

BILL ANALYSIS

Senate Research Center

S.B. 758
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Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recent child deaths in the state's foster care system revealed weaknesses in oversight of the Department of Family and Protective Services (DFPS). This bill is a follow-up from S.B. 6, 79th Legislature, Regular Session, 2005, to continue needed reforms in protective services and to improve quality and accountability in foster care.

S.B. 758 clarifies certain provisions and makes adjustments to the privatization plan for foster care in Texas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission to SECTION 4 (Section 162.304, Family Code), SECTION 19 (Section 264.2011, Family Code), SECTION 12, and SECTION 32 of this bill.

Rulemaking authority is expressly granted to the Department of Family and Protective Services in SECTION 36 (Section 42.0535, Human Resources Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 39 (Section 42.056, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Amends Section 29.153(b), Education Code, as follows:

(b) Provides that a child is eligible for enrollment in a prekindergarten class under this section if the child is at least three years of age and is a homeless child, as defined by 42 U.S.C. Section 11434a, rather than is homeless, as defined by 42 U.S.C. 11302. Provides that a child is eligible for enrollment in a prekindergarten class under this section if the child is at least three years of age and is or ever has been in the conservatorship of the Department of Family and Protective Services (DFPS) following an adversary hearing held as provided by Section 262.201 (Full Adversary Hearing: Findings of the Court), Family Code.

(b) Provides that the change in law made by this section applies beginning with the 2007-2008 school year.

SECTION 2. Amends Section 102.004(a), Family Code, to authorize a relative of the child who is related within the third degree by consanguinity to file an original suit requesting managing conservatorship if the court is shown certain satisfactory proof.

SECTION 3. (a) Amends Section 102.005, Family Code, to authorize an adult who had adopted, or is the foster parent of and has petitioned to adopt, a sibling of a child, to file an original suit requesting only an adoption or for termination of the parent-child relationship joined with a petition for adoption.

(b) Provides that this section applies only to a suit affecting the parent-child relationship filed on or after the effective date of this Act.

SECTION 4. (a) Amends Section 162.304, Family Code, by adding Subsections (g) and (h), as follows:

(g) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to provide that the maximum amount of the subsidy under Subsection (b) (relating to the subsidy for the adoption of a child) that may be paid to an adoptive parent of a child under an adoption assistance agreement (agreement) is an amount that would have been paid to the foster parents of the child, based on the child's foster care service level on the date DFPS and the adoptive parent enter into the agreement. Provides that this subsection applies only to a child who, based on factors specified in DFPS rules, DFPS determines would otherwise have been expected to remain in foster care until the child's 18th birthday and for whom this state would have made foster care payments for that care. Sets forth certain factors that DFPS is authorized to consider in determining whether a child is eligible for the amount of the subsidy authorized by this subsection.

(h) Requires DFPS to use the minimum amount required to be paid to a foster parent for a child assigned the same service level as the child who is the subject of the agreement and prohibits DFPS from including any amount that a child-placing agency is entitled to retain under the foster care rate structure in effect on the date DFPS and the adoptive parent enter into the agreement.

(b) Makes application of Sections 162.304(g) and (h), Family Code, as added by this Act, prospective.

SECTION 5. Amends Section 201.007(a), Family Code, to authorize an associate judge, except as limited by an order of referral, to issue a summons for the appearance of a parent who has failed to appear before an agency authorized to conduct an investigation of an allegation of abuse or neglect of a child after receiving proper notice.

SECTION 6. Amends Section 261.303, Family Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Requires a medical facility, at the request of DFPS, to release records to DFPS relating to the injury or condition that formed the basis for the original report of a child transferred from a reporting medical facility without requiring parental consent or a court order.

(e) Requires a person, including a utility company, that has confidential locating or identifying information regarding a family that is the subject of an investigation under this chapter to release that information to DFPS on request. Provides that the release of information to DFPS as required by this subsection by a person, including a utility company, is not subject to Section 552.352 (Distribution or Misuse of Confidential Information), Government Code, or any other law providing liability for the release of confidential information.

