

By: Nelson, Uresti

S.B. No. 758

A BILL TO BE ENTITLED

AN ACT

relating to child protective services.

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

SECTION 1. Subsection (a), Section 102.004, Family Code, is amended to read as follows:

(a) In addition to the general standing to file suit provided by Section 102.003, a grandparent, or another relative of the child related within the third degree by consanguinity, may file an original suit requesting managing conservatorship if there is satisfactory proof to the court that:

(1) the order requested is necessary because the child's present circumstances would significantly impair the child's physical health or emotional development; or

(2) both parents, the surviving parent, or the managing conservator or custodian either filed the petition or consented to the suit.

SECTION 2. (a) Section 162.304, Family Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) The executive commissioner of the Health and Human Services Commission by rule shall provide that the maximum amount of the subsidy under Subsection (b) that may be paid to an adoptive parent of a child under an adoption assistance agreement is an amount that is equal to the amount that would have been paid to the foster parent of the child, based on the child's foster care service

1 level on the date the department and the adoptive parent enter into
2 the adoption assistance agreement. This subsection applies only to
3 a child who, based on factors specified in rules of the department,
4 the department determines would otherwise have been expected to
5 remain in foster care until the child's 18th birthday and for whom
6 this state would have made foster care payments for that care.
7 Factors the department may consider in determining whether a child
8 is eligible for the amount of the subsidy authorized by this
9 subsection include the following:

10 (1) the child's mental or physical disability, age,
11 and membership in a sibling group; and

12 (2) the number of prior placement disruptions the
13 child has experienced.

14 (h) In determining the amount that would have been paid to a
15 foster parent for purposes of Subsection (g), the department:

16 (1) shall use the minimum amount required to be paid to
17 a foster parent for a child assigned the same service level as the
18 child who is the subject of the adoption assistance agreement; and

19 (2) may not include any amount that a child-placing
20 agency is entitled to retain under the foster care rate structure in
21 effect on the date the department and the adoptive parent enter into
22 the agreement.

23 (b) Subsections (g) and (h), Section 162.304, Family Code,
24 as added by this section, apply only to an adoption assistance
25 agreement that is entered into on or after the effective date of
26 this Act. An adoption assistance agreement that was entered into
27 before the effective date of this Act is governed by the law in

1 effect on the date the agreement was entered into, and the former
2 law is continued in effect for that purpose.

3 SECTION 3. Section 261.303, Family Code, is amended by
4 amending Subsection (d) and adding Subsection (e) to read as
5 follows:

6 (d) A person, including a medical facility, that makes a
7 report under Subchapter B shall release to the department or
8 designated agency, as part of the required report under Section
9 261.103, records that directly relate to the suspected abuse or
10 neglect without requiring parental consent or a court order. If a
11 child is transferred from a reporting medical facility to another
12 medical facility to treat the injury or condition that formed the
13 basis for the original report, the transferee medical facility
14 shall, at the department's request, release to the department
15 records relating to the injury or condition without requiring
16 parental consent or a court order.

17 (e) A person, including a utility company, that has
18 confidential locating or identifying information regarding a
19 family that is the subject of an investigation under this chapter
20 shall release that information to the department on request. The
21 release of information to the department as required by this
22 subsection by a person, including a utility company, is not subject
23 to Section 552.352, Government Code, or any other law providing
24 liability for the release of confidential information.

25 SECTION 4. Section 263.102, Family Code, is amended by
26 adding Subsections (f) and (g) to read as follows:

27 (f) The department shall 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. The department shall incorporate those skills and abilities into the department's service plans, as appropriate.

(g) To the extent that funding is available, the service plan for a child under two years of age may 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 5. Section 264.012, Family Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) The department shall spend money appropriated for the child protective services program to pay reasonable and necessary burial expenses for a person for whom the department 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) The department may accept donations, gifts, or in-kind contributions to cover the costs of any burial expenses paid by the department under this section ~~[for children for whom the department has been appointed managing conservator]~~.

SECTION 6. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.014 to read as follows:

Sec. 264.014. PROVISION OF COPIES OF CERTAIN RECORDS. If,

1 at the time a child is discharged from foster care, the child is at
2 least 18 years of age or has had the disabilities of minority
3 removed, the department shall provide to the child, not later than
4 the 30th day after the date the child is discharged from foster
5 care, a copy of:

- 6 (1) the child's birth certificate;
7 (2) the child's immunization records; and
8 (3) the information contained in the child's health
9 passport.

10 SECTION 7. The heading to Section 264.106, Family Code, is
11 amended to read as follows:

12 Sec. 264.106. ~~[REQUIRED]~~ CONTRACTS FOR SUBSTITUTE CARE AND
13 CASE MANAGEMENT SERVICES.

14 SECTION 8. (a) Subsections (a), (b), (c), (e), (g), (i),
15 (j), and (k), Section 264.106, Family Code, are amended to read as
16 follows:

17 (a) In this section:

18 (1) "Case management services" means the provision of
19 ~~[case management]~~ services, other than conservatorship services,
20 to a child for whom the department has been appointed temporary or
21 permanent managing conservator, including:

22 (A) developing and revising [caseworker-child
23 visits, family visits, the convening of family group conferences,
24 the development and revision of] the child and family case plan,
25 using family group decision-making in appropriate cases;

26 (B) coordinating [the coordination] and
27 monitoring permanency ~~[of]~~ services needed by the child and family

1 to ensure~~[, and the assumption of court-related duties, including~~
2 ~~preparing court reports, attending judicial hearings and~~
3 ~~permanency hearings, and ensuring]~~ that the child is progressing
4 toward permanency within state and federal mandates; and

5 (C) assisting the court by acting as a resource
6 in a suit affecting the parent-child relationship involving a child
7 for whom a case management services provider provides services.

