

By: Zaffirini, et al.  
(Burkett)

S.B. No. 44

Substitute the following for S.B. No. 44:

By: Raymond

C.S.S.B. No. 44

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to maintaining and reporting certain information  
3 regarding certain child abuse or neglect cases and the provision of  
4 mental health services for children in those cases.

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

6 SECTION 1. Section 261.001, Family Code, is amended by  
7 adding Subdivision (9) to read as follows:

8 (9) "Severe emotional disturbance" means a mental,  
9 behavioral, or emotional disorder of sufficient duration to result  
10 in functional impairment that substantially interferes with or  
11 limits a person's role or ability to function in family, school, or  
12 community activities.

13 SECTION 2. Subsection (b), Section 261.004, Family Code, is  
14 amended to read as follows:

15 (b) The department shall report the following information:

16 (1) the number of initial phone calls received by the  
17 department alleging abuse and neglect;

18 (2) the number of children reported to the department  
19 as having been abused and neglected;

20 (3) the number of reports received by the department  
21 alleging abuse or neglect and assigned by the department for  
22 investigation;

23 (4) of the children to whom Subdivision (2) applies:

24 (A) the number for whom the report was

1 substantiated;

2 (B) the number for whom the report was  
3 unsubstantiated;

4 (C) the number for whom the report was determined  
5 to be false;

6 (D) the number who did not receive services from  
7 the department under a state or federal program;

8 (E) the number who received services, including  
9 preventative services, from the department under a state or federal  
10 program; and

11 (F) the number who were removed from the child's  
12 home during the preceding year;

13 (5) the number of families in which the child was not  
14 removed, but the child or family received services from the  
15 department;

16 (6) the number of children who died during the  
17 preceding year as a result of child abuse or neglect;

18 (7) of the children to whom Subdivision (6) applies,  
19 the number who were in foster care at the time of death;

20 (8) the number of child protective services workers  
21 responsible for report intake, assessment, or investigation;

22 (9) the response time by the department with respect  
23 to conducting an initial investigation of a report of child abuse or  
24 neglect;

25 (10) the response time by the department with respect  
26 to commencing services to families and children for whom an  
27 allegation of abuse or neglect has been made;

1           (11) the number of children who were returned to their  
2 families or who received family preservation services and who,  
3 before the fifth anniversary of the date of return or receipt, were  
4 the victims of substantiated reports of child abuse or neglect,  
5 including abuse or neglect resulting in the death of the child;

6           (12) the number of cases pursued by the department in  
7 each stage of the judicial process, including civil and criminal  
8 proceedings and the results of each proceeding; ~~and~~

9           (13) the number of children for whom a person was  
10 appointed by the court to represent the best interests of the child  
11 and the average number of out-of-court contacts between the person  
12 and the child; and

13           (14) the number of children who suffer from a severe  
14 emotional disturbance and for whom the department is appointed  
15 managing conservator because a person voluntarily relinquished  
16 custody of the child solely to obtain mental health services for the  
17 child.

18           SECTION 3. Chapter 262, Family Code, is amended by adding  
19 Subchapter E to read as follows:

20           SUBCHAPTER E. RELINQUISHING CHILD TO OBTAIN CERTAIN SERVICES

21           Sec. 262.351. DEFINITIONS. In this subchapter:

22           (1) "Department" means the Department of Family and  
23 Protective Services.

24           (2) "Severe emotional disturbance" has the meaning  
25 assigned by Section 261.001.

26           Sec. 262.352. JOINT MANAGING CONSERVATORSHIP OF CHILD.

27 Before a person relinquishes custody of a child who suffers from a

1 severe emotional disturbance in order to obtain mental health  
2 services for the child, the department must, if it is in the best  
3 interest of the child, discuss with the person relinquishing  
4 custody of the child the option of seeking a court order for joint  
5 managing conservatorship of the child with the department.

6 Sec. 262.353. STUDY TO DEVELOP ALTERNATIVES TO  
7 RELINQUISHMENT OF CUSTODY TO OBTAIN MENTAL HEALTH SERVICES.

8 (a) The department and the Department of State Health Services  
9 shall jointly study and develop recommendations to prevent the  
10 practice of parents relinquishing custody of children with a severe  
11 emotional disturbance and placement of children in the  
12 conservatorship of the department solely to obtain mental health  
13 services for the child.

