

By: Wu

H.B. No. 39

A BILL TO BE ENTITLED

AN ACT

relating to the child protective service functions of the Department of family and Protective Services.

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

SECTION 1. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.1211 to read as follows:

Sec. 264.1211. CAREER DEVELOPMENT AND EDUCATION PROGRAM.

The department may collaborate with local workforce development boards, foster care transition centers, community and technical colleges, schools, and any other appropriate workforce industry resource to create a program that:

(1) assists foster care youth and former foster care youth in obtaining:

(A) a high school diploma or a high school equivalency certificate; and

(B) industry certifications necessary for high demand occupations;

(2) provides career guidance to foster care youth and former foster care youth; and

(3) informs foster care youth and former foster care youth about the tuition and fee waivers for institutions of higher education that are available under Section 54.366, Education Code.

SECTION 2. Chapter 266, Family Code, is amended by adding Section 266.0031 to read as follows:

1 Sec. 266.0031. INITIAL MEDICAL AND PSYCHOLOGICAL
2 ASSESSMENT; SCHEDULING OF SERVICES. (a) The department shall
3 conduct an initial medical and psychological assessment of a child
4 not later than the 14th day after the date the child is removed from
5 the child's home, or not later than the fifth day after the date of
6 removal for a child removed from the child's home because of an
7 immediate risk of abuse or neglect that could have resulted in the
8 death of or serious harm to the child.

9 (b) Following the initial assessments of a child under
10 Subsection (a), the department may, without court approval,
11 schedule for the child any preventive treatment, acute medical
12 service, or therapeutic and rehabilitative care to meet the child's
13 mental and physical needs. In scheduling a treatment, service, or
14 care under this subsection, the department shall adhere to the
15 medical services delivery model developed under Section 266.003.

16 SECTION 3. Section 552.117(a), Government Code, is amended
17 to read as follows:

18 (a) Information is excepted from the requirements of
19 Section 552.021 if it is information that relates to the home
20 address, home telephone number, emergency contact information, or
21 social security number of the following person or that reveals
22 whether the person has family members:

23 (1) a current or former official or employee of a
24 governmental body, except as otherwise provided by Section 552.024;

25 (2) a peace officer as defined by Article 2.12, Code of
26 Criminal Procedure, or a security officer commissioned under
27 Section 51.212, Education Code, regardless of whether the officer

1 complies with Section 552.024 or 552.1175, as applicable;

2 (3) a current or former employee of the Texas
3 Department of Criminal Justice or of the predecessor in function of
4 the department or any division of the department, regardless of
5 whether the current or former employee complies with Section
6 552.1175;

7 (4) a peace officer as defined by Article 2.12, Code of
8 Criminal Procedure, or other law, a reserve law enforcement
9 officer, a commissioned deputy game warden, or a corrections
10 officer in a municipal, county, or state penal institution in this
11 state who was killed in the line of duty, regardless of whether the
12 deceased complied with Section 552.024 or 552.1175;

13 (5) a commissioned security officer as defined by
14 Section 1702.002, Occupations Code, regardless of whether the
15 officer complies with Section 552.024 or 552.1175, as applicable;

16 (6) an officer or employee of a community supervision
17 and corrections department established under Chapter 76 who
18 performs a duty described by Section 76.004(b), regardless of
19 whether the officer or employee complies with Section 552.024 or
20 552.1175;

21 (7) a current or former employee of the office of the
22 attorney general who is or was assigned to a division of that office
23 the duties of which involve law enforcement, regardless of whether
24 the current or former employee complies with Section 552.024 or
25 552.1175;

26 (8) a current or former employee of the Texas Juvenile
27 Justice Department or of the predecessors in function of the

1 department, regardless of whether the current or former employee
2 complies with Section 552.024 or 552.1175;

3 (9) a current or former juvenile probation or
4 supervision officer certified by the Texas Juvenile Justice
5 Department, or the predecessors in function of the department,
6 under Title 12, Human Resources Code, regardless of whether the
7 current or former officer complies with Section 552.024 or
8 552.1175;

9 (10) a current or former employee of a juvenile
10 justice program or facility, as those terms are defined by Section
11 261.405, Family Code, regardless of whether the current or former
12 employee complies with Section 552.024 or 552.1175; [~~or~~]

13 (11) a current or former member of the Texas military
14 forces, as that term is defined by Section 437.001; or

15 (12) a current or former child protective services
16 caseworker or investigator for the Department of Family and
17 Protective Services, regardless of whether the caseworker or
18 investigator complies with Section 552.024 or 552.1175, or a
19 current or former employee of a department contractor performing
20 child protective services caseworker or investigator functions for
21 the contractor on behalf of the department.