SECTION 7. Amends Section 261.3031, Family Code, as follows:

Sec. 261.3031. FAILURE TO COOPERATE WITH INVESTIGATION; DEPARTMENT RESPONSE. (a) Creates this subsection from existing text.

(b) Provides that a person's failure to report to an agency authorized to investigate abuse or neglect of a child within a reasonable time after receiving proper notice constitutes a refusal by the person to cooperate with DFPS's investigation. Authorizes a summons to be issued to locate the person.

SECTION 8. Amends Section 263.102, Family Code, by adding Subsections (f) and (g), as follows:

(f) Requires DFPS to consult with relevant professionals to determine the skills or knowledge that the parents of a child under two years of age should learn or acquire to provide a safe placement for the child. Requires DFPS to incorporate those skills and abilities into DFPS's service plans, as appropriate.

(g) Authorizes the service plan for a child under two years of age, to the extent that funding is available, to require therapeutic visits between the child and the child's parents supervised by a licensed psychologist or another relevant professional to promote family reunification and to educate the parents about issues relating to the removal of the child.

SECTION 9. Amends Section 264.012, Family Code, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Requires DFPS to spend money appropriated for the child protective services program (program) to pay reasonable and necessary burial expenses for a person for whom DFPS is paying for foster care under Section 264.101(a-1)(2) and who dies while in foster care unless there is money in the person's estate or other money available to pay the person's burial expenses.

(b) Authorizes DFPS to accept donations, gifts, or in-kind contributions to cover the costs of any burial expenses paid by DFPS under this section.

SECTION 10. Amends Subchapter A, Chapter 264, Family Code, by adding Section 264.014, as follows:

Sec. 264.014. PROVISION OF COPIES OF CERTAIN RECORDS. Requires DFPS to provide certain records to the child in a specific time frame if, at the time a child is discharged from foster care, the child is at least 18 years of age or has had the disabilities of minority removed.

SECTION 11. Amends the heading to Section 264.106, Family Code, to read as follows:

Sec. 264.106. CONTRACTS FOR SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES.

SECTION 12. (a) Amends Sections 264.106(a), (b), (c), (e), and (g), Family Code, as follows:

(a) Redefines "case management services," "permanency services," "substitute care provider," and "substitute care services." Defines "conservatorship services." Deletes the existing definition for "independent administrator."

(b) Requires DFPS, in accordance with Chapter 45, Human Resources Code, to assess the need for substitute care services, rather than substitute care and case management services, to contract with substitute care providers for the provision of all necessary substitute care services when DFPS determines that entering into a contract will improve services to children and families, rather than using an independent administrator to contract for those services, and to monitor the quality of services for which DFPS contracts, rather than DFPS and each independent administrator contract. Deletes existing Subdivision (3) regarding contracting with an independent administrator to coordinate and manage certain services, if cost beneficial. Makes conforming changes.

(c) Requires DFPS to develop a pilot program for the competitive procurement of case management services in one or more geographic areas of the state. Requires DFPS to contract with one or more substitute care providers to provide case management services under the pilot program. Requires DFPS to have a goal of privatizing case management services in five percent of the cases in which DFPS has been appointed temporary or permanent managing conservator of a child. Deletes existing text prohibiting an independent administrator from directly providing substitute care services or being governed by a board with certain members.

(e) Sets forth certain provisions required to be included in a contract authorized under this section (Required Contracts for Substitute Care and Case Management Services). Deletes existing text prohibiting an independent administrator from refusing to accept a client who is referred for services or rejecting a client who is receiving services unless DFPS has reviewed and approved the decision in writing.

(g) Makes conforming changes.

(b) Requires DFPS to enter into one or more contracts for case management services under the pilot program described by Section 264.106, Family Code, as amended by this section, on or before September 1, 2008, with a goal of contracting for case management services in five percent of the cases in the state in which DFPS has been appointed temporary or permanent managing conservator of a child. Requires DFPS, notwithstanding this deadline, to continue to provide case management services in any area covered by the pilot program if certain conditions are met.

(c) Requires the executive commissioner to adopt rules describing the circumstances in which DFPS may continue to provide case management services on an emergency basis during the pilot program described in Section 264.106, Family Code, as amended by this section.