8 (2) "Conservatorship services" means services
9 provided directly by the department that the department considers
10 necessary to ensure federal financial participation and compliance
11 with state law requirements, including:

12 (A) initial placement of a child and approval of
13 all subsequent placements of a child;

14 (B) approval of the child and family service
15 plan;

16 (C) assisting the department in a suit affecting
17 the parent-child relationship commenced by the department; and

18 (D) any other action the department considers
19 necessary to ensure the safety and well-being of a child
20 ~~["Independent administrator" means an independent agency selected~~
21 ~~through a competitive procurement process to:~~

22 ~~[(A) secure, coordinate, and manage substitute~~
23 ~~care services and case management services in a geographically~~
24 ~~designated area of the state; and~~

25 ~~[(B) ensure continuity of care for a child~~
26 ~~referred to the administrator by the department and the child's~~
27 ~~family from the day a child enters the child protective services~~

1 ~~system until the child leaves the system].~~

2 (3) "Permanency services" means services~~[, other than~~
3 ~~family-based safety services,~~] provided to secure a child's safety,
4 permanency, and well-being, including:

5 (A) substitute care services;

6 (B) medical, dental, mental health, and
7 educational services;

8 (C) ~~[,]~~ family reunification services;

9 (D) ~~[, adoption and postadoption services,~~
10 preparation for adult living services;

11 (E) convening family group conferences; and

12 (F) child and family visits~~[, and case management~~
13 ~~services].~~

14 (4) "Substitute care provider" means:

15 (A) a child-care institution or a child-placing
16 agency, as defined by Section 42.002, Human Resources Code; or

17 (B) a provider of residential child-care that is
18 licensed or certified by another state agency.

19 (5) "Substitute care services" means services
20 provided by a substitute care provider to or for a child in the
21 temporary or permanent managing conservatorship of the department
22 ~~[children in substitute care and their families],~~ including the
23 recruitment, training, and management of foster and adoptive homes
24 by a child-placing agency ~~[parents, the recruitment of adoptive~~
25 ~~families, and the facilitation of the adoption process, family~~
26 ~~preservation, independent living, emergency shelter, residential~~
27 ~~group care, foster care, therapeutic foster care, and~~

~~post-placement supervision, including relative placement~~]. The term does not include the regulation of facilities under Subchapter C, Chapter 42, Human Resources Code.

(b) The department shall, in accordance with Chapter 45 ~~[Section 45.004]~~, Human Resources Code:

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

(2) ~~[either]~~ contract ~~[directly]~~ with substitute care providers ~~[private agencies as part of regional community-centered networks]~~ for the provision of all necessary substitute care ~~[and case management]~~ services ~~[or use an independent administrator to contract for those services]~~;

(3) ~~[contract with an independent administrator, if cost beneficial, to coordinate and manage all services needed for children in the temporary or permanent managing conservatorship of the department in a designated geographic area,~~

~~[(4)]~~ monitor the quality of services for which the department contracts ~~[and each independent administrator contract]~~ under this section; and

(4) ~~[(5)]~~ ensure that the services are provided in accordance with federal law and the laws of this state, including department rules and rules of the Department of State Health Services and the Texas Commission on Environmental Quality.

(c) The department shall develop a pilot program for the competitive procurement of case management services in one or more geographic areas of the state. The department shall contract with one or more substitute care providers to provide case management

1 services under the pilot program. The department shall have a goal
 2 of privatizing case management services in at least 10 percent of
 3 the cases in which the department has been appointed temporary or
 4 permanent managing conservator of a child [~~An independent~~
 5 ~~administrator may not.~~

6 [~~(1) directly provide substitute care services; or~~
 7 [~~(2) be governed by a board that has a member who has a~~
 8 ~~financial interest in a substitute care or case management provider~~
 9 ~~with whom the independent administrator subcontracts].~~

10 (e) In addition to the requirements of Section 40.058(b),
 11 Human Resources Code, a contract authorized under this section
 12 [~~with an independent administrator~~] must include provisions that:

13 (1) enable the department to monitor the effectiveness
 14 of the services;

15 (2) specify performance outcomes;

16 (3) authorize the department to terminate the contract
 17 or impose sanctions for a violation of a provision of the contract
 18 that specifies performance criteria;

19 (4) ensure that a contractor for case management
 20 services or substitute care services in appropriate cases [~~an~~
 21 ~~independent administrator~~] may not refuse to accept a client who is
 22 referred for services or reject a client who is receiving services
 23 unless the department has reviewed the contractor's [~~independent~~
 24 ~~administrator's~~] decision and approved the decision in writing;

25 (5) ensure that a private agency that is providing
 26 substitute care or case management services for a child shall
 27 provide to the child's attorney ad litem and guardian ad litem

1 access to the agency's information and records relating to the
2 child;

3 (6) authorize the department, an agent of the
4 department, and the state auditor to inspect all books, records,
5 and files maintained by a contractor ~~[an independent administrator]~~
6 relating to the contract; and

7 (7) ~~[(6)]~~ the department determines are necessary to
8 ensure accountability for the delivery of services and for the
9 expenditure of public funds.

