

By: Nelson

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. Chapter 261.301(a), Family Code, is amended to read as follows:

(a) With assistance from the appropriate state or local law enforcement agency as provided by this section, the department or designated agency shall make a prompt and thorough investigation of a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare. The investigation shall be conducted without regard to any pending suit affecting the parent-child relationship. The department may contract with a local law enforcement agency to provide forensic investigation support and assist case workers with assessment decisions and intervention activities. The department shall ensure that a law enforcement officer who conducts an investigation under a contract with the department receives the training described by Section 261.3011(b).

SECTION 2. 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.

SECTION 3. Section 263.102, Family Code, is amended by adding Subsection (f) to read as follows:

(f) In developing the service plan for a child under two years of age, the department shall consult with relevant professionals to determine the skills or knowledge that the child's parents must learn or acquire to meet the goals of the service plan. The service plan must require therapeutic family visits between the child and the child's parents supervised by a licensed psychologist to promote family reunification and to educate the parents about issues relating to the removal of the child.

SECTION 4. 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

1 burial expenses for a person for whom the department is paying for  
2 foster care under Section 264.101(a-1)(2) and who dies while in  
3 foster care unless there is money in the person's estate or other  
4 money available to pay the person's burial expenses.

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

9 SECTION 5. Sections 264.106(b), (e), (g), (i), (j), and (k),  
10 Family Code, are amended to read as follows:

11 (b) The department shall, in accordance with Section  
12 45.004, Human Resources Code:

13 (1) assess the need for substitute care and case  
14 management services throughout the state;

15 (2) [~~either~~] contract [~~directly~~] with private  
16 agencies as part of regional community-centered networks for the  
17 provision of:

18 (A) all necessary substitute care services; and  
19 (B) case management services in at least 10  
20 percent of the cases in the state [~~or use an independent~~  
21 ~~administrator to contract for those services~~];

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

26 [(4)] monitor the quality of services for which the  
27 department contracts [~~and each independent administrator contract~~]

1 under this section; and

2           (4) ~~[(5)]~~ ensure that the services are provided in  
3 accordance with federal law and the laws of this state, including  
4 department rules and rules of the Department of State Health  
5 Services and the Texas Commission on Environmental Quality.

6           (e) In addition to the requirements of Section 40.058(b),  
7 Human Resources Code, a contract with a private agency ~~[an~~  
8 ~~independent administrator]~~ must include provisions that:

9           (1) enable the department to monitor the effectiveness  
10 of the services;

11           (2) specify performance outcomes;

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

15           (4) ensure that a private agency ~~[an independent~~  
16 ~~administrator]~~ may not refuse to accept a client who is referred for  
17 services or reject a client who is receiving services unless the  
18 department has reviewed the private agency's ~~[independent~~  
19 ~~administrator's]~~ decision and approved the decision in writing;

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

24           (6) the department determines are necessary to ensure  
25 accountability for the delivery of services and for the expenditure  
26 of public funds.

27           (g) In determining whether to contract with a substitute

1 care provider [~~or an independent administrator~~], the department  
 2 shall consider the provider's [~~or administrator's~~] performance  
 3 under any previous contract between the department and the provider  
 4 [~~or administrator~~].

5 (i) Except as provided by Subsections (j) and (k) and  
 6 notwithstanding any other law, on and after September 1, 2009  
 7 [~~2011~~], the department may not directly provide substitute care  
 8 [~~and case management~~] services for children for whom the department  
 9 has been appointed temporary or permanent managing conservator.

10 (j) On and after September 1, 2009 [~~2011~~], the department  
 11 may provide substitute care [~~and case management~~] services in an  
 12 emergency. The executive commissioner shall adopt rules describing  
 13 the circumstances in which the department may provide those  
 14 services.

15 (k) The department may provide substitute care [~~and case~~  
 16 ~~management~~] services as a provider of last resort in any region of  
 17 the state in which the department [~~or an independent administrator~~  
 18 ~~contracting with the department~~] is unable to contract with a  
 19 private agency to provide those services.