SECTION 13. Amends Section 264.1063, Family Code, to make conforming changes.

SECTION 14. Amends Sections 264.107(c), (d), (e), and (f), Family Code, as follows:

(c) Requires DFPS to institute the use of real-time technology in the DFPS placement system to screen possible options for a child and match the child's needs with the most qualified providers with vacancies. Deletes existing text regarding the contract between DFPS and an independent administrator or other authorized entity.

(d) Requires DFPS to ensure that placement decisions are reliable and are made in a consistent manner. Deletes existing text regarding a monitoring system relating to an independent administrator or other authorized entity.

(e) Requires DFPS, in making placement decisions, to consult with the child's caseworker and the child's attorney ad litem, guardian ad litem, or court-appointed volunteer advocate and to use clinical protocols to match a child to the most appropriate placement resource. Deletes existing text referencing an independent administrator or other authorized entity.

(f) Makes a conforming change.

(g) Authorizes a DFPS employee who has on file a background and criminal history check to provide temporary emergency care for the child if DFPS is unable to find an appropriate placement for the child. Prohibits an employee from providing emergency care under this subsection in the employee's residence. Requires DFPS to provide notice to the court for a child placed in temporary care under this subsection not later than the next business day after the date the child is placed in temporary care.

SECTION 15. Amends Subchapter B, Chapter 264, Family Code, by adding Section 264.1071, as follows:

Sec. 264.1071. PLACEMENT FOR CHILDREN UNDER AGE TWO. Requires DFPS, in making a placement decision for a child under two years of age, to ensure that the child is placed with a person who will provide a safe and emotionally stable environment and give priority to a person who will be able to provide care for the child without disruption until the child is returned to the child's parents or DFPS makes a permanent placement for the child.

SECTION 16. Amends Section 264.113, Family Code, by adding Subsections (c) and (d), as follows:

(c) Requires DFPS to work with OneStar Foundation to expand the program described by Subsection (b) (relating to a DFPS program to recruit foster parents from faith-based organizations) to increase the number of foster families available for DFPS and its private providers. Authorizes OneStar Foundation, in cooperation with DFPS, to provide training and technical assistance to establish networks and services in faith-based organizations based on best practices for supporting prospective and current foster families.

(d) Requires DFPS to work with the Department of Assistive and Rehabilitative Services to recruit foster parents and adoptive parents who have skills, training, or experience suitable to care for children with hearing impairments.

SECTION 17. Amends Section 264.121, Family Code, by adding Subsection (c), to require DFPS to provide an information booklet to a child and foster parent, at the time a child enters the Preparation for Adult Living Program, describing the program and the benefits available to the child. Sets forth the benefits to be described in the booklet for the program. Requires the information booklet provided to the child and the foster parent to be provided in the primary language spoken by that individual.

SECTION 18. Amends Subchapter B, Chapter 264, Family Code, by adding Section 264.122, as follows:

Sec. 264.122. COURT APPROVAL REQUIRED FOR TRAVEL OUTSIDE UNITED STATES BY CHILD IN FOSTER CARE. (a) Authorizes a child for whom DFPS has been appointed managing conservator and who has been placed in foster care to travel outside of the United States only if the person with whom the child has been placed has petitioned the court for, and the court has rendered an order granting, approval for the child to travel outside of the United States.

(b) Requires the court to provide notice to DFPS and to any other person entitled to notice in the suit if the court renders an order granting approval for the child to travel outside of the United States under this section.

SECTION 19. Amends Subchapter C, Chapter 264, Family Code, by adding Section 264.2011, as follows:

Sec. 264.2011. ENHANCED IN-HOME SUPPORT PROGRAM. (a) Requires DFPS to develop a program to strengthen families through enhanced support (support program) to the extent that funding is available. Requires the support program to assist certain low-income families and children in child neglect cases in which poverty is believed to be a significant underlying cause of the neglect and in which the enhancement of in-home support appears likely to prevent removal of the child from the home or to speed reunification of the child with the family.

