5 (1) a copy of the inspection checklist used by the  
6 inspector; and

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

11 (b) The inspector shall provide the representative an  
12 opportunity to respond to the violations discovered during the  
13 inspection.

14 (c) If, after holding an exit conference, the inspector  
15 finds additional violations in a subsequent inspection, the  
16 inspector shall conduct another exit conference to provide the  
17 information required by Subsection (a) with respect to the  
18 additional violations.

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

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

27 (1) holds at least a master's degree or has at least

1 three years of relevant work experience; and

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

4 (b) The department shall develop and administer  
5 competency-based examinations for department employees who inspect  
6 residential child-care facilities or conduct investigations of  
7 those facilities under this chapter. The department shall  
8 administer one examination to each employee before the employee  
9 begins a training program under Subsection (c) and another  
10 examination after the employee completes the training program.

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

15 (d) Annually, the department shall evaluate and determine  
16 the effectiveness of the training programs required under  
17 Subsection (c) in providing consistent training on the  
18 interpretation and enforcement of licensing standards for  
19 residential child-care facilities. In conducting the evaluation,  
20 the department shall determine the number of residential child-care  
21 facility licensing violations identified throughout the state and,  
22 based on that information, identify any regional discrepancies in  
23 licensing enforcement.

24 (b) Not later than January 1, 2006, the Department of Family  
25 and Protective Services shall develop and begin administering the  
26 examinations and training programs for inspectors and  
27 investigators required by Section 42.04412, Human Resources Code,



1 as added by this section.

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

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

9 (c) After receiving an application, the department shall  
10 investigate the applicant and the plan of care for children, if  
11 applicable. As part of the investigation, the department shall  
12 require the applicant to provide information about the applicant's  
13 compliance history with the regulatory requirements in any other  
14 state in which the applicant provides or provided similar services.  
15 The department shall verify the compliance history of each  
16 applicant.

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

19 Sec. 42.062. CERTAIN EMPLOYMENT PROHIBITED. A residential  
20 child-care facility may not employ in any capacity a person who is  
21 not eligible to receive a license or certification for the  
22 operation of a residential child-care facility under Section  
23 42.072(c-1).

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

26 (c-1) Notwithstanding Subsection (c), the department may  
27 not, before the fifth anniversary of the date the revocation took

1 effect, issue a license or certification for the operation of a  
2 residential child-care facility to a person who previously operated  
3 or served as an officer, director, or board officer of a residential  
4 child-care facility at the time of the occurrence of conduct that  
5 resulted in the license or certification of the facility being  
6 revoked by the department or by court order.

7 SECTION 21. (a) Not later than December 1, 2005, the  
8 Department of Family and Protective Services shall develop a plan  
9 to improve:

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

12 (2) the protocols for conducting investigations; and

13 (3) the coordination of investigations between the  
14 department and law enforcement agencies.

15 (b) The plan must be finalized by a work group consisting  
16 of:

17 (1) employees of the Department of Family and  
18 Protective Services and law enforcement professionals who have  
19 responsibility for investigating reports of child abuse and  
20 neglect; and

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

23 SECTION 22. The change in law made by Section 264.106,  
24 Family Code, as amended by this Act, applies only to a contract for  
25 substitute care services or case management services that is  
26 entered into or renewed on or after the effective date of this Act.  
27 A contract that is entered into or renewed before the effective date

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

4 SECTION 23. This Act takes effect September 1, 2005.