20 SECTION 6. Section 264.1062, Family Code, is amended to  
 21 read as follows:

22 Sec. 264.1062. CONTRACT FOR CASE MANAGEMENT SERVICES  
 23 [~~EVALUATION OF INDEPENDENT ADMINISTRATORS~~]. Not later than  
 24 September 1, 2009, the [~~The~~] department shall contract with private  
 25 agencies to provide case management services in at least 10 percent  
 26 of the cases in the state. The department shall select the private  
 27 agencies through a competitive procurement process [~~develop and~~]

~~implement a comprehensive multidisciplinary team to monitor and evaluate the performance of independent administrators. The team must consist of specialized staff who can enable the department to measure critical dimensions of community-based organization performance, obtained through the quality assurance functions of the independent administrator, including:~~

~~[(1) achievement of client and system outcomes;~~

~~[(2) compliance with contractual terms and conditions; and~~

~~[(3) any history of the community-based organization's noncompliance with the department's licensing standards].~~

SECTION 7. Section 264.1063, Family Code, is amended to read as follows:

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

(b) The contract performance outcomes specified in a contract under Section 264.106 must be consistent with the fiscal goals of privatizing substitute care and case management services and must be within the contractor's authority to deliver. The contract must clearly define the manner in which the substitute care or case management provider's performance will be measured and

1 identify the information sources the department [~~and, if~~  
2 ~~applicable, the independent administrator~~] will use to evaluate the  
3 performance.

4 SECTION 8. Sections 264.107(c), (d), (e), and (f), Family  
5 Code, are amended to read as follows:

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

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

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

19 (1) consult with the child's caseworker and the  
20 child's guardian ad litem or court-appointed volunteer advocate;  
21 and

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

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

27 (1) assessing the need for resources in the region;

1 and

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

4 SECTION 9. Subchapter B, Chapter 264, Family Code, is  
5 amended by adding Section 264.1071 to read as follows:

6 Sec. 264.1071. PLACEMENT FOR CHILDREN UNDER AGE TWO. In  
7 making a placement decision for a child under two years of age, the  
8 department shall ensure that the child is placed with a person who  
9 will provide a safe and emotionally stable environment for the  
10 child and who will be able to provide care for the child without  
11 disruption until the child is returned to the child's parents or the  
12 department makes a permanent placement for the child.

13 SECTION 10. Section 264.113, Family Code, is amended by  
14 adding Subsection (c) to read as follows:

15 (c) The department shall work with the Department of  
16 Assistive and Rehabilitative Services to recruit foster parents and  
17 adoptive parents who have skills, training, or experience suitable  
18 to care for children with hearing impairments.

19 SECTION 11. Section 264.121, Family Code, is amended by  
20 adding Subsection (c) to read as follows:

21 (c) At the time a child enters the Preparation for Adult  
22 Living Program, the department shall provide an information booklet  
23 to the child and the foster parent describing the program and the  
24 benefits available to the child, including extended Medicaid  
25 coverage until age 21, priority status with the Texas Workforce  
26 Commission, and the exemption from the payment of tuition and fees  
27 at institutions of higher education as defined by Section 61.003,



1 Education Code.

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

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

13 (b) A family that meets eligibility criteria for inclusion  
14 in the program is eligible to receive limited funding from a  
15 flexible fund account to cover nonrecurring expenses that are  
16 designed to help the family accomplish the objectives included in  
17 the family's service plan.

18 (c) The executive commissioner shall adopt rules  
19 establishing:

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

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

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

26 (d) The department shall evaluate the results of the program  
27 to determine whether the program is successful in safely keeping

1 families together. If the department determines that the program is  
2 successful, the department shall continue the program to the extent  
3 that funding is available.

4 SECTION 13. Section 264.203(a), Family Code, is amended to  
5 read as follows:

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

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

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

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

17 (2) ~~[to]~~ permit the child and any siblings of the child  
18 to receive the services.