(b) Provides that eligible families are able to receive limited funding from a flexible fund account to cover nonrecurring expenses that are designed to help the family accomplish the objectives included in the family's service plan.

(c) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules establishing specific eligibility criteria for the support program in this section, the maximum amount of money made available to a family from the flexible fund account, and the purposes for which money can be spent under the support program.

(d) Requires DFPS to evaluate the results of the support program to determine whether the support program is successful in safely keeping families together. Requires DFPS to continue the support program to the extent that funding is available if DFPS determines that the support program is successful.

SECTION 20. Amends Section 264.203(a), Family Code, to authorize DFPS to order the parent, managing conservator, guardian, or other member of the subject child's household to participate in services provided or purchased by DFPS to alleviate the effects of abuse or neglect that has occurred, reduce the reasonable likelihood that the child may be abused or neglected in the immediate or foreseeable future, and to permit the child and any siblings to receive services.

SECTION 21. Amends Chapter 266, Family Code, as added by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 266.0031, as follows:

Sec. 266.0031. COMMITTEE ON PEDIATRIC CENTERS OF EXCELLENCE RELATING TO ABUSE AND NEGLECT. (a) Provides that the committee on pediatric centers of excellence relating to abuse and neglect (committee) is composed of 10 members appointed by the executive commissioner. Requires certain representatives of interested parties to be included as members of the committee.

(b) Requires the executive commissioner to designate a member representing the Department of State Health Services as the presiding officer of the committee.

(c) Requires the executive commissioner to appoint the medical director to be DFPS's representative on the committee, if DFPS has a medical director.

(d) Requires the committee to develop guidelines to designate regional pediatric centers of excellence, develop protocols for certain health care providers to follow in evaluating suspected cases of child abuse and neglect, and to recommend methods to finance the centers of excellence and services described by this section.

(e) Requires the committee to report its findings and recommendations to DFPS and the legislature not later than December 1, 2008.

(f) Provides that this section expires January 1, 2010.

SECTION 22. Amends Section 2155.1442(a), Government Code, to delete existing text requiring the state auditor to report annually to the governor, lieutenant governor, speaker of the house of representatives, and comptroller on the auditor's recommendations and Health and Human Services Commission's (HHSC) and DFPS's implementation of each recommendation.

SECTION 23. Amends Subchapter A, Chapter 191, Health and Safety Code, by adding Section 191.0047, as follows:

Sec. 191.0047. BIRTH INFORMATION FOR DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. (a) Requires the Department of State Health Services (DSHS) to implement an efficient and effective method to verify birth information or provide a certified copy of a birth record necessary to provide services for the benefit of a minor being served by DFPS.

(b) Requires DSHS to enter into a memorandum of understanding with DFPS to implement this section. Requires the terms of the memorandum of understanding to include methods for reimbursing DSHS in an amount that is not more than the actual costs DSHS incurs in verifying the birth information or providing the birth record to DFPS.

SECTION 24. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Sections 40.0325 and 40.0326, as follows:

Sec. 40.0325. STUDY OF CASEWORKER EDUCATION REIMBURSEMENT. (a) Requires DFPS to study the effect that providing reimbursement for certain educational expenses would have on recruiting and retaining qualified child protective services caseworkers. Requires the study to include a comparative analysis of the cost of training

new caseworkers and the benefits of having an experienced caseworker staff with the cost of providing reimbursement for educational expenses.

(b) Requires DFPS, in determining the cost of reimbursing caseworkers for educational expenses, to consider reimbursing caseworkers for certain academic expenses while the caseworker was enrolled in a bachelor's degree or advanced degree program in an academic program that DFPS determines provides necessary training for child protective services caseworkers.

(c) Requires DFPS, not later than December 1, 2008, to report its findings and recommendations to the governor, lieutenant governor, and speaker of the house of representatives.

Sec. 40.0326. RECRUITMENT OF CASEWORKERS. Requires DFPS, when recruiting child protective services caseworkers, to target its recruitment efforts toward individuals who hold a bachelor's degree or advanced degree in at least one of eight specific academic areas.