10 (g) In determining whether to contract with a substitute
11 care provider ~~[or an independent administrator]~~, the department
12 shall consider the provider's ~~[or administrator's]~~ performance
13 under any previous contract between the department and the provider
14 ~~[or administrator]~~.

15 (i) Except as provided by Subsections (j) and (k) and
16 notwithstanding any other law, on and after September 1, 2009
17 ~~[2011]~~, the department may not directly provide substitute care
18 ~~[and case management]~~ services for children for whom the department
19 has been appointed temporary or permanent managing conservator.

20 (j) On and after September 1, 2009 ~~[2011]~~, the department
21 may provide substitute care ~~[and case management]~~ services in an
22 emergency. The executive commissioner shall adopt rules describing
23 the circumstances in which the department may provide those
24 services.

25 (k) The department may provide substitute care ~~[and case~~
26 ~~management]~~ services as a provider of last resort in any region of
27 the state in which the department ~~[or an independent administrator]~~

1 ~~contracting with the department~~ is unable to contract with a
2 substitute care provider [~~private agency~~] to provide those
3 services.

4 (b) The Department of Family and Protective Services shall
5 enter into one or more contracts for case management services under
6 the pilot program described by Section 264.106, Family Code, as
7 amended by this section, on or before September 1, 2009, with a goal
8 of contracting for case management services in at least 10 percent
9 of the cases in the state in which the department has been appointed
10 temporary or permanent managing conservator of a child.
11 Notwithstanding this deadline, the department must continue to
12 provide case management services in any area covered by the pilot
13 program if:

14 (1) the department is unable to enter into a contract
15 with a person to provide case management services; or

16 (2) after entering into a contract, either the
17 contractor or the department terminates the contract.

18 (c) The executive commissioner of the Health and Human
19 Services Commission shall adopt rules describing the circumstances
20 in which the Department of Family and Protective Services may
21 continue to provide case management services on an emergency basis
22 during the pilot program described in Section 264.106, Family Code,
23 as amended by this section.

24 SECTION 9. Section 264.1063, Family Code, is amended to
25 read as follows:

26 Sec. 264.1063. MONITORING PERFORMANCE OF SUBSTITUTE CARE
27 AND CASE MANAGEMENT PROVIDERS. (a) The department, in

1 consultation with substitute care providers ~~[private entities]~~
2 under contract with ~~[either an independent administrator or]~~ the
3 department to provide substitute care or case management services,
4 shall establish a quality assurance program that uses
5 comprehensive, multitiered assurance and improvement systems
6 ~~[based, subject to the availability of funds, on real-time data]~~ to
7 evaluate performance.

8 (b) The contract performance outcomes specified in a
9 contract under Section 264.106 must be ~~[consistent with the fiscal~~
10 ~~goals of privatizing substitute care and case management services~~
11 ~~and must be]~~ within the contractor's authority to deliver. The
12 contract must clearly define the manner in which the substitute
13 care or case management provider's performance will be measured and
14 identify the information sources the department ~~[and, if~~
15 ~~applicable, the independent administrator]~~ will use to evaluate the
16 performance.

17 SECTION 10. Section 264.107, Family Code, is amended by
18 amending Subsections (c) through (f) and adding Subsection (g) to
19 read as follows:

20 (c) The department shall institute ~~[contract between the~~
21 ~~department and an independent administrator or other authorized~~
22 ~~entity must require, not later than September 1, 2009,]~~ the use of
23 real-time technology in the department's ~~[independent~~
24 ~~administrator's or other authorized entity's]~~ placement system to
25 screen possible placement options for a child and match the child's
26 needs with the most qualified providers with vacancies.

27 (d) The department shall ~~[institute a quality assurance~~

1 ~~system in monitoring the independent administrators or other~~
2 ~~authorized entities to]~~ ensure that placement decisions are
3 reliable and are made in a consistent manner.

4 (e) In making placement decisions, the department ~~[an~~
5 ~~independent administrator or other authorized entity]~~ shall:

6 (1) consult with the child's caseworker and the
7 child's attorney ad litem, guardian ad litem, or court-appointed
8 volunteer advocate when possible; and

9 (2) use clinical protocols to match a child to the most
10 appropriate placement resource.

11 (f) The department may create a regional advisory council in
12 a region to assist the department ~~[and independent administrator or~~
13 ~~other authorized entity]~~ in:

14 (1) assessing the need for resources in the region;
15 and

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

18 (g) If the department is unable to find an appropriate
19 placement for a child, an employee of the department who has on file
20 a background and criminal history check may provide temporary
21 emergency care for the child. An employee may not provide emergency
22 care under this subsection in the employee's residence. The
23 department shall provide notice to the court for a child placed in
24 temporary care under this subsection not later than the next
25 business day after the date the child is placed in temporary care.

26 SECTION 11. Subchapter B, Chapter 264, Family Code, is
27 amended by adding Section 264.1071 to read as follows:

1 Sec. 264.1071. PLACEMENT FOR CHILDREN UNDER AGE TWO. In
2 making a placement decision for a child under two years of age, the
3 department shall:

4 (1) ensure that the child is placed with a person who
5 will provide a safe and emotionally stable environment for the
6 child; and

7 (2) give priority to a person who will be able to
8 provide care for the child without disruption until the child is
9 returned to the child's parents or the department makes a permanent
10 placement for the child.