22 SECTION 4. The heading to Section 552.1175, Government
23 Code, is amended to read as follows:

24 Sec. 552.1175. EXCEPTION: CONFIDENTIALITY OF CERTAIN
25 PERSONAL IDENTIFYING INFORMATION OF PEACE OFFICERS AND OTHER
26 OFFICIALS PERFORMING SENSITIVE GOVERNMENTAL FUNCTIONS [~~, COUNTY~~
27 ~~JAILERS, SECURITY OFFICERS, EMPLOYEES OF CERTAIN CRIMINAL OR~~

1 ~~JUVENILE JUSTICE AGENCIES OR OFFICES, AND FEDERAL AND STATE~~
2 ~~JUDGES]~~.

3 SECTION 5. Section 552.1175(a), Government Code, is amended
4 to read as follows:

5 (a) This section applies only to:

6 (1) peace officers as defined by Article 2.12, Code of
7 Criminal Procedure;

8 (2) county jailers as defined by Section 1701.001,
9 Occupations Code;

10 (3) current or former employees of the Texas
11 Department of Criminal Justice or of the predecessor in function of
12 the department or any division of the department;

13 (4) commissioned security officers as defined by
14 Section 1702.002, Occupations Code;

15 (5) employees of a district attorney, criminal
16 district attorney, or county or municipal attorney whose
17 jurisdiction includes any criminal law or child protective services
18 matters;

19 (6) officers and employees of a community supervision
20 and corrections department established under Chapter 76 who perform
21 a duty described by Section 76.004(b);

22 (7) criminal investigators of the United States as
23 described by Article 2.122(a), Code of Criminal Procedure;

24 (8) police officers and inspectors of the United
25 States Federal Protective Service;

26 (9) current and former employees of the office of the
27 attorney general who are or were assigned to a division of that

1 office the duties of which involve law enforcement;

2 (10) current or former juvenile probation and
3 detention officers certified by the Texas Juvenile Justice
4 Department, or the predecessors in function of the department,
5 under Title 12, Human Resources Code;

6 (11) current or former employees of a juvenile justice
7 program or facility, as those terms are defined by Section 261.405,
8 Family Code;

9 (12) current or former employees of the Texas Juvenile
10 Justice Department or the predecessors in function of the
11 department; ~~and~~

12 (13) federal judges and state judges as defined by
13 Section 13.0021, Election Code; and

14 (14) a current or former child protective services
15 caseworker or investigator for the Department of Family and
16 Protective Services or a current or former employee of a department
17 contractor performing child protective services caseworker or
18 investigator functions for the contractor on behalf of the
19 department.

20 SECTION 6. Subchapter B, Chapter 40, Human Resources Code,
21 is amended by adding Sections 40.0327, 40.0328, 40.036, and 40.038
22 to read as follows:

23 Sec. 40.0327. NONPROFIT AGENCY SERVICES COORDINATOR. The
24 department shall designate an office as the nonprofit agency
25 services coordinator to serve as a liaison between the department
26 and nonprofit agencies that provide adoption services and
27 assistance to families in crisis and children in care.

1 Sec. 40.0328. CASEWORKER CASELOAD MANAGEMENT SYSTEM. The
2 department shall manage the duties of caseworkers to maintain the
3 safety of children in child protective services by establishing a
4 caseload management system that:

5 (1) assigns a risk score to each child in the
6 department's care based on an assessment of the current and
7 potential risk of harm to the child from abuse or neglect as
8 provided by Section 40.0529;

9 (2) determines the appropriate number of cases to be
10 assigned to a caseworker based on the risk scores of the children
11 assigned to the caseworker; and

12 (3) proportionally limits the number of children with
13 higher risk scores that may be assigned to any one caseworker.