SECTION 25. Amends Sections 40.0528(c) and (d), Human Resources Code, as follows:

(c) Provides that this section (Comprehensive Staffing and Workload Distribution Plan for Child Protective Services) does not prevent DFPS from contracting for special investigator services as needed.

(d) Requires DFPS, in reporting information relating to caseloads of child protective services caseworkers and in addition to reporting caseload by each individual affected by the case, to report the number of cases for each caseworker on the basis of family unit.

SECTION 26. Amends Section 40.071, Human Resources Code, to include heroin and cocaine, or any of its forms, to the chemicals and drugs targeted in the DFPS drug-endangered child initiative.

SECTION 27. Amends Section 42.001, Human Resources Code, to delete existing text providing that the purpose of this chapter is to protect the health, safety, and well-being of the children of the state who reside in child-care facilities by requiring child-care facilities to be regulated by alternative accreditation bodies.

SECTION 28. Amends Sections 42.021(a) and (b), Human Resources Code, as follows:

(a) Requires DFPS to ensure the independence of the division from the child protective services division.

(b) Requires the commissioner of DFPS (commissioner) to ensure the division director's independence from the child protective services division and prohibits the commissioner from terminating the director without the approval of the executive commissioner.

SECTION 29. (a) Amends Subchapter B, Chapter 42, Human Resources Code, by adding Section 42.0211, as follows:

Sec. 42.0211. SAFETY SPECIALISTS, RISK ANALYSTS, AND PERFORMANCE MANAGEMENT. (a) Requires the division designated by DFPS (division) to employ at least one specially trained investigation safety specialist and sets forth the certain duties of this specialist.

(b) Requires the division to employ at least one risk analyst and sets forth specific duties of the risk analyst.

(c) Requires the division to include a performance management unit and sets forth specific duties of this unit.

(b) Requires DFPS to implement the change in law made by the enactment of Section 42.0211, Human Resources Code, only to the extent that funding is available.

SECTION 30. Amends Subchapter B, Chapter 42, Human Resources Code, by adding Section 42.0221, as follows:

Sec. 42.0221. COMMITTEE ON LICENSING STANDARDS. (a) Provides that the committee on licensing standards is composed of seven specific members appointed by the governor.

(b) Provides that members of the committee on licensing standards serve two-year terms, with the terms of three or four members, as appropriate, expiring February 1 of each year.

(c) Requires the governor to designate a member of the committee on licensing standards to serve as the presiding officer.

(d) Requires the committee on licensing standards to meet twice a year at the call of the presiding officer.

(e) Requires the committee on licensing standards to review and analyze the information provided by DFPS and committee members and to make recommendations for policy and statutory changes relating to licensing standards and facility inspections. Sets forth certain information required to be analyzed by the committee on licensing standards.

(f) Requires the committee on licensing standards to report its findings and recommendations to DFPS and the legislature not later than December 1 of each year.

SECTION 31. Amends Section 42.042, Human Resources Code, by adding Subsection (r), as follows:

(r) Authorizes a residential child-care facility that provides emergency services to temporarily exceed the facility's capacity for not more than 48 hours to provide temporary care for a child in an emergency. Requires the facility to notify DFPS within 24 hours of the placement that the facility temporarily exceeded the facility's capacity.

SECTION 32. (a) Amends Section 42.044, Human Resources Code, by adding Subsections (b-1) and (b-2) and amending Subsection (e), as follows:

(b-1) Sets forth required composition of the team that will conduct at least one of the unannounced, annual inspections of a residential child-care facility.

(b-2) Requires DFPS, except as otherwise provided by this subsection, during an unannounced annual inspection of a day-care center, to meet with the director designated by the day-care center as having daily, on-site responsibility for the operation of the day-care center to assess whether the director meets the qualifications of a director specified by this chapter and DFPS rules. Requires DFPS, if the director is not present during the unannounced annual inspection, to schedule a subsequent meeting with the director for that purpose and is required to conduct that meeting at the day-care center.

(e) Requires DFPS, in addition to DFPS responsibilities to investigate an agency foster home or agency foster group home under Subsection (c), to investigate certain incidents, conduct certain inspections, and conduct at least one annual enforcement team conference for each child-placing agency.

