

By: Nelson, et al.

S.B. No. 758

Substitute the following for S.B. No. 758:

By: Rose

C.S.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. Section 102.004(a), 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) Sections 162.304(g) and (h), Family Code, as added by  
24 this section, apply only to an adoption assistance agreement that  
25 is entered into on or after the effective date of this Act. An  
26 adoption assistance agreement that was entered into before the  
27 effective date of this Act is governed by the law in effect on the

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

3 SECTION 3. Section 201.007(a), Family Code, is amended to  
4 read as follows:

5 (a) Except as limited by an order of referral, an associate  
6 judge may:

- 7 (1) conduct a hearing;
- 8 (2) hear evidence;
- 9 (3) compel production of relevant evidence;
- 10 (4) rule on the admissibility of evidence;
- 11 (5) issue a summons for:

12 (A) the appearance of witnesses; and  
13 (B) the appearance of a parent who has failed to  
14 appear before an agency authorized to conduct an investigation of  
15 an allegation of abuse or neglect of a child after receiving proper  
16 notice;

- 17 (6) examine a witness;
- 18 (7) swear a witness for a hearing;
- 19 (8) make findings of fact on evidence;
- 20 (9) formulate conclusions of law;
- 21 (10) recommend an order to be rendered in a case;
- 22 (11) regulate all proceedings in a hearing before the  
23 associate judge;

24 (12) order the attachment of a witness or party who  
25 fails to obey a subpoena;

26 (13) order the detention of a witness or party found  
27 guilty of contempt, pending approval by the referring court as

provided by Section 201.013;

(14) render and sign:

(A) a final order agreed to in writing as to both form and substance by all parties;

(B) a final default order; or

(C) a temporary order; and

(15) take action as necessary and proper for the efficient performance of the associate judge's duties.

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

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

(e) 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 shall release that information to the department on request. The release of information to the department as required by this

1 subsection by a person, including a utility company, is not subject  
2 to Section 552.352, Government Code, or any other law providing  
3 liability for the release of confidential information.

4 SECTION 5. Section 261.3031, Family Code, is amended to  
5 read as follows:

6 Sec. 261.3031. FAILURE TO COOPERATE WITH INVESTIGATION;  
7 DEPARTMENT RESPONSE. (a) If a parent or other person refuses to  
8 cooperate with the department's investigation of the alleged abuse  
9 or neglect of a child and the refusal poses a risk to the child's  
10 safety, the department shall seek assistance from the appropriate  
11 county attorney or district attorney or criminal district attorney  
12 with responsibility for representing the department as provided by  
13 Section 264.009 to obtain a court order as described by Section  
14 261.303.

15 (b) A person's failure to report to an agency authorized to  
16 investigate abuse or neglect of a child within a reasonable time  
17 after receiving proper notice constitutes a refusal by the person  
18 to cooperate with the department's investigation. A summons may be  
19 issued to locate the person.

20 SECTION 6. Section 263.102, Family Code, is amended by  
21 adding Subsections (f) and (g) to read as follows:

22 (f) The department shall consult with relevant  
23 professionals to determine the skills or knowledge that the parents  
24 of a child under two years of age should learn or acquire to provide  
25 a safe placement for the child. The department shall incorporate  
26 those skills and abilities into the department's service plans, as  
27 appropriate.

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

7       SECTION 7. Section 264.012, Family Code, is amended by  
8 adding Subsection (a-1) and amending Subsection (b) to read as  
9 follows:

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

16       (b) The department may accept donations, gifts, or in-kind  
17 contributions to cover the costs of any burial expenses paid by the  
18 department under this section [~~for children for whom the department~~  
19 ~~has been appointed managing conservator~~].