19 SECTION 14. Chapter 266, Family Code, as added by Chapter  
20 268, Acts of the 79th Legislature, Regular Session, 2005, is  
21 amended by adding Section 266.0031 to read as follows:

22 Sec. 266.0031. COMMITTEE ON MEDICAL AND FINANCIAL ISSUES  
23 RELATING TO ABUSE AND NEGLECT. (a) The committee on medical and  
24 financial issues relating to abuse and neglect is composed of nine  
25 members appointed by the executive commissioner. The members must  
26 include:

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

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

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

5           (4) a representative of the Health and Human Services  
6 Commission;

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

8           (6) a physician representative who specializes in  
9 pediatrics;

10          (7) a representative from a children's hospital; and

11          (8) two additional representatives, each of whom  
12 represents one of the interests described by Subdivisions (1)  
13 through (7).

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

17          (c) The committee shall:

18               (1) develop procedures and protocols for physicians,  
19 nurses, hospitals, and other health care providers to follow in  
20 detecting child abuse and neglect; and

21               (2) recommend methods to finance programs that:

22                   (A) provide medical services to abused and  
23 neglected children; and

24                   (B) assist the department in investigating and  
25 proving allegations of abuse and neglect.

26          (d) The committee shall report its findings and  
27 recommendations to the department and the legislature not later

1 than September 1, 2009.

2 (e) This section expires January 1, 2010.

3 SECTION 15. Section 2155.1442(a), Government Code, is  
4 amended to read as follows:

5 (a) Subject to Subsection (e), the state auditor shall  
6 conduct a management review of the residential contract management  
7 employees of the Health and Human Services Commission and the  
8 Department of Family and Protective Services and make  
9 recommendations regarding the organization of, and skills and  
10 educational requirements for, those employees. The state auditor  
11 shall also make recommendations regarding the implementation of  
12 financial accountability provisions and processes to ensure  
13 effective and efficient expenditure of state and other contract  
14 funds. ~~[The state auditor shall report annually to the governor,~~  
15 ~~the lieutenant governor, the speaker of the house of~~  
16 ~~representatives, and the comptroller on the auditor's~~  
17 ~~recommendations and the commission's and department's~~  
18 ~~implementation of each recommendation.]~~

19 SECTION 16. Section 40.071, Human Resources Code, is  
20 amended to read as follows:

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

27 SECTION 17. (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

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

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

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

(2) making recommendations to improve the quality and

1 consistency of monitoring and investigations.

2 (b) The Department of Family and Protective Services shall  
3 implement the change in law made by the enactment of Section  
4 42.0211, Human Resources Code, only to the extent that funding is  
5 available.

6 SECTION 18. Subchapter B, Chapter 42, Human Resources Code,  
7 is amended by adding Section 42.0221 to read as follows:

8 Sec. 42.0221. COMMITTEE ON LICENSING STANDARDS. (a) The  
9 committee on licensing standards shall review the standards  
10 relating to each license issued by the department.

11 (b) The committee is composed of six members appointed by  
12 the governor as follows:

13 (1) one member who operates a facility licensed by the  
14 department;

15 (2) one member who is a parent, guardian, or custodian  
16 of a child who uses a facility licensed by the department;

17 (3) one member who is an expert in the field of child  
18 care and child development; and

19 (4) three members employed by the department who work  
20 with facilities licensed by the department.

21 (c) Members of the committee serve two-year terms, with the  
22 terms of three members expiring February 1 of each year.

23 (d) The committee shall review and analyze the information  
24 provided by the department under Section 42.0455 and shall make  
25 recommendations for policy and statutory changes relating to  
26 licensing standards and facility inspections.

27 (e) The committee shall report its findings and

1 recommendations to the department and the legislature not later  
2 than December 1 of each year.

3 SECTION 19. (a) Section 42.044, Human Resources Code, is  
4 amended by adding Subsection (b-1) and amending Subsection (e) to  
5 read as follows:

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

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

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

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

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

23 (4) conduct at least one annual enforcement team  
24 conference for each child-placing agency to thoroughly review the  
25 investigations or inspections of the child-placing agency and all  
26 of its agency homes [The department shall use the inspections] to  
27 monitor and enforce compliance by a child-placing agency with rules

1 and standards established under Section 42.042.