14 (b) As part of the study under Subsection (a), the  
15 department and the Department of State Health Services shall  
16 consider the advantages of providing mental health services using  
17 temporary residential treatment and intensive community-based  
18 services options, including:

19 (1) joint managing conservatorship of the child by the  
20 department and the child's parent;

21 (2) the Youth Empowerment Services waiver program;

22 (3) systems of care services;

23 (4) emergency respite services; and

24 (5) diversion residential treatment center services.

25 (c) The executive commissioner of the Health and Human  
26 Services Commission shall review the recommendations developed  
27 under Subsection (a) and may direct the implementation of any

1 recommendation that can be implemented with the department's  
2 current resources.

3 (d) Not later than September 30, 2014, the department and  
4 the Department of State Health Services shall file a report with the  
5 legislature and the Council on Children and Families on the results  
6 of the study required by Subsection (a). The report must include:

7 (1) each option to prevent relinquishment of parental  
8 custody that was considered during the study;

9 (2) each option recommended for implementation, if  
10 any;

11 (3) each option that is implemented using existing  
12 resources;

13 (4) any policy or statutory change needed to implement  
14 a recommended option;

15 (5) the fiscal impact of implementing each option, if  
16 any;

17 (6) the estimated number of children and families that  
18 may be affected by the implementation of each option; and

19 (7) any other significant information relating to the  
20 study.

21 (e) Not later than September 30 of each even-numbered year  
22 after the date the initial report is filed under Subsection (d), the  
23 department and the Department of State Health Services shall update  
24 the report. The updated report must include the implementation  
25 status of each recommended option under Subsection (d).

26 SECTION 4. Section 531.803, Government Code, is amended by  
27 amending Subsection (a) and adding Subsection (a-1) to read as

1 follows:

2 (a) The council shall:

3 (1) analyze the biennial legislative appropriations  
4 requests of members of the council for services provided to  
5 children and their families and identify appropriations that,  
6 through the coordination of members of the council, could be  
7 modified in the next legislative appropriation request to eliminate  
8 waste or increase available services and, not later than May 1 of  
9 each even-numbered year, prepare a report recommending those  
10 modifications for consideration during the development of the next  
11 biennial legislative appropriations request;

12 (2) investigate opportunities to increase flexible  
13 funding for health, education, and human services provided to  
14 children and their families;

15 (3) identify methods to remove barriers to local  
16 coordination of health, education, and human services provided to  
17 children and their families;

18 (4) identify methods to ensure that children and youth  
19 receive appropriate assessment, diagnoses, and intervention  
20 services;

21 (5) identify and develop methods and strategies to  
22 coordinate and enhance prevention services for children and their  
23 families;

24 (6) develop methods to prevent unnecessary parental  
25 relinquishment of custody of children and make recommendations to  
26 the executive commissioner regarding options for improving the  
27 system for serving families who relinquish, or are at risk of

1 relinquishing, custody of a child solely to obtain mental health  
2 services for the child, after considering whether it would be  
3 appropriate to serve those families without a finding of abuse or  
4 neglect or without including the finding of abuse or neglect in the  
5 central registry of reported cases of child abuse or neglect;

6           (7) [~~(6)~~] prioritize assisting children in family  
7 settings rather than institutional settings;

8           (8) [~~(7)~~] make recommendations about family  
9 involvement in the provision and planning of health, education, and  
10 human services for a child, including family partner and liaison  
11 models; and

12           (9) [~~(8)~~] identify technological methods to ensure  
13 the efficient and timely transfer of information among state  
14 agencies providing health, education, and human services to  
15 children and their families.

16           (a-1) The executive commissioner shall review the council's  
17 recommendations under Subsection (a)(6) and direct the  
18 implementation of any policy changes the executive commissioner  
19 determines necessary that can be implemented using existing  
20 resources.

21           SECTION 5. This Act takes effect September 1, 2013.