(b) Requires the executive commissioner to adopt rules specifying the types of alleged minimum standards violations that are considered to pose a high degree of risk to a child in the care of an agency foster home or agency foster group home under the age of six

and is required to be investigated by DFPS under Section 42.044(a)(3), Human Resources Code, as added by this Act.

(c) Requires DFPS to implement the change in law made by this Act to Section 42.044, Human Resources Code, only to the extent that funding is available. Provides that the executive commissioner is not required to adopt rules as directed by Subsection (b) of this section if funding is not available.

SECTION 33. Amends Section 42.0445(a), Human Resources Code, to provide requirements of DFPS before the issuance of a license, listing, registration, or certification under this subchapter, rather than the issuance or renewal of a license, registration, or certification.

SECTION 34. Amends Section 42.0461(a), Human Resources Code, to make a conforming change.

SECTION 35. Amends Section 42.048(e), Human Resources Code, as follows:

(e) Provides that, except as provided by this subsection, a change in location or ownership automatically revokes a license. Provides that a change in location of a child-placing agency does not automatically revoke the license to operate the child-placing agency.

SECTION 36. Amends Section 42.0535, Human Resources Code, by adding Subsections (e) and (f), as follows:

(e) Requires DFPS by rule to develop a process by which a child-placing agency is required to report certain information to DFPS.

(f) Requires information gathered under Subsection (e) to be made available to child-placing agencies through a searchable database maintained by DFPS.

SECTION 37. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0536, as follows:

Sec. 42.0536. TRANSFER OF AGENCY FOSTER HOME. (a) Authorizes an agency foster home that is verified by a child-placing agency to transfer to another child-placing agency only if, before the date of the transfer, the agency foster home notifies the child-placing agency to which the agency foster home is transferring of each licensing violation for which the agency foster home has been cited by DFPS during the preceding three years.

(b) Requires the child-placing agency to which the agency foster home is transferring to submit a written request for transfer to the child-placing agency that verified the agency foster home.

(c) Requires the child-placing agency, not later than the 10th day after the date the child-placing agency receives a request for transfer under Subsection (b), to provide the child-placing agency that submitted the request a copy of certain documents regarding the agency foster home.

(d) Authorizes the DFPS caseworker for each child placed in the agency foster home to conduct a review meeting to determine whether the transfer of the agency foster home is in the best interest of each child in the home on the request of certain agencies or individuals.

(e) Requires the caseworker, after a review meeting, to determine whether each child placed in the agency foster home is required to stay in the agency foster home after the agency foster home is transferred to the new child-placing agency or be removed from the agency foster home before the agency foster home is transferred to the new child-placing agency.

SECTION 38. Amends the heading to Section 42.056, Human Resources Code, to read as follows:

Sec. 42.056. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS; CRIMINAL PENALTIES.

SECTION 39. Amends Section 42.056, Human Resources Code, by adding Subsections (a-2), (b-1), (g), (h), (i), (j), and (k), as follows:

(a-2) Requires the director, owner, or operator of a day-care center, in accordance with rules adopted by the executive commissioner, to submit a complete set of fingerprints of each person whose name is submitted under Subsection (a). Requires the rules adopted by the executive commissioner to require that the fingerprints be submitted in a form and of a quality acceptable to DPS and the Federal Bureau of Investigation (FBI) for conducting a criminal history check. Authorizes the rules adopted by the executive commissioner to require that the fingerprints be submitted electronically through an applicant fingerprinting service center.

(b-1) Requires DFPS to conduct a state and FBI criminal history check in a certain manner in addition to any other background or criminal history check conducted under Subsection (b) for each person whose name is submitted by the director, owner, or operator of a day-care center under Subsection (a).

(g) Prohibits a person whose name is submitted by the director, owner, or operator of a day-care center under Subsection (a) from providing direct care or having direct access to a child in a day-care center before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. Authorizes a person to be employed at a day-care center and to provide direct care or have direct access to a child in the day-care center before the person's criminal history check under Subsection (b-1) is completed under certain circumstances.

