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(In the Senate - Filed February 19, 2007; March 6, 2007,
read first time and referred to Committee on Health and Human
Services; April 16, 2007, reported adversely, with favorable
Committee Substitute by the following vote: Yeas 8, Nays 0;
April 16, 2007, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 758 By: Nelson

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

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

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

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

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

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

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

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 on request. The release of information to the department as required by this subsection by a person, including a utility company, is not subject to Section 552.352, Government Code, or any other law providing liability for the release of confidential information.

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

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

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

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

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

SECTION 5. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.014 to read as follows:

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

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

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

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

SECTION 7. (a) Subsections (a), (b), (c), (e), (g), (i), (j), and (k), Section 264.106, Family Code, are amended to read as follows:

(a) In this section:

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

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

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

(C) assisting the court by acting as a resource

in a suit affecting the parent-child relationship involving a child for whom a case management services provider provides services.

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

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

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

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

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

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

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

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

(A) substitute care services;

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

(C) [✓] family reunification services;

(D) [✓, adoption and postadoption services,] preparation for adult living services;

(E) convening family group conferences; and

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

(4) "Substitute care provider" means:

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

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

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

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

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

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

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

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

(4) [✓] 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~~
~~(2) be governed by a board that has a member who has a financial interest in a substitute care or case management provider with whom the independent administrator subcontracts].~~

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

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

(2) specify performance outcomes;

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

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

(5) ensure that a private agency that is providing substitute care or case management services for a child shall provide to the child's attorney ad litem and guardian ad litem access to the agency's information and records relating to the child;

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

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

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

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

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

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

(b) The Department of Family and Protective Services shall enter into one or more contracts for case management services under the pilot program described by Section 264.106, Family Code, as amended by this section, on or before September 1, 2009, with a goal of contracting for case management services in at least 10 percent

of the cases in the state in which the department has been appointed temporary or permanent managing conservator of a child. Notwithstanding this deadline, the department must continue to provide case management services in any area covered by the pilot program if:

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

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

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

SECTION 8. 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 substitute care providers ~~[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 identify the information sources the department ~~[and, if applicable, the independent administrator]~~ will use to evaluate the performance.

SECTION 9. Section 264.107, Family Code, is amended by amending Subsections (c) through (f) and adding Subsection (g) to read as follows:

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

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

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

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

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

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

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

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

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

child is placed in temporary care.

SECTION 10. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.1071 to read as follows:

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

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

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

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

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

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

SECTION 12. Section 264.121, Family Code, is amended by adding Subsection (c) to read as follows:

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

SECTION 13. Subchapter C, Chapter 264, Family Code, is amended by adding Section 264.2011 to read as follows:

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

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

(c) 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 14. Subsection (a), Section 264.203, 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 15. 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 pediatric centers of excellence that:

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

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

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

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

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

(f) This section expires January 1, 2010.

SECTION 16. Subsection (a), Section 2155.1442, Government Code, is amended to read as follows:

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

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

SECTION 17. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Section 40.0325 to read as follows:

Sec. 40.0325. STUDY OF CASEWORKER EDUCATION REIMBURSEMENT.

(a) The department shall study the effect that providing reimbursement for certain educational expenses would have on recruiting and retaining qualified child protective services caseworkers. The study must include a comparative analysis of the cost of training new caseworkers and the benefits of having an experienced caseworker staff with the cost of providing reimbursement for educational expenses.

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

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

SECTION 18. (a) Subchapter B, Chapter 40, Human Resources Code, is amended by adding Section 40.0326 to read as follows:

Sec. 40.0326. DEGREE REQUIREMENTS FOR CASEWORKERS.

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

- (1) social work;
- (2) counseling;
- (3) early childhood education;
- (4) psychology;
- (5) criminal justice; or
- (6) elementary or secondary education.

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

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

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

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

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

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

SECTION 21. (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 consistency of monitoring and investigations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 23. Section 42.042, Human Resources Code, is amended by adding Subsection (r) to read as follows:

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

hours of the placement that the facility temporarily exceeded the facility's capacity.

SECTION 24. (a) Section 42.044, Human Resources Code, is amended by adding Subsection (b-1) and amending Subsection (e) to read as follows:

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

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

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

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

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

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

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

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

SECTION 25. Section 42.0535, Human Resources Code, is amended by adding Subsections (e) and (f) to read as follows:

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

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

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

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

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

SECTION 26. The heading to Chapter 45, Human Resources Code, is amended to read as follows:

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

SECTION 27. Subdivisions (1), (12), and (13), Section 45.001, Human Resources Code, are amended to read as follows:

(1) "Case management services" has the meaning assigned by Section 264.106, Family Code ~~[means the provision of case management services to a child for whom the department has been appointed temporary or permanent managing conservator, including~~

~~caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates].~~

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

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

SECTION 28. Section 45.002, Human Resources Code, is amended to read as follows:

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

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

(2) contract with one or more providers of case management services in one or more geographic areas of the state as provided by Section 264.106, Family Code, with a goal of contracting for those services in at least 10 percent of the cases in this state.

(b) Except as provided by Subsections (d) and (e), on ~~[On]~~ and after September 1, 2009, ~~[2011]~~:

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

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

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

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

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

(2) 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; and

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

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

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

SECTION 29. 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 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 30. 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 31. Subsections (c) and (d), Section 45.054, Human Resources Code, are amended to read as follows:

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

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

- (2) assess the achievement of performance measures;

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

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

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

(d) The independent third party with whom the department 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, 2012.

SECTION 32. 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) ~~[~~ achieving timely permanency for children in substitute care, including family reunification, placement with a relative, or adoption; ~~]~~ and

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

SECTION 33. (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.

(b) The improvement plan must include:

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

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

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

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

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

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

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

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

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

(10) streamlining criminal history background checks

to increase the efficiency and effectiveness of those checks;

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

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

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

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

SECTION 34. (a) Not later than December 31, 2007, the Department of Family and Protective Services shall prepare and submit a detailed plan for:

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

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

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

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

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

(d) This section expires September 1, 2010.

SECTION 35. The following laws are repealed:

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

SECTION 36. This Act takes effect September 1, 2007.

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