11 SECTION 12. Section 264.113, Family Code, is amended by
12 adding Subsections (c) and (d) to read as follows:

13 (c) The department shall work with OneStar Foundation to
14 expand the program described by Subsection (b) to increase the
15 number of foster families available for the department and its
16 private providers. In cooperation with the department, OneStar
17 Foundation may provide training and technical assistance to
18 establish networks and services in faith-based organizations based
19 on best practices for supporting prospective and current foster
20 families.

21 (d) The department shall work with the Department of
22 Assistive and Rehabilitative Services to recruit foster parents and
23 adoptive parents who have skills, training, or experience suitable
24 to care for children with hearing impairments.

25 SECTION 13. Section 264.121, Family Code, is amended by
26 adding Subsection (c) to read as follows:

27 (c) At the time a child enters the Preparation for Adult

1 Living Program, the department shall provide an information booklet
2 to the child and the foster parent describing the program and the
3 benefits available to the child, including extended Medicaid
4 coverage until age 21, priority status with the Texas Workforce
5 Commission, and the exemption from the payment of tuition and fees
6 at institutions of higher education as defined by Section 61.003,
7 Education Code.

8 SECTION 14. Subchapter C, Chapter 264, Family Code, is
9 amended by adding Section 264.2011 to read as follows:

10 Sec. 264.2011. ENHANCED IN-HOME SUPPORT PROGRAM. (a) To
11 the extent that funding is available, the department shall develop
12 a program to strengthen families through enhanced in-home support.
13 The program shall assist certain low-income families and children
14 in child neglect cases in which poverty is believed to be a
15 significant underlying cause of the neglect and in which the
16 enhancement of in-home support appears likely to prevent removal of
17 the child from the home or to speed reunification of the child with
18 the family.

19 (b) A family that meets eligibility criteria for inclusion
20 in the program is eligible to receive limited funding from a
21 flexible fund account to cover nonrecurring expenses that are
22 designed to help the family accomplish the objectives included in
23 the family's service plan.

24 (c) The executive commissioner shall adopt rules
25 establishing:

26 (1) specific eligibility criteria for the program
27 described in this section;

1 (2) the maximum amount of money that may be made
2 available to a family through the flexible fund account; and

3 (3) the purposes for which money made available under
4 the program may be spent.

5 (d) The department shall evaluate the results of the program
6 to determine whether the program is successful in safely keeping
7 families together. If the department determines that the program
8 is successful, the department shall continue the program to the
9 extent that funding is available.

10 SECTION 15. Subsection (a), Section 264.203, Family Code,
11 is amended to read as follows:

12 (a) Except as provided by Subsection (d), the court on
13 request of the department may order the parent, managing
14 conservator, guardian, or other member of the subject ~~[abused or~~
15 ~~neglected]~~ child's household to:

16 (1) participate in the services the department
17 provides or purchases for:

18 (A) alleviating the effects of the abuse or
19 neglect that has occurred; or

20 (B) reducing the reasonable likelihood that the
21 child may be abused or neglected in the immediate or foreseeable
22 future; and

23 (2) [to] permit the child and any siblings of the child
24 to receive the services.

25 SECTION 16. Chapter 266, Family Code, as added by Chapter
26 268, Acts of the 79th Legislature, Regular Session, 2005, is
27 amended by adding Section 266.0031 to read as follows:

1 Sec. 266.0031. COMMITTEE ON PEDIATRIC CENTERS OF EXCELLENCE
2 RELATING TO ABUSE AND NEGLECT. (a) The committee on pediatric
3 centers of excellence relating to abuse and neglect is composed of
4 nine members appointed by the executive commissioner. The members
5 must include:

6 (1) a representative of the attorney general's office;

7 (2) a representative of the Department of State Health
8 Services;

9 (3) a representative of the Department of Family and
10 Protective Services;

11 (4) a representative of the Health and Human Services
12 Commission;

13 (5) a representative of a child advocacy center;

14 (6) three pediatricians who specialize in treating
15 victims of child abuse; and

16 (7) a representative from a children's hospital.

17 (b) The executive commissioner shall designate a member
18 representing the Department of State Health Services as the
19 presiding officer of the committee.

20 (c) If there is a medical director for the department, the
21 executive commissioner shall appoint the medical director to be the
22 department's representative on the committee.

23 (d) The committee shall:

24 (1) develop guidelines for designating regional
25 pedsiatric centers of excellence that:

26 (A) provide medical expertise to children who are
27 suspected victims of abuse and neglect; and

1 (B) assist the department in evaluating and
2 interpreting the medical findings for children who are suspected
3 victims of abuse and neglect;

4 (2) develop recommended procedures and protocols for
5 physicians, nurses, hospitals, and other health care providers to
6 follow in evaluating suspected cases of child abuse and neglect;
7 and

8 (3) recommend methods to finance the centers of
9 excellence and services described by this section.

10 (e) The committee shall report its findings and
11 recommendations to the department and the legislature not later
12 than September 1, 2009.

13 (f) This section expires January 1, 2010.

14 SECTION 17. Subsection (a), Section 2155.1442, Government
15 Code, is amended to read as follows:

16 (a) Subject to Subsection (e), the state auditor shall
17 conduct a management review of the residential contract management
18 employees of the Health and Human Services Commission and the
19 Department of Family and Protective Services and make
20 recommendations regarding the organization of, and skills and
21 educational requirements for, those employees. The state auditor
22 shall also make recommendations regarding the implementation of
23 financial accountability provisions and processes to ensure
24 effective and efficient expenditure of state and other contract
25 funds. ~~[The state auditor shall report annually to the governor,~~
26 ~~the lieutenant governor, the speaker of the house of~~
27 ~~representatives, and the comptroller on the auditor's~~

~~recommendations and the commission's and department's
implementation of each recommendation.]~~

SECTION 18. Subchapter B, Chapter 40, Human Resources Code,
is amended by adding Section 40.0325 to read as follows:

Sec. 40.0325. STUDY OF CASEWORKER EDUCATION REIMBURSEMENT.