20       SECTION 8. Subchapter A, Chapter 264, Family Code, is  
21 amended by adding Section 264.014 to read as follows:

22       Sec. 264.014. PROVISION OF COPIES OF CERTAIN RECORDS. If,  
23 at the time a child is discharged from foster care, the child is at  
24 least 18 years of age or has had the disabilities of minority  
25 removed, the department shall provide to the child, not later than  
26 the 30th day after the date the child is discharged from foster  
27 care, a copy of:

1           (1) the child's birth certificate;  
2           (2) the child's immunization records; and  
3           (3) the information contained in the child's health  
4 passport.

5           SECTION 9. The heading to Section 264.106, Family Code, is  
6 amended to read as follows:

7           Sec. 264.106. ~~[REQUIRED]~~ CONTRACTS FOR SUBSTITUTE CARE AND  
8 CASE MANAGEMENT SERVICES.

9           SECTION 10. (a) Sections 264.106(a), (b), (c), (e), and  
10 (g), Family Code, are amended to read as follows:

11           (a) In this section:

12           (1) "Case management services" means the provision of  
13 ~~[case management]~~ services, other than conservatorship services,  
14 to a child for whom the department has been appointed temporary or  
15 permanent managing conservator and the child's family, including:

16                   (A) developing and revising [caseworker-child  
17 visits, family visits, the convening of family group conferences,  
18 the development and revision of] the child and family case plan,  
19 using family group decision-making in appropriate cases; and

20                   (B) coordinating [the coordination] and  
21 monitoring permanency [of] services needed by the child and family  
22 to ensure [and the assumption of court-related duties, including  
23 preparing court reports, attending judicial hearings and  
24 permanency hearings, and ensuring] that the child is progressing  
25 toward permanency within state and federal mandates.

26           (2) "Conservatorship services" means services  
27 provided directly by the department that the department considers

1 necessary to ensure federal financial participation and compliance  
2 with state law requirements, including:

3 (A) initial placement of a child and approval of  
4 all subsequent placements of a child;

5 (B) approval of the child and family case plan;  
6 and

7 (C) any other action the department considers  
8 necessary to ensure the safety and well-being of a child

9 ~~["Independent administrator" means an independent agency selected~~  
10 ~~through a competitive procurement process to:~~

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

14 ~~[(B) ensure continuity of care for a child~~  
15 ~~referred to the administrator by the department and the child's~~  
16 ~~family from the day a child enters the child protective services~~  
17 ~~system until the child leaves the system].~~

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

21 (A) substitute care services;

22 (B) medical, dental, mental health, and  
23 educational services;

24 (C) [7] family reunification services;

25 (D) [7] adoption and postadoption services  
26 and[7] preparation for adult living services;

27 (E) convening family group conferences;



1                   (F) child and family visits;  
2                   (G) relative placement services; and  
3                   (H) post-placement supervision~~[, and case~~  
4 ~~management]~~ services.

5           (4) "Substitute care provider" means:

6                   (A) a child-care institution, a general  
7 residential operation, or a child-placing agency, as defined by  
8 Section 42.002, Human Resources Code; or

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

11           (5) "Substitute care services" means services  
12 provided by a substitute care provider to or for a child in the  
13 temporary or permanent managing conservatorship of the department  
14 or for the child's placement ~~[children in substitute care and their~~  
15 ~~families]~~, including the recruitment, training, and management of  
16 foster and adoptive homes by a child-placing agency ~~[foster~~  
17 ~~parents, the recruitment of adoptive families, and the facilitation~~  
18 ~~of the adoption process, family preservation, independent living,~~  
19 ~~emergency shelter, residential group care, foster care,~~  
20 ~~therapeutic foster care, and post-placement supervision, including~~  
21 ~~relative placement]~~. The term does not include the regulation of  
22 facilities under Subchapter C, Chapter 42, Human Resources Code.