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

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

15 SECTION 20. Subchapter C, Chapter 42, Human Resources Code,  
16 is amended by adding Section 42.0455 to read as follows:

17 Sec. 42.0455. FACILITY EVALUATION FORM. (a) The department  
18 shall develop an evaluation form to be completed by each facility  
19 regulated under this chapter or registered family home after an  
20 inspection of the facility or home.

21 (b) The evaluation form must allow the facility or home to  
22 provide comments and suggest policy and statutory changes relating  
23 to licensing standards and inspection procedures.

24 (c) The department shall compile the information from the  
25 evaluations and provide the information to the committee on  
26 licensing standards for review.

27 SECTION 21. Subchapter C, Chapter 42, Human Resources Code,



is amended by adding Section 42.064 to read as follows:

Sec. 42.064. PROVIDER INFORMATION DATABASE. (a) The department shall maintain a database containing:

(1) the name of each person who was denied a license to operate a foster home under this chapter; and

(2) information relating to each complaint filed with the department against a person licensed to operate a foster home, including the manner in which the complaint was resolved and any disciplinary action taken against the license holder.

(b) When the department denies, cancels, or refuses to renew a license to operate a foster home, the department shall maintain that information in the database established under this section.

(c) The department shall make the information in the database established under this section available to child-placing agencies.

SECTION 22. Section 45.002, Human Resources Code, is amended to read as follows:

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

(1) complete the statewide privatization of the provision of substitute care services; and

(2) privatize case management services in at least 10 percent of the cases in this state.

(b) On and after September 1, 2009 [2011]:

(1) all substitute care services and at least 10 percent of the case management services provided in the state for

1 children for whom the department has been appointed temporary or  
2 permanent managing conservator must be provided by child-care  
3 institutions and child-placing agencies;

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

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

12 (c) On and after September 1, 2009 [~~2011~~], the department  
13 shall:

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

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

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

26 (e) The department may provide substitute care [~~and case~~  
27 ~~management~~] services as a provider of last resort as provided by

Section 264.106(k), Family Code.

SECTION 23. Section 45.004, Human Resources Code, is amended to read as follows:

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

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

[~~(1) use competitively procured independent administrators to procure and manage substitute care and case 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~~]

1 ~~placement options for all children, especially teenagers, sibling~~  
2 ~~groups, children whose race or ethnicity is disproportionately~~  
3 ~~represented in foster care, children with severe or multiple~~  
4 ~~disabilities, and other children who are difficult to place, and~~

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

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

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

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

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

19 SECTION 24. Section 45.052, Human Resources Code, is  
20 amended to read as follows:

21 Sec. 45.052. FINANCING. The department shall create  
22 financing and payment arrangements that provide incentives for ~~an~~  
23 ~~independent administrator and~~ substitute care and case management  
24 providers to achieve safety, permanency, and well-being outcomes  
25 and improved system performance. In developing this financing  
26 arrangement, the department shall examine:

27 (1) the use of case rates or performance-based

1 fee-for-service contracts that include incentive payments or  
2 payment schedules that link reimbursement to results; and

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

7 SECTION 25. The heading to Section 45.054, Human Resources  
8 Code, is amended to read as follows:

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

11 SECTION 26. Sections 45.054(c) and (d), Human Resources  
12 Code, are amended to read as follows:

13 (c) Not later than the second ~~[first]~~ anniversary of the  
14 date the department enters into the first contract for ~~[substitute~~  
15 ~~care and]~~ case management services under this section, the  
16 department shall contract with a qualified, independent third party  
17 to evaluate each phase of the privatization of ~~[substitute care~~  
18 ~~and]~~ case management services. Each evaluation must:

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

22 (2) assess the achievement of performance measures;

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

27 (4) determine if contracted services are cost

1   beneficial; and

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

5                   (d)   The independent third party with whom the department  
6   contracts under Subsection (c) shall submit its reports and  
7   recommendations to the House Human Services Committee, or its  
8   successor, and the Senate Health and Human Services Committee, or  
9   its successor, not later than September 1, 2011.