(a) The department shall study the effect that providing
reimbursement for certain educational expenses would have on
recruiting and retaining qualified child protective services
caseworkers. The study must 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) In determining the cost of reimbursing caseworkers for
educational expenses, the department shall consider reimbursing
caseworkers for tuition, academic fees, and other academic expenses
the caseworker paid to an institution of higher education or a
private or independent institution of higher education, as those
terms are defined by Section 61.003, Education Code, while the
caseworker was enrolled in a bachelor's degree or advanced degree
program in an academic program that the department determines
provides necessary training for child protective services
caseworkers.

(c) Not later than December 1, 2008, the department shall
report its findings and recommendations to the governor, lieutenant
governor, and speaker of the house of representatives.

SECTION 19. (a) Subchapter B, Chapter 40, Human Resources
Code, is amended by adding Section 40.0326 to read as follows:

Sec. 40.0326. DEGREE REQUIREMENTS FOR CASEWORKERS.

(a) The department may not employ a person as a caseworker unless the person holds a bachelor's degree or advanced degree in at least one of the following academic areas:

(1) social work;

(2) counseling;

(3) early childhood education;

(4) psychology;

(5) criminal justice; or

(6) elementary or secondary education.

(b) Notwithstanding Subsection (a), the department may employ a person as a caseworker who does not hold a degree required by Subsection (a) if the person has other exceptional education or experience that the department determines qualifies the person to perform the functions of a caseworker.

(b) Section 40.0326, Human Resources Code, as added by this Act, applies only to a caseworker hired by the Department of Family and Protective Services on or after the effective date of this Act. A caseworker hired before the effective date of this Act is not required to possess the degree required by Section 40.0326, Human Resources Code, as added by this Act, as long as the person remains employed by the Department of Family and Protective Services as a caseworker.

SECTION 20. Section 40.0528, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not prevent the department from contracting for special investigator services as needed.

SECTION 21. Section 40.071, Human Resources Code, is amended to read as follows:

Sec. 40.071. DRUG-ENDANGERED CHILD INITIATIVE. The department shall establish a drug-endangered child initiative aimed at protecting children who are exposed to heroin, cocaine or any of its forms, or methamphetamine or to chemicals and other hazardous materials used in the illicit manufacture of methamphetamine.

SECTION 22. (a) Subchapter B, Chapter 42, Human Resources Code, is amended by adding Section 42.0211 to read as follows:

Sec. 42.0211. SAFETY SPECIALISTS, RISK ANALYSTS, AND PERFORMANCE MANAGEMENT. (a) The division shall employ at least one specially trained investigation safety specialist, whose duties include the duty to:

(1) review and evaluate the intake of reports that include allegations associated with a higher risk of harm to the child; and

(2) consult with the assigned investigator to provide specialized guidance and resources to assist the investigation.

(b) The division shall employ at least one risk analyst, whose duties include the duty to:

(1) identify facilities, including child-placing agencies, whose compliance histories indicate the potential for a higher risk of harm to children in the care of the facility;

(2) review the monitoring and inspection reports for any facilities described by Subdivision (1) to assess the quality of the investigation or monitoring; and

1 (3) identify any additional monitoring or enforcement
2 action that may be appropriate to ensure the safety of a child in
3 the care of the facility.

4 (c) The division must include a performance management unit
5 with duties that include:

6 (1) conducting quality assurance reviews of randomly
7 selected monitoring and investigative reports to ensure compliance
8 with all relevant laws, rules, and agency policies; and

9 (2) making recommendations to improve the quality and
10 consistency of monitoring and investigations.

11 (b) The Department of Family and Protective Services shall
12 implement the change in law made by the enactment of Section
13 42.0211, Human Resources Code, by this Act only to the extent that
14 funding is available.

15 SECTION 23. Subchapter B, Chapter 42, Human Resources Code,
16 is amended by adding Section 42.0221 to read as follows:

17 Sec. 42.0221. COMMITTEE ON LICENSING STANDARDS. (a) The
18 committee on licensing standards is composed of six members
19 appointed by the governor as follows:

20 (1) one member who operates a residential child-care
21 facility licensed by the department;

22 (2) one member who operates a licensed child-care
23 facility that provides care for children for less than 24 hours a
24 day;

25 (3) one member who is a parent, guardian, or custodian
26 of a child who uses a facility licensed by the department;

27 (4) one member who is an expert in the field of child

1 care and child development; and

2 (5) two members employed by the department who work
3 with facilities licensed by the department.

4 (b) Members of the committee serve two-year terms, with the
5 terms of three members expiring February 1 of each year.

6 (c) The governor shall designate a member of the committee
7 to serve as the presiding officer.

8 (d) The committee shall meet twice a year at the call of the
9 presiding officer.

10 (e) The committee shall review and analyze the information
11 provided by the department and shall make recommendations for
12 policy and statutory changes relating to licensing standards and
13 facility inspections. The review and analysis by the committee
14 shall include the analysis of:

15 (1) the deaths of children who are in substitute care;
16 (2) the types of licensing violations for each
17 weighted risk and region;

18 (3) the details of administrative reviews and appeals;
19 and

20 (4) the type of technical assistance provided and the
21 qualifications of those providing technical assistance.