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

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

27                   (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 when the department determines that entering into a contract will improve services to children and families ~~[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 services under the pilot program. The department shall have a goal of privatizing case management services in at least 10 percent of the cases in which the department has been appointed temporary or permanent managing conservator of a child ~~[An independent administrator may not:~~

~~[(1) directly provide substitute care services; or~~

1           ~~[(2) be governed by a board that has a member who has a~~  
2 ~~financial interest in a substitute care or case management provider~~  
3 ~~with whom the independent administrator subcontracts].~~

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

7                 (1) enable the department to monitor the effectiveness  
8 of the services;

9                 (2) specify performance outcomes;

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

13                (4) ensure that a private agency that is providing  
14 substitute care or case management services for a child shall  
15 provide to the child's attorney ad litem and guardian ad litem  
16 access to the agency's information and records relating to the  
17 child; ~~[ensure that an independent administrator may not refuse to~~  
18 ~~accept a client who is referred for services or reject a client who~~  
19 ~~is receiving services unless the department has reviewed the~~  
20 ~~independent administrator's decision and approved the decision in~~  
21 ~~writing.]~~

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

26                (6) the department determines are necessary to ensure  
27 accountability for the delivery of services and for the expenditure

1 of public funds.

2 (g) In determining whether to contract with a substitute  
3 care provider [~~or an independent administrator~~], the department  
4 shall consider the provider's [~~or administrator's~~] performance  
5 under any previous contract between the department and the provider  
6 [~~or administrator~~].

7 (b) The Department of Family and Protective Services shall  
8 enter into one or more contracts for case management services under  
9 the pilot program described by Section 264.106, Family Code, as  
10 amended by this section, on or before September 1, 2008, with a goal  
11 of contracting for case management services in at least 10 percent  
12 of the cases in the state in which the department has been appointed  
13 temporary or permanent managing conservator of a child.  
14 Notwithstanding this deadline, the department must continue to  
15 provide case management services in any area covered by the pilot  
16 program if:

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

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

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

27 SECTION 11. Section 264.1063, Family Code, is amended to

1 read as follows:

2       Sec. 264.1063. MONITORING PERFORMANCE OF SUBSTITUTE CARE  
3 AND CASE MANAGEMENT PROVIDERS. (a) The department, in  
4 consultation with substitute care providers [~~private entities~~]  
5 under contract with [~~either an independent administrator or~~] the  
6 department to provide substitute care or case management services,  
7 shall establish a quality assurance program that uses  
8 comprehensive, multitiered assurance and improvement systems  
9 [~~based, subject to the availability of funds, on real-time data~~] to  
10 evaluate performance.

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

20       SECTION 12. Section 264.107, Family Code, is amended by  
21 amending Subsections (c) through (f) and adding Subsection (g) to  
22 read as follows:

23       (c) The department shall institute [~~contract between the~~  
24 ~~department and an independent administrator or other authorized~~  
25 ~~entity must require, not later than September 1, 2009,~~] the use of  
26 real-time technology in the department's [~~independent~~  
27 ~~administrator's or other authorized entity's~~] placement system to

1 screen possible placement options for a child and match the child's  
2 needs with the most qualified providers with vacancies.

3 (d) The department shall ~~[institute a quality assurance~~  
4 ~~system in monitoring the independent administrators or other~~  
5 ~~authorized entities to]~~ ensure that placement decisions are  
6 reliable and are made in a consistent manner.

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

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

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

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

17 (1) assessing the need for resources in the region;  
18 and

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

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

1 business day after the date the child is placed in temporary care.

2 SECTION 13. Subchapter B, Chapter 264, Family Code, is  
3 amended by adding Section 264.1071 to read as follows:

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

7 (1) ensure that the child is placed with a person who  
8 will provide a safe and emotionally stable environment for the  
9 child; and

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

14 SECTION 14. Section 264.113, Family Code, is amended by  
15 adding Subsections (c) and (d) to read as follows:

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

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

1           SECTION 15. Section 264.121, Family Code, is amended by  
2 adding Subsection (c) to read as follows:

3           (c) At the time a child enters the Preparation for Adult  
4 Living Program, the department shall provide an information booklet  
5 to the child and the foster parent describing the program and the  
6 benefits available to the child, including extended Medicaid  
7 coverage until age 21, priority status with the Texas Workforce  
8 Commission, and the exemption from the payment of tuition and fees  
9 at institutions of higher education as defined by Section 61.003,  
10 Education Code.

11           SECTION 16. Subchapter C, Chapter 264, Family Code, is  
12 amended by adding Section 264.2011 to read as follows:

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

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

27           (c) The executive commissioner shall adopt rules



establishing:

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

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

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

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

SECTION 17. Section 264.203(a), Family Code, is amended to read as follows:

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

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

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

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

(2) ~~to~~ permit the child and any siblings of the child to receive the services.

SECTION 18. Chapter 266, Family Code, as added by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005, is amended by adding Section 266.0031 to read as follows:

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

- (1) a representative of the attorney general's office;
- (2) a representative of the Department of State Health Services;
- (3) a representative of the Department of Family and Protective Services;
- (4) a representative of the Health and Human Services Commission;
- (5) a representative of a child advocacy center;
- (6) three pediatricians who specialize in treating victims of child abuse; and
- (7) a representative from a children's hospital.

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

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

(d) The committee shall:

- (1) develop guidelines for designating regional

1 pediatric centers of excellence that:

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

4 (B) assist the department in evaluating and  
5 interpreting the medical findings for children who are suspected  
6 victims of abuse and neglect;

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

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

13 (e) The committee shall report its findings and  
14 recommendations to the department and the legislature not later  
15 than December 1, 2008.

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

17 SECTION 19. Section 2155.1442(a), Government Code, is  
18 amended to read as follows:

19 (a) Subject to Subsection (e), the state auditor shall  
20 conduct a management review of the residential contract management  
21 employees of the Health and Human Services Commission and the  
22 Department of Family and Protective Services and make  
23 recommendations regarding the organization of, and skills and  
24 educational requirements for, those employees. The state auditor  
25 shall also make recommendations regarding the implementation of  
26 financial accountability provisions and processes to ensure  
27 effective and efficient expenditure of state and other contract

1 funds. [~~The state auditor shall report annually to the governor,~~  
 2 ~~the lieutenant governor, the speaker of the house of~~  
 3 ~~representatives, and the comptroller on the auditor's~~  
 4 ~~recommendations and the commission's and department's~~  
 5 ~~implementation of each recommendation.]~~

6 SECTION 20. Subchapter A, Chapter 191, Health and Safety  
 7 Code, is amended by adding Section 191.0047 to read as follows:

8 Sec. 191.0047. BIRTH INFORMATION FOR DEPARTMENT OF FAMILY  
 9 AND PROTECTIVE SERVICES. (a) The Department of State Health  
 10 Services shall implement an efficient and effective method to  
 11 verify birth information or provide a certified copy of a birth  
 12 record necessary to provide services for the benefit of a minor  
 13 being served by the Department of Family and Protective Services.

14 (b) The Department of State Health Services shall enter into  
 15 a memorandum of understanding with the Department of Family and  
 16 Protective Services to implement this section. The terms of the  
 17 memorandum of understanding must include methods for reimbursing  
 18 the Department of State Health Services in an amount that is not  
 19 more than the actual costs the department incurs in verifying the  
 20 birth information or providing the birth record to the Department  
 21 of Family and Protective Services.

22 SECTION 21. Subchapter B, Chapter 40, Human Resources Code,  
 23 is amended by adding Section 40.0325 to read as follows:

24 Sec. 40.0325. STUDY OF CASEWORKER EDUCATION REIMBURSEMENT.  
 25 (a) The department shall study the effect that providing  
 26 reimbursement for certain educational expenses would have on  
 27 recruiting and retaining qualified child protective services

1 caseworkers. The study must include a comparative analysis of the  
2 cost of training new caseworkers and the benefits of having an  
3 experienced caseworker staff with the cost of providing  
4 reimbursement for educational expenses.

