

By: Corte

H.B. No. 3492

A BILL TO BE ENTITLED

AN ACT

relating to a pilot program for the provision of certain child protective services functions of the Department of Family and Protective Services by a private entity.

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

SECTION 1. Chapter 45, Human Resources Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. BEXAR COUNTY PILOT PROJECT

Sec. 45.201. DEFINITIONS. In this subchapter:

(1) "Board" means the community board established under Section 45.202.

(2) "Lead agency" means the agency awarded the contract to provide case management services in Bexar County under this subchapter.

Sec. 45.202. COMMUNITY BOARD. The board is composed of the following members appointed by the Bexar County commissioners court:

(1) the chairperson of the Bexar County child welfare board;

(2) the director of the City of San Antonio Department of Community Initiatives;

(3) the director of the Bexar County Department of Community Investment;

(4) the executive director of the San Antonio

1 Nonprofit Council;

2 (5) the executive director of Voices for Children,
3 Inc.;

4 (6) a representative of the business community;

5 (7) a representative of the faith community; and

6 (8) an individual who was a child in foster care in
7 Bexar County.

8 Sec. 45.203. SELECTION OF LEAD AGENCY; REQUEST FOR
9 PROPOSAL. (a) The board, with assistance from the department,
10 shall select the lead agency through a competitive bidding process.

11 (b) The board shall develop a request for proposal for a
12 contract to provide case management services in Bexar County. The
13 board may contract with a public or private institution of higher
14 education or another public or private organization to develop the
15 request for proposal.

16 (c) In preparing the request for proposal, the board shall
17 use previous requests for proposal for case management services
18 providers as a model.

19 (d) The request for proposal for the lead agency must
20 include:

21 (1) performance outcomes for the lead agency;

22 (2) clearly defined standards for meeting performance
23 outcomes;

24 (3) requirements for the lead agency to build
25 wrap-around services within the county, including development of
26 services that may not currently exist within the county;

27 (4) a clear explanation that the lead agency's failure

1 to exceed certain performance outcomes may be construed as a breach
2 of the contract and, if corrective action is not taken within a
3 reasonable time, result in removal of the lead agency; and

4 (5) a contingency plan in the event the lead agency is
5 released from the contract for nonperformance.

6 (e) The board shall publish notice of the request for
7 proposal.

8 Sec. 45.204. LEAD AGENCY CONTRACT. The contract with the
9 lead agency for the provision of case management services must:

10 (1) require the lead agency to:

11 (A) perform caseworker-child visits and family
12 visits;

13 (B) convene family group conferences;

14 (C) develop and revise the case plan;

15 (D) coordinate and monitor services needed by the
16 child and family;

17 (E) assume court-related duties, including
18 preparing court reports, attending judicial hearings and
19 permanency hearings, and ensuring that the child is progressing
20 toward permanency as provided by state and federal law; and

21 (F) provide all family-based safety services,
22 including:

23 (i) services designed to assist families,
24 including adoptive and extended families, who are at risk or in
25 crisis;

26 (ii) preventive services designed to help a
27 child at risk of foster care placement remain safely with the

1 child's family; and

2 (iii) services designed to help a child
3 return, when the return is safe and appropriate, to the family from
4 which the child was removed; and

5 (2) include a provision providing for the advance
6 payment of part of the contract proceeds to cover the lead agency's
7 start-up costs.

8 Sec. 45.205. LEAD AGENCY PROVIDER NETWORK. The lead agency
9 shall develop and maintain a provider network that includes
10 providers of services.

11 Sec. 45.206. DUTIES OF DEPARTMENT; INVESTIGATION OF ABUSE
12 OR NEGLECT REPORT. (a) The department shall conduct an initial
13 investigation of a report of abuse or neglect to determine whether
14 abuse or neglect has occurred and whether to remove a child from the
15 child's parent or guardian.

16 (b) If the department determines that abuse or neglect has
17 not occurred, the department shall close the case.

18 (c) If the department determines there is reason to believe
19 that abuse or neglect has occurred but does not warrant the removal
20 of the child, the department shall refer the case to the lead
21 agency.

22 (d) If the department determines there is reason to believe
23 that abuse or neglect has occurred and that removal of the child
24 from the parent or guardian is warranted, the department shall
25 petition the court for removal.

26 Sec. 45.207. REFERRAL OF CASE TO LEAD AGENCY. (a) On
27 referral of a case by the department to the lead agency under

1 Section 45.206(c), the lead agency shall determine the type of case
2 management services the family needs, and shall provide those
3 services.

4 (b) If during the course of providing case management
5 services to a family under this section, the lead agency has reason
6 to believe that removal of the child from the child's parent or
7 guardian may be warranted, the lead agency shall notify the
8 department to review the case.

9 (c) On receipt of notice under Subsection (b), the
10 department shall conduct another investigation, and if the
11 department determines there is reason to believe that removal of
12 the child is warranted, the lead agency and the department shall
13 jointly petition the court for removal of the child from the legal
14 parent or guardian.

15 Sec. 45.208. EFFECT OF REMOVAL. On removal of a child from
16 the child's legal parent or guardian, the lead agency shall place
17 the child in substitute care and provide case management services
18 for the child.

19 Sec. 45.209. POLICIES AND PROCEDURES OF LEAD AGENCY. (a)
20 The lead agency shall adopt policies and procedures to implement
21 this subchapter. The lead agency's policies and procedures are
22 subject to board approval.

23 (b) All policies and procedures adopted by the lead agency
24 under this section must comply with:

- 25 (1) state and federal laws and rules;
26 (2) national accreditation standards; and
27 (3) all child-care licensing standards and child

1 placing standards.

2 (c) Until the lead agency's policies and procedures are
3 approved by the board, the lead agency shall operate under the rules
4 and procedures established by the department.

5 (d) For purposes of providing case management services, the
6 lead agency has the same rights and duties provided by law to the
7 department.

8 Sec. 45.210. SELECTION OF INDEPENDENT EVALUATOR. Through a
9 competitive bidding process, the board and the department shall
10 jointly select a person to act as an independent evaluator of the
11 lead agency.

12 Sec. 45.211. FAILURE TO MEET PERFORMANCE OUTCOMES;
13 CANCELLATION. (a) If the board determines that the lead agency has
14 failed to meet the performance outcomes specified in the contract,
15 the board and lead agency shall negotiate a corrective action plan
16 to improve the lead agency's performance.

17 (b) If the board determines that the lead agency continues
18 to fail to meet the performance outcomes specified in the contract
19 and by the corrective action plan established under Subsection (a),
20 the board may terminate the contract with the lead agency.

21 Sec. 45.212. FUNDING. (a) The comptroller shall determine
22 the percentage of the department's budget the department spent
23 providing case management services in Bexar County during the
24 preceding fiscal biennium. In determining the costs attributable
25 to providing case management services in Bexar County, the
26 comptroller shall include:

27 (1) salaries and benefits of department employees

1 providing case management services in Bexar County;

2 (2) the costs to operate the department's offices in
3 Bexar County;

4 (3) the cost of providing contracted services, family
5 preservation services, financial support, information technology,
6 human resources, operations support, service funds, revenue
7 maximization staff, and recruitment and foster parent support in
8 Bexar County; and

9 (4) a portion of the department's operating costs
10 attributable to operating the department's headquarters in Austin.

11 (b) Based on the comptroller's determination under
12 Subsection (a), the department shall set aside the percentage of
13 the department's appropriation for the state fiscal biennium
14 beginning September 1, 2009, the department would spend to provide
15 case management services in Bexar County to pay for case management
16 services provided under the contract with the lead agency.

17 (c) The department may not spend the portion of the
18 department's budget that is set aside for Bexar County for any other
19 purpose.

20 (d) The department shall pay the lead agency \$3.5 million to
21 fund the lead agency's start-up costs.

22 SECTION 2. In implementing the pilot program required by
23 Subchapter E, Chapter 45, Human Resources Code, as added by this
24 Act, the community board established under Section 45.202, Human
25 Resources Code, as added by this Act, shall meet the following
26 deadlines:

27 (1) the board shall complete the request for proposal

1 for a lead agency not later than October 15, 2009;

2 (2) if the board contracts with an institution of
3 higher education or another organization to prepare the request for
4 proposal, the institution of higher education or organization shall
5 submit the request for proposal to the board not later than October
6 15, 2009;

7 (3) the board shall publish the request for proposal
8 not later than October 16, 2009;

9 (4) all bid proposals must be submitted to the board
10 not later than November 16, 2009;

11 (5) the board shall announce the lead agency not later
12 than November 30, 2009;

13 (6) the board shall enter into a contract with the lead
14 agency not later than December 4, 2009;

15 (7) the lead agency shall assume responsibility for
16 providing case management services from the department not later
17 than September 6, 2010;

18 (8) the independent evaluator shall begin the first
19 assessment of the lead agency on January 2, 2011;

20 (9) the independent evaluator shall submit its
21 evaluation to the board not later than February 7, 2011; and

22 (10) the board shall submit the independent
23 evaluator's evaluation to the Department of Family and Protective
24 Services and legislative oversight committees not later than
25 February 8, 2011.

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 3492

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.