(h) Requires the director, owner, or operator of the day-care center to immediately terminate a person's employment if the results of a criminal history check under Subsection (b-1) for a person employed by a day-care center during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the day-care center.

(i) Provides that a director, owner, or operator of a day-care center commits an offense if the director, owner, or operator knowingly fails to submit to DFPS information about a person as required by this section and DFPS rules for use in conducting background and criminal history checks with respect to the person and employs the person at the day-care center or otherwise allows the person to regularly or frequently stay or work at the day-care center while children are being provided care.

(j) Provides that a director, owner, or operator of a day-care center commits an offense if, after the date the director, owner, or operator receives notice from DFPS that, based on results of a person's background or criminal history check, the person is precluded from being present at the day-care center, the director, owner, or operator knowingly employs the person at the day-care center or otherwise allows the person to regularly or frequently stay or work at the day-care center while children are being provided care.

(k) Provides that an offense under Subsection (i) or (j) is a Class B misdemeanor.

SECTION 40. Amends Section 42.0705, Human Resources Code, to make a conforming change.

SECTION 41. Amends Subchapter D, Chapter 42, Human Resources Code, by adding Section 42.0761, as follows:

Sec. 42.0761. CRIMINAL PENALTY FOR OPERATING DAY-CARE CENTER WITHOUT QUALIFIED DIRECTOR. (a) Provides that an owner or operator of a day-

care center commits an offense if the owner or operator knowingly operates the day-care center without a director who meets the qualifications of a director prescribed by DFPS rules or without the routine presence during the day-care center's hours of operation of a director described by Subdivision (1).

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

SECTION 42. Amends Section 42.078(a), Human Resources Code, to make a conforming change.

SECTION 43. Amends the heading to Chapter 45, Human Resources Code, to read as follows:

CHAPTER 45. CONTRACTS FOR SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES

SECTION 44. Amends Sections 45.001(1), (12), and (13), Human Resources Code, to redefine "case management services," "substitute care provider," and "substitute care services."

SECTION 45. Amends the heading to Section 45.002, Human Resources Code, to read as follows:

Sec. 45.002. CONTRACTS FOR SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES; DEPARTMENT DUTIES.

SECTION 46. Amends Sections 45.002(a) and (c), Human Resources Code, as follows:

(a) Requires DFPS, not later than September 1, 2008, to contract with one or more providers of case management services in one or more geographic areas of the state as provided by Section 264.106, Family Code, with a goal of contracting for those services in five percent of the cases in this state. Deletes existing text requiring DFPS, not later than September 1, 2011, to complete the statewide privatization of the provision of substitute care and case management services in this state.

(c) Requires DFPS to ensure that all substitute care and case management service providers, to the extent possible, honor the cultural and religious affiliations of a child placed in the service provider's care, regardless of the religious affiliation of the service provider. Makes conforming changes.

SECTION 47. Amends Section 45.004, Human Resources Code, as follows:

Sec. 45.004. New heading: DEPARTMENT DATA SYSTEM DUTIES. Deletes existing Subsections (a) and (b) requiring DFPS to develop a strategy for contracting management support services from independent administrators.

SECTION 48. Amends the heading to Section 45.054, Human Resources Code, to read as follows:

Sec. 45.054. EVALUATION OF CASE MANAGEMENT SERVICES.

SECTION 49. Amends Sections 45.054(c) and (d), Human Resources Code, as follows:

(c) Requires DFPS to contract with a qualified, independent third party to evaluate the pilot program not later than the second, rather than the first, anniversary of the date DFPS enters into the first contract for case management services under this section (Regional Implementation). Deletes existing text regarding the privatization of substitute care. Deletes existing text requiring an evaluation to compare services provided by DFPS in similar regions. Makes conforming changes.

(d) Requires the independent third party with whom DFPS contracts with under Subsection (c) to submit its reports and recommendations to the House Human Services

Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, not later than September 1, 2010.

