AN ACT
relating to treating and reducing child abuse and neglect and
improving child welfare, including providing assistance for
adoptive parents and foster care providers.

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

SECTION 1. In this Act, "task force" means the task force
established under this Act to establish a strategy for reducing
child abuse and neglect and improving child welfare.

SECTION 2. (a) The task force consists of nine members
appointed as follows:

(1) five members appointed by the governor;
(2) two members appointed by the lieutenant governor;
and
(3) two members appointed by the speaker of the house
of representatives.

(b) Members of the task force must be individuals who are
actively involved in the fields of the prevention of child abuse and
neglect and child welfare. The appointment of members must reflect
the geographic diversity of the state.

(c) A member of the task force is not entitled to
compensation for service on the task force but is entitled to
reimbursement for travel expenses as provided by Chapter 660,

(d) The task force shall elect a presiding officer by a
majority vote of the membership of the task force.

(e) The task force shall meet at the call of the presiding officer.

(f) Chapter 2110, Government Code, does not apply to the task force.

SECTION 3. (a) The task force shall establish a strategy for reducing child abuse and neglect and for improving child welfare in this state. In establishing that strategy, the task force shall:

(1) gather information concerning child safety, child abuse and neglect, and child welfare throughout the state;

(2) review the exemptions from criminal liability provided under the Penal Code to a mother who injures her unborn child by using a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, during her pregnancy and examine the effect that repealing the exemptions will have on reducing the number of babies who are born addicted to a controlled substance;

(3) receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations;

(4) create goals for state policy that would improve child safety, prevent child abuse and neglect, and improve child welfare; and

(5) submit a strategic plan to accomplish those goals.

(b) The strategic plan submitted under Subsection (a) of this section may include proposals for specific statutory changes,
the creation of new programs, and methods to foster cooperation among state agencies and between the state and local government.

SECTION 4. (a) The task force shall consult with employees of the Department of Family and Protective Services, the Department of State Health Services, and the Texas Department of Criminal Justice as necessary to accomplish the task force's responsibilities under this Act.

(b) The task force may cooperate as necessary with any other appropriate state agency.

SECTION 5. (a) The governor, lieutenant governor, and speaker of the house of representatives shall appoint the members of the task force not later than October 1, 2009.

(b) Not later than August 1, 2011, the task force shall submit the strategic plan required by Section 3 of this Act to the governor, lieutenant governor, and speaker of the house of representatives.

(c) The task force is abolished and this Act expires on September 1, 2011.

SECTION 6. (a) Section 162.3041, Family Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) Notwithstanding Subsection (a), if the department first entered into an adoption assistance agreement with a child's adoptive parents after the child's 16th birthday, the department shall, in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission, offer adoption assistance after the child's 18th birthday to the child's
adoptive parents under an existing adoption agreement until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of doing any of the activities described by Subdivisions (1)-(4) due to a documented medical condition.

(d) If the legislature does not appropriate sufficient money to provide adoption assistance to the adoptive parents of all children described by Subsection (a), the department shall provide adoption assistance only to the adoptive parents of children described by Subsection (a)(1). The department is not required to provide adoption assistance benefits under Subsection (a-1) unless the department is specifically appropriated funds for purposes of that subsection.

(b) Section 264.101, Family Code, is amended by amending Subsections (a-1) and (d) and adding Subsection (a-2) to read as follows:

(a-1) The department shall continue to pay the cost of foster care for a child for whom the department provides care, including medical care, until the last day of the month in which
[later of:

(1) the date the child attains the age of 18. The department shall continue to pay the cost of foster care for a child after the month in which the child attains the age of 18 as long as the child is:

(1) regularly attending[; or

(2) the date the child graduates from] high school or [ceases to be] enrolled in a [secondary school in a] program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of performing the activities described by Subdivisions (1)-(4) due to a documented medical condition.

(a-2) The department shall continue to pay the cost of foster care under:

(1) Subsection (a-1)(1) until the last day of the month in which the child attains the age of 22; and

(2) Subsections (a-1)(2)-(5) until the last day of the month the child attains the age of 21.

(d) The executive commissioner of the Health and Human Services Commission may adopt rules that establish criteria and guidelines for the payment of foster care, including medical care, for a child and for providing care for a child after the child
becomes 18 years of age if the child meets the requirements for
continued foster care under Subsection (a-1) [is regularly
attending an institution of higher education or a vocational or
technical program].