22 (f) The committee shall report its findings and
23 recommendations to the department and the legislature not later
24 than December 1 of each year.

25 SECTION 24. Section 42.042, Human Resources Code, is
26 amended by adding Subsection (r) to read as follows:

27 (r) A residential child-care facility that provides

emergency services may temporarily exceed the facility's capacity for not more than 48 hours to provide temporary care for a child in an emergency. The facility shall notify the department within 24 hours of the placement that the facility temporarily exceeded the facility's capacity.

SECTION 25. (a) Section 42.044, Human Resources Code, is amended by adding Subsection (b-1) and amending Subsection (e) to read as follows:

(b-1) At least one of the unannounced, annual inspections of a residential child-care facility must be conducted by a team of at least two residential child-care monitoring staff, and, if feasible, members of the inspection team must be from different residential child-care monitoring units.

(e) In addition to the department's responsibility to investigate an agency foster home or agency foster group home under Subsection (c), the [The] department shall:

(1) periodically conduct inspections of a random sample of agency foster homes and agency foster group homes;

(2) investigate any report of a serious incident in an agency foster home or agency foster group home that pertains to a child under the age of six;

(3) investigate any alleged violation of a minimum standard by an agency foster home or agency foster group home that poses a high degree of risk to a child in the care of the home who is under the age of six; and

(4) conduct at least one annual enforcement team conference for each child-placing agency to thoroughly review the

1 investigations or inspections of the child-placing agency and all
 2 of its agency homes~~[. The department shall use the inspections]~~ to
 3 monitor and enforce compliance by a child-placing agency with rules
 4 and standards established under Section 42.042.

5 (b) The executive commissioner of the Health and Human
 6 Services Commission shall adopt rules specifying the types of
 7 alleged minimum standards violations that are considered to pose a
 8 high degree of risk to a child in the care of an agency foster home
 9 or agency foster group home under the age of six and must be
 10 investigated by the Department of Family and Protective Services
 11 under Subdivision (3), Subsection (e), Section 42.044, Human
 12 Resources Code, as added by this Act.

13 (c) The Department of Family and Protective Services shall
 14 implement the change in law made by this Act to Section 42.044,
 15 Human Resources Code, only to the extent that funding is available.
 16 If funding is not available, the executive commissioner of the
 17 Health and Human Services Commission is not required to adopt rules
 18 as directed by Subsection (b) of this section.

19 SECTION 26. Section 42.0535, Human Resources Code, is
 20 amended by adding Subsections (e) and (f) to read as follows:

21 (e) The department, by rule, shall develop a process by
 22 which a child-placing agency shall report to the department:

23 (1) the name of any verified foster home or foster
 24 group home that has been closed for any reason, including a
 25 voluntary closure;

26 (2) information regarding the reasons for the closure
 27 of the foster home or foster group home; and

(3) the name and other contact information of a person
who may be contacted by another child-placing agency to obtain the
records relating to the closed foster home or foster group home that
are required to be maintained and made available under this
section.

(f) Information gathered under Subsection (e) must be made available to child-placing agencies through a searchable database maintained by the department.

SECTION 27. The heading to Chapter 45, Human Resources Code, is amended to read as follows:

CHAPTER 45. CONTRACTS FOR [~~PRIVATIZATION OF~~] SUBSTITUTE CARE AND
CASE MANAGEMENT SERVICES

SECTION 28. Subdivisions (1), (12), and (13), Section 45.001, Human Resources Code, are amended to read as follows:

(1) "Case management services" has the meaning assigned by Section 264.106, Family Code ~~[means the provision of case management services to a child for whom the department has been appointed temporary or permanent managing conservator, including caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates]~~.

(12) "Substitute care provider" has the meaning
assigned by Section 264.106, Family Code [~~means a child-care~~

~~institution or a child-placing agency, as defined by Section 42.002].~~

(13) "Substitute care services" has the meaning assigned by Section 264.106, Family Code ~~[means services provided to or for children in substitute care and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, and post-placement supervision, including relative placement. The term does not include the regulation of facilities under Subchapter C, Chapter 42].~~

SECTION 29. Section 45.002, Human Resources Code, is amended to read as follows:

Sec. 45.002. CONTRACTS FOR ~~[PRIVATIZING]~~ SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES; DEPARTMENT DUTIES. (a) Not later than September 1, 2009 ~~[2011]~~, the department shall:

(1) enter into contracts for ~~[complete the statewide privatization of]~~ the provision of all substitute care services needed for children in the temporary or permanent managing conservatorship of the department; and

(2) 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 at least 10 percent of the cases in this state.

(b) Except as provided by Subsections (d) and (e), on ~~[On]~~

1 and after September 1, 2009, ~~[2011]~~.

2 ~~[(1)]~~ all substitute care ~~[and case management]~~
3 services provided in the state for children for whom the department
4 has been appointed temporary or permanent managing conservator must
5 be provided by substitute care providers ~~[child-care institutions~~
6 ~~and child-placing agencies]~~.

7 ~~[(2) all substitute care and case management service~~
8 ~~providers shall, to the best extent possible, honor the cultural~~
9 ~~and religious affiliations of a child placed in the service~~
10 ~~provider's care, regardless of the religious affiliation of the~~
11 ~~service provider; and~~

12 ~~[(3) except as provided by Subsections (d) and (e) and~~
13 ~~notwithstanding any other law, the department may not directly~~
14 ~~provide substitute care and case management services]~~.