5 (b) In determining the cost of reimbursing caseworkers for  
6 educational expenses, the department shall consider reimbursing  
7 caseworkers for tuition, academic fees, and other academic expenses  
8 the caseworker paid to an institution of higher education or a  
9 private or independent institution of higher education, as those  
10 terms are defined by Section 61.003, Education Code, while the  
11 caseworker was enrolled in a bachelor's degree or advanced degree  
12 program in an academic program that the department determines  
13 provides necessary training for child protective services  
14 caseworkers.

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

18 SECTION 22. Section 40.0528, Human Resources Code, is  
19 amended by adding Subsection (c) to read as follows:

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

22 SECTION 23. Section 40.071, Human Resources Code, is  
23 amended to read as follows:

24 Sec. 40.071. DRUG-ENDANGERED CHILD INITIATIVE. The  
25 department shall establish a drug-endangered child initiative  
26 aimed at protecting children who are exposed to heroin, cocaine or  
27 any of its forms, or methamphetamine or to chemicals and other

1 hazardous materials used in the illicit manufacture of  
2 methamphetamine.

3 SECTION 24. Sections 42.021(a) and (b), Human Resources  
4 Code, are amended to read as follows:

5 (a) The department may designate a division within the  
6 department to carry out responsibilities the department may  
7 delegate or assign under this chapter. The department shall ensure  
8 the independence of the division from the child protective services  
9 division.

10 (b) The commissioner shall appoint as director of a division  
11 designated under Subsection (a) a person who meets the  
12 qualifications set by the executive commissioner. The commissioner  
13 shall ensure the director's independence from the child protective  
14 services division and may not terminate the director without the  
15 approval of the executive commissioner.

16 SECTION 25. (a) Subchapter B, Chapter 42, Human Resources  
17 Code, is amended by adding Section 42.0211 to read as follows:

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

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

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

27 (b) The division shall employ at least one risk analyst,

1 whose duties include the duty to:

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

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

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

11 (c) The division must include a performance management unit  
12 with duties that include:

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

16 (2) making recommendations to improve the quality and  
17 consistency of monitoring and investigations.

18 (b) The Department of Family and Protective Services shall  
19 implement the change in law made by the enactment of Section  
20 42.0211, Human Resources Code, by this Act only to the extent that  
21 funding is available.

22 SECTION 26. Subchapter B, Chapter 42, Human Resources Code,  
23 is amended by adding Section 42.0221 to read as follows:

24 Sec. 42.0221. COMMITTEE ON LICENSING STANDARDS. (a) The  
25 committee on licensing standards is composed of seven members  
26 appointed by the governor as follows:

27 (1) one member who operates a residential child-care

1 facility licensed by the department;

2 (2) one member who operates a child-placing agency  
3 licensed by the department;

4 (3) one member who operates a licensed child-care  
5 facility that provides care for children for less than 24 hours a  
6 day;

7 (4) one member who is a parent, guardian, or custodian  
8 of a child who uses a facility licensed by the department;

9 (5) one member who is an expert in the field of child  
10 care and child development; and

11 (6) two members employed by the department who work  
12 with facilities licensed by the department.

13 (b) Members of the committee serve two-year terms, with the  
14 terms of three or four members, as appropriate, expiring February 1  
15 of each year.

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

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

20 (e) The committee shall review and analyze the information  
21 provided by the department and committee members and shall make  
22 recommendations for policy and statutory changes relating to  
23 licensing standards and facility inspections. The review and  
24 analysis by the committee shall include the analysis of:

25 (1) the deaths of children who are in substitute care;

26 (2) the types of licensing violations for each  
27 weighted risk and region;



1           (3) the details of administrative reviews and appeals;  
2 and

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

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

8           SECTION 27. Section 42.042, Human Resources Code, is  
9 amended by adding Subsection (r) to read as follows:

10          (r) A residential child-care facility that provides  
11 emergency services may temporarily exceed the facility's capacity  
12 for not more than 48 hours to provide temporary care for a child in  
13 an emergency. The facility shall notify the department within 24  
14 hours of the placement that the facility temporarily exceeded the  
15 facility's capacity.