(c) Subdivisions (1) and (3), Section 264.751, Family Code,
are amended to read as follows:

(1) "Designated caregiver" means an individual who has
a longstanding and significant relationship with a child for whom
the department has been appointed managing conservator and who:

(A) is appointed to provide substitute care for
the child, but is not licensed by the department or verified by a
licensed child-placing agency or the department [certified to]
operate a foster home, foster group home, agency foster home, or
agency foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing
conservator of the child after providing the care described by
Paragraph (A).

(3) "Relative caregiver" means a relative who:

(A) provides substitute care for a child for whom
the department has been appointed managing conservator, but who is
not licensed by the department or verified by a licensed
child-placing agency or the department [certified to] operate a
foster home, foster group home, agency foster home, or agency
foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing
conservator of the child after providing the care described by
Paragraph (A).
(d) Subchapter I, Chapter 264, Family Code, is amended by adding Section 264.760 to read as follows:

Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of this subchapter, a relative or other designated caregiver who becomes licensed by the department or verified by a licensed child-placing agency or the department to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code, may receive foster care payments in lieu of the benefits provided by this subchapter, beginning with the first month in which the relative or other designated caregiver becomes licensed or is verified.

(e) Chapter 264, Family Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

Sec. 264.851. DEFINITIONS. In this subchapter:

(1) "Foster child" means a child who is or was in the temporary or permanent managing conservatorship of the department.

(2) "Kinship provider" means a relative of a foster child, or another adult with a longstanding and significant relationship with a foster child before the child was placed with the person by the department, with whom the child resides for at least six consecutive months after the person becomes licensed by the department or verified by a licensed child-placing agency or the department to provide foster care.

(3) "Permanency care assistance agreement" means a written agreement between the department and a kinship provider for
the payment of permanency care assistance benefits as provided by this subchapter.

(4) "Permanency care assistance benefits" means monthly payments paid by the department to a kinship provider under a permanency care assistance agreement.

(5) "Relative" means a person related to a foster child by consanguinity or affinity.

Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS.

(a) The department shall enter into a permanency care assistance agreement with a kinship provider who is eligible to receive permanency care assistance benefits.

(b) The department may enter into a permanency care assistance agreement with a kinship provider who is the prospective managing conservator of a foster child only if the kinship provider meets the eligibility criteria under federal and state law and department rule.

(c) A court may not order the department to enter into a permanency care assistance agreement with a kinship provider unless the kinship provider meets the eligibility criteria under federal and state law and department rule, including requirements relating to the criminal history background check of a kinship provider.

(d) A permanency care assistance agreement may provide for reimbursement of the nonrecurring expenses a kinship provider incurs in obtaining permanent managing conservatorship of a foster child, including attorney's fees and court costs. The reimbursement of the nonrecurring expenses under this subsection may not exceed $2,000.
Sec. 264.853. RULES. The executive commissioner shall adopt rules necessary to implement the permanency care assistance program. The rules must:

(1) establish eligibility requirements to receive permanency care assistance benefits under the program; and

(2) ensure that the program conforms to the requirements for federal assistance as required by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351).

Sec. 264.854. MAXIMUM PAYMENT AMOUNT. The executive commissioner shall set the maximum monthly amount of assistance payments under a permanency care assistance agreement in an amount that does not exceed the amount of the monthly foster care maintenance payment the department would pay to a foster care provider caring for the child for whom the kinship provider is caring.

Sec. 264.855. CONTINUED ELIGIBILITY FOR PERMANENCY CARE ASSISTANCE BENEFITS AFTER AGE 18. If the department first entered into a permanency care assistance agreement with a foster child's kinship provider after the child's 16th birthday, the department may continue to provide permanency care assistance payments until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher
education or a postsecondary vocational or technical program; 
(3) participating in a program or activity that promotes, or removes barriers to, employment; 
(4) employed for at least 80 hours a month; or 
(5) incapable of any of the activities described by Subdivisions (1)-(4) due to a documented medical condition.

Sec. 264.856. APPROPRIATION REQUIRED. The department is not required to provide permanency care assistance benefits under this subchapter unless the department is specifically appropriated money for purposes of this subchapter.

Sec. 264.857. DEADLINE FOR NEW AGREEMENTS. The department may not enter into a permanency care assistance agreement after August 31, 2017. The department shall continue to make payments after that date under a permanency care assistance agreement entered into on or before August 31, 2017, according to the terms of the agreement.

(f) Not later than April 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement and administer the permanency care assistance program under Subchapter K, Chapter 264, Family Code, as added by this section.