15 (c) The ~~[On and after September 1, 2011, the]~~ department
16 shall:

17 (1) monitor the quality of services for which the
18 department contracts ~~[and each independent administrator contract]~~
19 under this chapter; ~~[and]~~

20 (2) ensure that the services are provided in
21 accordance with federal law and the laws of this state, including
22 department rules and rules of the Department of State Health
23 Services and the Texas Commission on Environmental Quality; and

24 (3) ensure that all substitute care and case
25 management service providers, to the extent possible, honor the
26 cultural and religious affiliations of a child placed in the
27 service provider's care, regardless of the religious affiliation of

1 the service provider.

2 (d) On and after September 1, 2009 [2011], the department
3 may provide substitute care [~~and case management~~] services in an
4 emergency. The executive commissioner shall adopt rules describing
5 the circumstances in which the department may provide those
6 services.

7 (e) The department may provide substitute care [~~and case~~
8 ~~management~~] services as a provider of last resort as provided by
9 Section 264.106(k), Family Code.

10 SECTION 30. Section 45.004, Human Resources Code, is
11 amended to read as follows:

12 Sec. 45.004. [~~INDEPENDENT ADMINISTRATORS,~~] DEPARTMENT DATA
13 SYSTEM DUTIES. [~~(a) The department shall research and develop a~~
14 ~~comprehensive strategy for contracting for management support~~
15 ~~services from independent administrators on a regional basis. If~~
16 ~~the department determines that an independent administrator could~~
17 ~~manage and procure substitute care and case management services~~
18 ~~contracts with private agencies and conduct placement assessments~~
19 ~~in a more cost-beneficial manner, the department shall implement a~~
20 ~~transition plan to transfer the procurement, management, and~~
21 ~~oversight of substitute care and case management services from the~~
22 ~~department to an independent administrator, as well as~~
23 ~~responsibility for placement assessments. If the department~~
24 ~~determines that contracting for management support from an~~
25 ~~independent administrator is not cost beneficial, the~~
26 ~~privatization of substitute care and case management services will~~
27 ~~occur as provided by Section 45.002(b).~~

1 ~~[(b) The comprehensive strategy, at a minimum, must:~~

2 ~~[(1) use competitively procured independent~~
3 ~~administrators to procure and manage substitute care and case~~
4 ~~management providers in a geographic region designated by the~~
5 ~~department,~~

6 ~~[(2) require independent administrators to contract~~
7 ~~with private agencies that will:~~

8 ~~[(A) increase local foster and adoptive~~
9 ~~placement options for all children, especially teenagers, sibling~~
10 ~~groups, children whose race or ethnicity is disproportionately~~
11 ~~represented in foster care, children with severe or multiple~~
12 ~~disabilities, and other children who are difficult to place; and~~

13 ~~[(B) expand efforts to recruit foster families,~~
14 ~~adoptive families, and alternative care providers through~~
15 ~~faith-based and other targeted recruitment programs; and~~

16 ~~[(3) allow permanency services providers to enter~~
17 ~~client, service, and outcome information into the department's~~
18 ~~client data system.~~

19 ~~[(c)]~~ Subject to the appropriation of funds, the department
20 shall:

21 (1) enhance existing data systems to include contract
22 performance information; and

23 (2) implement a contracting data system developed or
24 procured by the department, to track quality assurance and other
25 contracting tools to effectively manage, monitor, and evaluate
26 performance-based contracting functions.

27 SECTION 31. The heading to Section 45.054, Human Resources

Code, is amended to read as follows:

Sec. 45.054. EVALUATION OF CASE MANAGEMENT SERVICES
~~[REGIONAL IMPLEMENTATION]~~.

SECTION 32. Subsections (c) and (d), Section 45.054, Human Resources Code, are amended to read as follows:

(c) Not later than the second ~~[first]~~ anniversary of the date the department enters into the first contract for ~~[substitute care and]~~ case management services under a pilot program described by this chapter and Section 264.106, Family Code ~~[section]~~, the department shall contract with a qualified, independent third party to evaluate the pilot program ~~[each phase of the privatization of substitute care and case management services]~~. Each evaluation must:

(1) assess the performance of ~~[substitute care and]~~ case management services based on compliance with defined quality outcomes for children;

(2) assess the achievement of performance measures;

(3) compare for quality the performance of ~~[substitute care and]~~ case management services provided by contractors to ~~[substitute care and]~~ case management services provided by the department ~~[in similar regions]~~;

(4) determine if contracted services are cost beneficial; and

(5) assess the contractor's ~~[private sector's]~~ ability to meet the performance measures~~[, including service capacity, for the remaining regions]~~.

(d) The independent third party with whom the department

1 contracts under Subsection (c) shall submit its reports and
2 recommendations to the House Human Services Committee, or its
3 successor, and the Senate Health and Human Services Committee, or
4 its successor, not later than September 1, 2012.

5 SECTION 33. Section 45.101, Human Resources Code, is
6 amended to read as follows:

7 Sec. 45.101. GOALS FOR CONTRACTING [~~PRIVATIZATION~~]. In
8 contracting for substitute care and case management services, the
9 department's goals shall be:

10 (1) [~~The transition plan adopted under Section 45.053~~
11 ~~must provide for a new structural model for the community-centered~~
12 ~~delivery of substitute care and case management services that is~~
13 ~~based on a goal of~~] improving protective services;

14 (2) [~~7~~] achieving timely permanency for children in
15 substitute care, including family reunification, placement with a
16 relative, or adoption;[~~7~~] and

17 (3) improving the overall well-being of children in
18 substitute care consistent with federal and state mandates.

19 SECTION 34. (a) The Department of Family and Protective
20 Services shall develop a child protective services improvement plan
21 that is designed to build on the child protective services reform
22 elements added by Chapter 268, Acts of the 79th Legislature,
23 Regular Session, 2005. In developing the plan, the department
24 shall seek to expand on or modify initiatives that have resulted in
25 demonstrable improvements and that serve the primary goals of:

26 (1) keeping families together while ensuring child
27 safety in the home;

1 (2) reducing the length of time children remain in
2 state care; and

3 (3) improving the quality and accountability of foster
4 care.

5 (b) The improvement plan must include:

6 (1) expanding the use of family group decision-making;

7 (2) reducing caseloads for caseworkers providing
8 family-based safety services and ongoing substitute care services;

9 (3) implementing an enhanced in-home support program,
10 as enacted by Section 264.2011, Family Code, as added by this Act,
11 to provide enhanced in-home supports to certain families;

12 (4) providing additional purchased client services
13 designed to keep families together and to reunite families more
14 quickly while ensuring child safety;

15 (5) enhancing support of kinship placements by hiring
16 additional kinship workers to provide additional support and
17 education to relative placements and purchasing additional support
18 services for relative placements;

19 (6) enhancing services needed to support court
20 services and preparation of records for adoptive placement;

21 (7) transitioning all Department of Family and
22 Protective Services foster and adoptive homes to private
23 child-placing agencies, while enhancing the quality and
24 accountability of those services through performance-based
25 contracting and enhanced contract monitoring and enforcement;

26 (8) improving the quality and accountability of
27 child-care licensing monitoring and investigations by assigning

1 those functions to separate staff, providing specialized training
2 to staff who perform each function, performing additional
3 investigations of certain reports involving young children, and
4 providing additional support and oversight to both functions;

5 (9) expanding substitute and adoptive placement
6 quality and capacity in local communities through the procurement
7 of a statewide needs assessment and through implementation of
8 recommendations for expanding and improving provider capabilities;

9 (10) streamlining criminal history background checks
10 to increase the efficiency and effectiveness of those checks;

11 (11) improving the quality of services delivered by
12 the Department of Family and Protective Services through expanded
13 use of mobile technology and enhancements to the department's CLASS
14 and IMPACT database systems and operations;

15 (12) expanding implementation of the remediation plan
16 required under Section 1.54, Chapter 268, Acts of the 79th
17 Legislature, Regular Session, 2005, to address racial or ethnic
18 disparities in foster care; and

19 (13) implementing a statewide pilot program for a
20 time-limited, posthospitalization "step-down" rate, approved by
21 the executive commissioner of the Health and Human Services
22 Commission, to support the successful transition of children who
23 have experienced or are likely to experience multiple inpatient
24 admissions in a psychiatric hospital to an appropriate level of
25 care.

26 (c) The Department of Family and Protective Services shall
27 implement the improvement plan described by this section only to

the extent that funds are available for that purpose. If funds are available to support some, but not all, elements of the plan, the department shall implement only those parts of the plan for which funding is available. To the extent feasible, the department shall contract for services needed to implement elements of the improvement plan, including the services needed to expand family group decision-making, family-based safety services, kinship support services, and purchased client services.

SECTION 35. (a) Not later than December 31, 2007, the Department of Family and Protective Services shall prepare and submit a detailed plan for:

(1) the implementation of each element of the child protective services improvement plan required by Section 33 of this Act for which funding has been obtained; and

(2) the continued implementation of all child protective services reform activities required by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005, as modified by this Act.

(b) At the end of each fiscal year beginning August 31, 2008, the Department of Family and Protective Services shall prepare and submit a progress report that details the department's activities in implementing the plan described by Subdivision (1), Subsection (a) of this section. The progress report must include the department'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.

1 (c) The Department of Family and Protective Services shall
2 submit the implementation plan and periodic progress reports
3 required by this section to:

- 4 (1) the governor;
5 (2) the lieutenant governor;
6 (3) the speaker of the house of representatives;
7 (4) appropriate oversight committees of the
8 legislature;
9 (5) the Legislative Budget Board; and
10 (6) the state auditor.

11 (d) This section expires September 1, 2010.

12 SECTION 36. The following laws are repealed:

- 13 (1) Subsection (d), Section 264.106, Family Code;
14 (2) Section 264.1062, Family Code;
15 (3) Section 42.022, Human Resources Code;
16 (4) Subdivisions (5), (6), and (8) through (11),
17 Section 45.001, Human Resources Code;
18 (5) Sections 45.052 and 45.053, Human Resources Code;
19 (6) Subsections (a), (b), and (e) through (h), Section
20 45.054, Human Resources Code; and
21 (7) Section 45.102, Human Resources Code.

22 SECTION 37. The change in law made by this Act to Section
23 102.004, Family Code, applies only to an original suit affecting
24 the parent-child relationship filed on or after the effective date
25 of this Act. An original suit affecting the parent-child
26 relationship filed before the effective date of this Act is
27 governed by the law in effect on the date that the suit was filed,

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1 and the former law is continued in effect for that purpose.

2 SECTION 38. This Act takes effect September 1, 2007.