16          SECTION 28. (a) Section 42.044, Human Resources Code, is  
17 amended by adding Subsection (b-1) and amending Subsection (e) to  
18 read as follows:

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

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

27          (1) periodically conduct inspections of a random

1 sample of agency foster homes and agency foster group homes;

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

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

9 (4) conduct at least one annual enforcement team  
10 conference for each child-placing agency to thoroughly review the  
11 investigations or inspections of the child-placing agency and all  
12 of its agency homes~~[. The department shall use the inspections]~~ to  
13 monitor and enforce compliance by a child-placing agency with rules  
14 and standards established under Section 42.042.

15 (b) The executive commissioner of the Health and Human  
16 Services Commission shall adopt rules specifying the types of  
17 alleged minimum standards violations that are considered to pose a  
18 high degree of risk to a child in the care of an agency foster home  
19 or agency foster group home under the age of six and must be  
20 investigated by the Department of Family and Protective Services  
21 under Section 42.044(e)(3), Human Resources Code, as added by this  
22 Act.

23 (c) The Department of Family and Protective Services shall  
24 implement the change in law made by this Act to Section 42.044,  
25 Human Resources Code, only to the extent that funding is available.  
26 If funding is not available, the executive commissioner of the  
27 Health and Human Services Commission is not required to adopt rules

1 as directed by Subsection (b) of this section.

2 SECTION 29. Section 42.0535, Human Resources Code, is  
3 amended by adding Subsections (e) and (f) to read as follows:

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

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

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

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

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

19 SECTION 30. Subchapter C, Chapter 42, Human Resources Code,  
20 is amended by adding Section 42.0536 to read as follows:

21 Sec. 42.0536. TRANSFER OF AGENCY FOSTER HOME. (a) An  
22 agency foster home that is verified by a child-placing agency may  
23 transfer to another child-placing agency only if, before the date  
24 of the transfer, the agency foster home notifies the child-placing  
25 agency to which the agency foster home is transferring of each  
26 licensing violation for which the agency foster home has been cited  
27 by the department during the preceding three years.

1        (b) The child-placing agency to which the agency foster home  
2 is transferring shall submit a written request for transfer to the  
3 child-placing agency that verified the agency foster home.

4        (c) Not later than the 10th day after the date the  
5 child-placing agency receives a request for transfer under  
6 Subsection (b), the child-placing agency shall provide the  
7 child-placing agency that submitted the request a copy of any of the  
8 following documents regarding the agency foster home:

9                (1) a corrective action plan;  
10               (2) an annual development plan; or  
11               (3) a description of any imposed or potential service  
12 limitation.

13        (d) The department caseworker for each child placed in the  
14 agency foster home may conduct a review meeting to determine  
15 whether the transfer of the agency foster home is in the best  
16 interest of each child in the home on the request of:

17               (1) the child-placing agency to which the agency  
18 foster home is transferring;  
19               (2) the child-placing agency that verified the agency  
20 foster home;  
21               (3) the agency foster home; or  
22               (4) the caseworker.

23        (e) After a review meeting, the caseworker shall determine  
24 whether each child placed in the agency foster home shall:

25               (1) stay in the agency foster home after the agency  
26 foster home is transferred to the new child-placing agency; or  
27               (2) be removed from the agency foster home before the

1 agency foster home is transferred to the new child-placing agency.

2 SECTION 31. The heading to Chapter 45, Human Resources  
3 Code, is amended to read as follows:

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

6 SECTION 32. Sections 45.001(1), (12), and (13), Human  
7 Resources Code, are amended to read as follows:

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

19 (12) "Substitute care provider" has the meaning  
20 assigned by Section 264.106, Family Code ~~[means a child-care~~  
21 ~~institution or a child-placing agency, as defined by Section~~  
22 ~~42.002]~~.