(g) Sections 162.3041 and 264.101, Family Code, as amended by this section, and Section 264.855, Family Code, as added by this section, take effect October 1, 2010.

SECTION 7. (a) Chapter 1001, Health and Safety Code, is amended by adding Subchapter F to read as follows:
SUBCHAPTER F. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION SYSTEM (MEDCARES)

Sec. 1001.151. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION SYSTEM GRANT PROGRAM. (a) The department shall establish the Texas Medical Child Abuse Resources and Education System (MEDCARES) grant program to award grants for the purpose of developing and supporting regional programs to improve the assessment, diagnosis, and treatment of child abuse and neglect as described by the report submitted to the 80th Legislature by the committee on pediatric centers of excellence relating to abuse and neglect in accordance with Section 266.0031, Family Code, as added by Chapter 1406 (S.B. 758), Acts of the 80th Legislature, Regular Session, 2007.

(b) The department may award grants to hospitals or academic health centers with expertise in pediatric health care and a demonstrated commitment to developing basic and advanced programs and centers of excellence for the assessment, diagnosis, and treatment of child abuse and neglect.

(c) The department shall encourage collaboration among grant recipients in the development of program services and activities.

Sec. 1001.152. USE OF GRANT. A grant awarded under this subchapter may be used to support:

(1) comprehensive medical evaluations, psychosocial assessments, treatment services, and written and photographic documentation of abuse;

(2) education and training for health professionals, including physicians, medical students, resident physicians, child abuse fellows, and nurses, relating to the assessment, diagnosis,
and treatment of child abuse and neglect;

(3) education and training for community agencies involved with child abuse and neglect, law enforcement officials, child protective services staff, and children's advocacy centers involved with child abuse and neglect;

(4) medical case reviews and consultations and testimony regarding those reviews and consultations;

(5) research, data collection, and quality assurance activities, including the development of evidence-based guidelines and protocols for the prevention, evaluation, and treatment of child abuse and neglect;

(6) the use of telemedicine and other means to extend services from regional programs into underserved areas; and

(7) other necessary activities, services, supplies, facilities, and equipment as determined by the department.

Sec. 1001.153. MEDCARES ADVISORY COMMITTEE. The executive commissioner shall establish an advisory committee to advise the department and the executive commissioner in establishing rules and priorities for the use of grant funds awarded through the program. The advisory committee is composed of the following nine members:

(1) the state Medicaid director or the state Medicaid director's designee;

(2) the medical director for the Department of Family and Protective Services or the medical director's designee; and

(3) as appointed by the executive commissioner:

(A) two pediatricians with expertise in child abuse or neglect;
(B) a nurse with expertise in child abuse or neglect;

(C) a representative of a pediatric residency training program;

(D) a representative of a children's hospital;

(E) a representative of a children's advocacy center; and

(F) a member of the Governor's EMS and Trauma Advisory Council.

Sec. 1001.154. GIFTS AND GRANTS. The department may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

Sec. 1001.155. REQUIRED REPORT. Not later than December 1 of each even-numbered year, the department, with the assistance of the advisory committee established under this subchapter, shall submit a report to the governor and the legislature regarding the grant activities of the program and grant recipients, including the results and outcomes of grants provided under this subchapter.

Sec. 1001.156. RULES. The executive commissioner may adopt rules as necessary to implement this subchapter.

Sec. 1001.157. APPROPRIATION REQUIRED. The department is not required to award a grant under this subchapter unless the department is specifically appropriated money for purposes of this subchapter.

(b) Not later than November 1, 2009, the executive commissioner of the Health and Human Services Commission shall appoint the members of the advisory committee as required by
Section 1001.153, Health and Safety Code, as added by this section.

(c) Not later than January 1, 2010, the Department of State Health Services shall establish and implement a grant program as described by Subchapter F, Chapter 1001, Health and Safety Code, as added by this section.

(d) Not later than December 1, 2010, the Department of State Health Services shall provide the initial report to the governor and the legislature as required by Section 1001.155, Health and Safety Code, as added by this section.

(e) If before implementing any provision of this section a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

(f) This section does not make an appropriation. This section takes effect only if a specific appropriation for the implementation of the section is provided in a general appropriations act of the 81st Legislature.

SECTION 8. This Act takes effect September 1, 2009.
President of the Senate

I hereby certify that S.B. No. 2080 passed the Senate on May 8, 2009, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendments on June 1, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 2080 passed the House, with amendments, on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor