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H.B. No. 4

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to monetary assistance provided by the Department of  
3 Family and Protective Services to certain relative or designated  
4 caregivers; creating a criminal offense; creating a civil penalty.

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

6 SECTION 1. Section 264.755, Family Code, is amended by  
7 amending Subsections (a), (b), and (c) and adding Subsections (b-1)  
8 and (b-2) to read as follows:

9 (a) The department shall, subject to the availability of  
10 funds, enter into a caregiver assistance agreement with each  
11 relative or other designated caregiver to provide monetary  
12 assistance and additional support services to the caregiver. The  
13 monetary assistance and support services shall be based on a  
14 family's need, as determined by Subsection (b) and rules adopted by  
15 the executive commissioner.

16 (b) The department shall disburse monetary ~~[Monetary]~~  
17 assistance to caregivers ~~[provided]~~ under this section as follows:

18 (1) a caregiver that has a family income that is less  
19 than or equal to 300 percent of the federal poverty level may  
20 receive monetary assistance from the department as follows:

21 (A) a caregiver that has a family income that is  
22 less than or equal to the federal poverty level may receive monetary  
23 assistance not exceeding 75 percent of the department's daily basic  
24 foster care rate for the child;

1           (B) a caregiver that has a family income that is  
2 greater than the federal poverty level but that is less than or  
3 equal to 200 percent of the federal poverty level may receive  
4 monetary assistance not exceeding 50 percent of the department's  
5 daily basic foster care rate for the child; and

6           (C) a caregiver that has a family income that is  
7 greater than 200 percent of the federal poverty level but that is  
8 less than or equal to 300 percent of the federal poverty level may  
9 receive monetary assistance not exceeding 25 percent of the  
10 department's daily basic foster care rate for the child;

11           (2) a caregiver that has a family income that is  
12 greater than 300 percent but less than or equal to 500 percent of  
13 the federal poverty level may receive ~~[must include]~~ a one-time  
14 cash payment as provided by Subsection (b-2) for each child placed  
15 with the ~~[to the]~~ caregiver not later than the 60th day after the  
16 date of ~~[on]~~ the initial placement of a child or a sibling group;  
17 and

18           (3) a caregiver that has a family income greater than  
19 500 percent of the federal poverty level is not eligible for  
20 monetary assistance under this section.

21           (b-1) The department shall disburse monetary assistance  
22 provided to a caregiver under Subsection (b)(1) in the same manner  
23 as the department disburses payments to a foster parent.

24           (b-2) The amount of the one-time cash payment provided to a  
25 caregiver under Subsection (b)(2) ~~[, as determined by the~~  
26 ~~department,~~ ] may not exceed \$1,000 for each child placed with the  
27 caregiver. The payment for placement of a sibling group must be at

1 least \$1,000 for the group, but may not exceed \$1,000 for each child  
2 in the group. [~~The cash payment must be provided on the initial  
3 placement of each child with the caregiver and is provided to assist  
4 the caregiver in purchasing essential child-care items such as  
5 furniture and clothing.~~]

6 (c) Monetary assistance and additional support services  
7 provided under this section may include:

8 (1) case management services and training and  
9 information about the child's needs until the caregiver is  
10 appointed permanent managing conservator;

11 (2) referrals to appropriate state agencies  
12 administering public benefits or assistance programs for which the  
13 child, the caregiver, or the caregiver's family may qualify;

14 (3) family counseling not provided under the Medicaid  
15 program for the caregiver's family for a period not to exceed two  
16 years from the date of initial placement;

17 (4) if the caregiver meets the eligibility criteria  
18 determined by rules adopted by the executive commissioner,  
19 reimbursement of all child-care expenses incurred while the child  
20 is under 13 years of age, or under 18 years of age if the child has a  
21 developmental disability, and while the department is the child's  
22 managing conservator;

23 (5) if the caregiver meets the eligibility criteria  
24 determined by rules adopted by the executive commissioner,  
25 reimbursement of 50 percent of child-care expenses incurred after  
26 the caregiver is appointed permanent managing conservator of the  
27 child while the child is under 13 years of age, or under 18 years of

1 age if the child has a developmental disability; and

2 (6) for a caregiver receiving monetary assistance  
3 under Subsection (b)(2), reimbursement of other expenses, as  
4 determined by rules adopted by the executive commissioner, not to  
5 exceed \$500 per year for each child.

6 SECTION 2. Subchapter I, Chapter 264, Family Code, is  
7 amended by adding Section 264.7551 to read as follows:

8 Sec. 264.7551. FRAUDULENT AGREEMENT; CRIMINAL OFFENSE;  
9 CIVIL PENALTY. (a) A person commits an offense if, with intent to  
10 defraud or deceive the department, the person knowingly makes or  
11 causes to be made a false statement or misrepresentation of a  
12 material fact that allows a person to enter into a caregiver  
13 assistance agreement.

14 (b) An offense under Subsection (a) is a state jail felony  
15 unless it is shown on the trial of the offense that the person has  
16 previously been convicted under this section, in which case the  
17 offense is a felony of the third degree.

18 (c) If conduct that constitutes an offense under this  
19 section also constitutes an offense under any other law, the actor  
20 may be prosecuted under this section, the other law, or both.

21 (d) The appropriate county prosecuting attorney shall be  
22 responsible for the prosecution of an offense under this section.

23 (e) A person who engaged in conduct described by Subsection  
24 (a) is liable to the state for a civil penalty of \$1,000. The  
25 attorney general shall bring an action to recover a civil penalty as  
26 authorized by this subsection.

27 (f) The commissioner of the department may adopt rules

1 necessary to determine whether fraudulent activity that violates  
2 Subsection (a) has occurred.

3 SECTION 3. (a) Except as provided by Subsection (b) of this  
4 section, Section 264.755, Family Code, as amended by this Act,  
5 applies to a caregiver assistance agreement entered into before,  
6 on, or after the effective date of this Act.

7 (b) If a person who has a family income that is less than or  
8 equal to 300 percent of the federal poverty level entered into a  
9 caregiver assistance agreement with the Department of Family and  
10 Protective Services on or after June 1, 2017, but before the  
11 effective date of this Act, and received monetary assistance under  
12 the agreement from the department, the department shall consider  
13 the money paid to the person to be a credit against the disbursement  
14 of caregiver assistance funds, and may not begin disbursing money  
15 to the person as authorized by Section 264.755, Family Code, as  
16 amended by this Act, until the credit has been offset.

17 (c) If a person who has a family income that is less than or  
18 equal to 300 percent of the federal poverty level enters into a  
19 caregiver assistance agreement with the Department of Family and  
20 Protective Services, obtains permanent managing conservatorship of  
21 a child before the effective date of this Act, and meets all other  
22 eligibility requirements, the person may continue to receive the  
23 \$500 annual reimbursement until the earlier of:

24 (1) the third anniversary of the date the person was  
25 awarded permanent managing conservatorship of the child; or

26 (2) the child's 18th birthday.

27 SECTION 4. This Act takes effect September 1, 2017.