23 (13) "Substitute care services" has the meaning  
24 assigned by Section 264.106, Family Code ~~[means services provided~~  
25 ~~to or for children in substitute care and their families, including~~  
26 ~~the recruitment, training, and management of foster parents, the~~  
27 ~~recruitment of adoptive families, and the facilitation of the~~

1 ~~adoption process, family reunification, independent living,~~  
2 ~~emergency shelter, residential group care, foster care,~~  
3 ~~therapeutic foster care, and post-placement supervision, including~~  
4 ~~relative placement. The term does not include the regulation of~~  
5 ~~facilities under Subchapter C, Chapter 42].~~

6 SECTION 33. The heading to Section 45.002, Human Resources  
7 Code, is amended to read as follows:

8 Sec. 45.002. CONTRACTS FOR ~~[PRIVATIZING SUBSTITUTE CARE~~  
9 ~~AND]~~ CASE MANAGEMENT SERVICES; DEPARTMENT DUTIES.

10 SECTION 34. Sections 45.002(a) and (c), Human Resources  
11 Code, are amended to read as follows:

12 (a) Not later than September 1, 2008 ~~[2011]~~, the department  
13 shall contract with one or more providers of ~~[complete the~~  
14 ~~statewide privatization of the provision of substitute care and]~~  
15 case management services in one or more geographic areas of the  
16 state as provided by Section 264.106, Family Code, with a goal of  
17 contracting for those services in at least 10 percent of the cases  
18 in this state.

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

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

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

1           (3) ensure that all substitute care and case  
2 management service providers, to the extent possible, honor the  
3 cultural and religious affiliations of a child placed in the  
4 service provider's care, regardless of the religious affiliation of  
5 the service provider.

6           SECTION 35. Section 45.004, Human Resources Code, is  
7 amended to read as follows:

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

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

25           ~~[(1) use competitively procured independent~~  
26 ~~administrators to procure and manage substitute care and case~~  
27 ~~management providers in a geographic region designated by the~~

department,

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

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

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

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

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

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

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

SECTION 36. 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 37. Sections 45.054(c) and (d), 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 contracts under Subsection (c) shall 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 38. Section 45.101, Human Resources Code, is amended to read as follows:

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

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

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

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

SECTION 39. (a) The Department of Family and Protective Services shall develop a child protective services improvement plan that is designed to build on the child protective services reform elements added by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005. In developing the plan, the department shall seek to expand on or modify initiatives that have resulted in demonstrable improvements and that serve the primary goals of:

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

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

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

1 (b) The improvement plan must include:

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

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

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

8 (4) providing additional purchased client services  
9 designed to keep families together and to reunite families more  
10 quickly while ensuring child safety;

11 (5) enhancing support of kinship placements by hiring  
12 or contracting to provide additional kinship workers to provide  
13 additional support and education to relative placements and  
14 purchasing additional support services for relative placements;

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

17 (7) improving the quality and accountability of  
18 child-care licensing monitoring and investigations by assigning  
19 those functions to separate staff, providing specialized training  
20 to staff who perform each function, performing additional  
21 investigations of certain reports involving young children, and  
22 providing additional support and oversight to both functions;

23 (8) expanding substitute and adoptive placement  
24 quality and capacity in local communities through the procurement  
25 of a statewide needs assessment and through implementation of  
26 recommendations for expanding and improving provider capabilities;

27 (9) streamlining criminal history background checks

1 to increase the efficiency and effectiveness of those checks;

2 (10) improving the quality of services delivered by  
3 the Department of Family and Protective Services through expanded  
4 use of mobile technology and enhancements to the department's CLASS  
5 and IMPACT database systems and operations;

6 (11) expanding implementation of the remediation plan  
7 required under Section 1.54, Chapter 268, Acts of the 79th  
8 Legislature, Regular Session, 2005, to address racial or ethnic  
9 disparities in foster care; and