10                  SECTION 27.   Section 45.101, Human Resources Code, is  
11   amended to read as follows:

12                  Sec. 45.101.   GOALS   FOR   PRIVATIZATION.   In privatizing  
13   substitute care and case management services, the department [~~The~~  
14   ~~transition plan adopted under Section 45.053~~] must provide for a  
15   new structural model for the community-centered delivery of  
16   substitute care and case management services that is based on a goal  
17   of improving protective services, achieving timely permanency for  
18   children in substitute care, including family reunification,  
19   placement with a relative, or adoption, and improving the overall  
20   well-being of children in substitute care consistent with federal  
21   and state mandates.

22                  SECTION 28.   (a)   The Department of Family and Protective  
23   Services shall develop a child protective services improvement plan  
24   that is designed to build on the child protective services reform  
25   elements added by Chapter 268, Acts of the 79th Legislature,  
26   Regular Session, 2005.   In developing the plan, the department  
27   shall seek to expand on or modify initiatives that have resulted in

1 demonstrable improvements and that serve the primary goals of:

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

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

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

8 (b) The improvement plan must include:

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

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

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

15 (4) providing additional purchased client services  
16 designed to keep families together and to reunite families more  
17 quickly while ensuring child safety;

18 (5) enhancing support of kinship placements by hiring  
19 additional kinship workers to provide additional support and  
20 education to relative placements and purchasing additional support  
21 services for relative placements;

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

24 (7) transitioning all Department of Family and  
25 Protective Services foster and adoptive homes to private  
26 child-placing agencies, while enhancing the quality and  
27 accountability of those services through performance-based

1 contracting and enhanced contract monitoring and enforcement;

2 (8) improving the quality and accountability of  
3 child-care licensing monitoring and investigations by assigning  
4 those functions to separate staff, providing specialized training  
5 to staff who perform each function, performing additional  
6 investigations of certain reports involving young children, and  
7 providing additional support and oversight to both functions;

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

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

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

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

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



1 care.

2 (c) The Department of Family and Protective Services shall  
3 implement the improvement plan described by this section only to  
4 the extent that funds are available for that purpose. If funds are  
5 available to support some, but not all, elements of the plan, the  
6 department shall implement only those parts of the plan for which  
7 funding is available. To the extent feasible, the department shall  
8 contract for services needed to implement elements of the  
9 improvement plan, including the services needed to expand family  
10 group decision making, family-based safety services, kinship  
11 support services, and purchased client services.

12 SECTION 29. (a) Not later than December 31, 2007, the  
13 Department of Family and Protective Services shall prepare and  
14 submit a detailed plan for:

15 (1) the implementation of each element of the child  
16 protective services improvement plan required by Section 29 of this  
17 Act for which funding has been obtained; and

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

22 (b) At the end of each fiscal year beginning August 31,  
23 2008, the Department of Family and Protective Services shall  
24 prepare and submit a progress report that details the department's  
25 activities in implementing the plan described by Subsection (a)(1)  
26 of this section. The progress report must include the department's  
27 calculation of cost savings from reduced stays in foster care and

1 any other cost savings that can be attributed to the implementation  
2 of the improvement plan and continued child protective services  
3 reforms.

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

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

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

15 SECTION 30. The following sections are repealed:

- 16 (1) Sections 264.106(a)(2) and (4), Family Code;
- 17 (2) Sections 264.106(c) and (d), Family Code;
- 18 (3) Sections 45.001(6), (9), and (11), Human Resources  
19 Code;
- 20 (4) Sections 45.054(a), (b), (e), (f), (g), and (h),  
21 Human Resources Code; and
- 22 (5) Section 45.102, Human Resources Code.

23 SECTION 31. This Act takes effect September 1, 2007.