SECTION 50. Amends Section 45.101, Human Resources Code, as follows:

Sec. 45.101. New heading: GOALS FOR CONTRACTING. Requires DFPS to achieve certain goals in contracting for substitute care and case management services. Deletes existing text requiring the transition plan adopted under Section 45.053 to provide for a new structural model for the community-centered delivery of substitute care and case management services that is based on certain goals.

SECTION 51. (a) Requires DFPS to develop a child protective services improvement plan designed to build on the reform elements added by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005. Requires DFPS, in developing the plan, to seek to expand on or modify initiatives that have resulted in demonstrable improvements that serve certain primary goals.

(b) Sets forth the required elements of the improvement plan.

(c) Requires the recommendations for expanding and improving provider capabilities under Subsection (b)(8) of this section to include provisions for start-up funding for providers to build necessary capacity in the state, partnerships with community leaders to identify local resources to support building capacity, and the development of pilot projects to procure regional capacity development. Requires DFPS, beginning September 1, 2007, at the end of each fiscal year, to prepare a progress report that details DFPS's activities in implementing the recommendations described in Subsection (b)(8) of this section. Requires the progress report to include regional data regarding the number of children in state conservatorship who are placed in their home region separated into classifications based on levels of care. Requires DFPS to submit the periodic progress reports required by this subsection to the governor, the lieutenant governor, the speaker of the house of representatives, appropriate oversight committees of the legislature, the Legislative Budget Board, and the state auditor.

(d) Requires DFPS to implement the improvement plan described by this section only to the extent that funds are available for that purpose. Requires DFPS, if funding is only available to fund some elements of the plan, to implement only those parts of the plan for which funding is available. Requires DFPS to contract for services needed to implement certain elements of the improvement plan to the extent feasible.

SECTION 52. (a) Requires DFPS to implement each element of the improvement plan required by Section 51 of this Act for which funding is obtained and continue to implement all reform activities required by Chapter 268, Acts of 79th Legislature, Regular Session, 2005, as modified by this Act, not later than December 31, 2007.

(b) Requires DFPS to prepare and submit a progress report detailing DFPS activities in implementing the plan described by Subsection (a)(1) at the end of each fiscal year beginning August 31, 2008. Requires the progress report to include DFPS's calculation of cost savings from reduced stays in foster care and any other cost savings that can be attributed to the implementation of the improvement plan and continued child protective services reforms.

(c) Requires DFPS to submit the implementation plan and periodic progress reports by this section to the governor, the lieutenant governor, the speaker of the house of representatives, appropriate oversight committees of the legislature, the Legislative Budget Board, and the state auditor.

(d) Provides that this section expires September 1, 2010.

SECTION 53. Requires DFPS to actively pursue a waiver or other authorization from an appropriate federal agency to use any available federal funds, including funds available under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), to provide monthly monetary

assistance under a caregiver assistance agreement in accordance with Section 264.755, Family Code.

SECTION 54. Repealer: Sections 264.106(d), (f), (i), (j), and (k), Family Code (Required Contracts for Substitute Care and Case Management Services); Section 264.1062 (Evaluation of Independent Administrators), Family Code; Section 42.022 (State Advisory Committee), Human Resources Code; Section 42.0505 (Renewal of License), Human Resources Code; Sections 45.001(5), (6), (8), (9), (10), and (11) (defining "family-based safety services," "independent administrator," "permanency services," "placement assessment," "privatize," and "psychotropic medication"), Human Resources Code; Sections 45.002(b), (d), and (e) (Privatizing Substitute Care and Case Management Services; Department Duties), Human Resources Code; Sections 45.052 (Financing) and 45.053 (Adoption of Transition Plan), Human Resources Code; Sections 45.054(a), (b), and (e) through (h) (regarding the privatization of substitute care and case management services on a regional bases in accordance with the transition plan), Human Resources Code; and Section 45.102 (Transition Plan Requirements), Human Resources Code.

SECTION 55. Makes application of the change in law made by this Act to Section 102.004, Family Code, prospective.

SECTION 56. Makes application of Sections 42.056(a-2), (b-1), (g), and (h), Human Resources Code, as added by this Act, prospective.

SECTION 57. Effective date: September 1, 2007.