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

17 (c) The recommendations for expanding and improving  
18 provider capabilities under Subsection (b)(8) of this section must  
19 include provisions for start-up funding for providers to build  
20 necessary capacity in the state, partnerships with community  
21 leaders to identify local resources to support building capacity,  
22 and the development of pilot projects to procure regional capacity  
23 development. Beginning September 1, 2007, at the end of each fiscal  
24 year, the Department of Family and Protective Services shall  
25 prepare a progress report that details the department's activities  
26 in implementing the recommendations described in Subsection (b)(8)  
27 of this section. The progress report must include regional data

1 regarding the number of children in state conservatorship who are  
2 placed in their home region separated into classifications based on  
3 levels of care. The Department of Family and Protective Services  
4 shall submit the periodic progress reports required by this  
5 subsection to:

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

13 (d) The Department of Family and Protective Services shall  
14 implement the improvement plan described by this section only to  
15 the extent that funds are available for that purpose. If funds are  
16 available to support some, but not all, elements of the plan, the  
17 department shall implement only those parts of the plan for which  
18 funding is available. To the extent feasible, the department shall  
19 contract for services needed to implement elements of the  
20 improvement plan, including the services needed to expand family  
21 group decision-making, family-based safety services, kinship  
22 support services, and purchased client services.

23 SECTION 40. (a) Not later than December 31, 2007, the  
24 Department of Family and Protective Services shall prepare and  
25 submit a detailed plan for:

- 26 (1) the implementation of each element of the child  
27 protective services improvement plan required by Section 30 of this

1 Act for which funding has been obtained; and

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

6 (b) At the end of each fiscal year beginning August 31,  
7 2008, the Department of Family and Protective Services shall  
8 prepare and submit a progress report that details the department's  
9 activities in implementing the plan described by Subsection (a)(1)  
10 of this section. The progress report must include the department's  
11 calculation of cost savings from reduced stays in foster care and  
12 any other cost savings that can be attributed to the implementation  
13 of the improvement plan and continued child protective services  
14 reforms.

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

- 18 (1) the governor;  
19 (2) the lieutenant governor;  
20 (3) the speaker of the house of representatives;  
21 (4) appropriate oversight committees of the  
22 legislature;  
23 (5) the Legislative Budget Board; and  
24 (6) the state auditor.

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

26 SECTION 41. The Department of Family and Protective  
27 Services shall actively pursue a waiver or other authorization from

1 an appropriate federal agency to use any available federal funds,  
2 including funds available under Title IV-E, Social Security Act (42  
3 U.S.C. Section 670 et seq.), to provide monthly monetary assistance  
4 under a caregiver assistance agreement in accordance with Section  
5 264.755, Family Code.

6 SECTION 42. The following sections are repealed:

7 (1) Sections 264.106(d), (f), (i), (j), and (k),  
8 Family Code;

9 (2) Section 264.1062, Family Code;

10 (3) Section 42.022, Human Resources Code;

11 (4) Sections 45.001(5), (6), (8), (9), (10), and (11),  
12 Human Resources Code;

13 (5) Sections 45.002(b), (d), and (e), Human Resources  
14 Code;

15 (6) Sections 45.052 and 45.053, Human Resources Code;

16 (7) Sections 45.054(a), (b), (e), (f), (g), and (h),  
17 Human Resources Code; and

18 (8) Section 45.102, Human Resources Code.

19 SECTION 43. The change in law made by this Act to Section  
20 102.004, Family Code, applies only to an original suit affecting  
21 the parent-child relationship filed on or after the effective date  
22 of this Act. An original suit affecting the parent-child  
23 relationship filed before the effective date of this Act is  
24 governed by the law in effect on the date that the suit was filed,  
25 and the former law is continued in effect for that purpose.

26 SECTION 44. This Act takes effect September 1, 2007.