14 Sec. 40.036. TRAUMA-BASED CARE TRAINING REQUIREMENT FOR
15 CASEWORKERS. The department shall ensure that each child
16 protective services caseworker who interacts with children on a
17 daily basis receives training in trauma-based care.

18 Sec. 40.038. SECONDARY TRAUMA SUPPORT FOR CASEWORKERS. (a)
19 In this section, "secondary trauma" means trauma incurred as a
20 consequence of a person's exposure to acute or chronic trauma.

21 (b) The department shall develop and make available a
22 program to provide ongoing support to caseworkers who experience
23 secondary trauma resulting from exposure to trauma in the course of
24 the caseworker's employment. The program must include critical
25 incident stress debriefing. The department may not require that a
26 caseworker participate in the program.

27 SECTION 7. Subchapter C, Chapter 40, Human Resources Code,

1 is amended by adding Section 40.0523 to read as follows:

2 Sec. 40.0523. BEST PRACTICES GUIDE FOR CHILD PROTECTIVE
3 SERVICES CASES. (a) The University of Houston, The University of
4 Texas at Austin, and Texas A&M University in collaboration with
5 children's advocacy centers shall create a work group to develop a
6 best practices guide to establish uniform practices in child
7 protective services cases across this state. In developing the
8 guide, the work group may use any existing guide created by the
9 department. The guide must:

10 (1) describe the different stages of a child
11 protective services case, including intake, initial investigation,
12 assessment of the child and family, case planning, court
13 proceedings, case management services, and case closure;

14 (2) describe the roles and responsibilities of the
15 persons involved in each stage identified in Subdivision (1); and

16 (3) include definitions of commonly used terms,
17 acronyms, model timelines and procedural flowcharts for the most
18 common child protective services cases, and a list by area of
19 services available to children and parents.

20 (b) The department shall design the best practices guide to
21 assist:

22 (1) an attorney representing a child in a suit
23 affecting the parent-child relationship filed by the department;

24 (2) an attorney representing a parent in a suit
25 affecting the parent-child relationship filed by the department;

26 (3) a judge presiding over a case described in
27 Subdivision (1);

1 (4) a guardian ad litem representing a child in a case
2 described by Subdivision (1);

3 (5) a child protective services caseworker or
4 investigator or a court-appointed volunteer advocate;

5 (6) a caregiver or family member associated with the
6 child's case; and

7 (7) any other individual involved in a child
8 protective services case that the department determines would
9 benefit from the best practices guide.

10 (c) The department shall include in the best practices
11 guide:

12 (1) advice from people experienced in the child
13 protective services system on best practices in carrying out the
14 person's particular role in the process; and

15 (2) other information the department determines could
16 benefit a person serving in the child protective services system.

17 (d) The department shall update the best practices guide
18 biannually.

19 (e) The department shall make the best practices guide
20 available on the department's Internet website and may charge a
21 reasonable fee for a printed copy of the guide.

22 SECTION 8. Section 40.0528(d), Human Resources Code, is
23 amended to read as follows:

24 (d) The department shall measure the [~~In reporting~~
25 ~~information relating to~~] caseloads of child protective services
26 caseworkers [7] in accordance with standards developed by [~~addition~~
27 ~~to reporting caseload by each individual affected by the case,~~] the

1 department. The standards must include:

- 2 (1) the total number of children involved in the case;
3 (2) the type of placement for each child involved in
4 the case;
5 (3) the total number of placements for the case;
6 (4) the level of care required for each child involved
7 in the case;
8 (5) the level of department intervention and parental
9 or family services required for the case; and
10 (6) the level of caseworker experience required to
11 appropriately manage the case [~~shall report the number of cases for~~
12 ~~each caseworker on the basis of family unit~~].

13 SECTION 9. Subchapter C, Chapter 40, Human Resources Code,
14 is amended by adding Section 40.0529 to read as follows:

15 Sec. 40.0529. RISK OF HARM ASSESSMENT. (a) The department
16 shall establish an evidence-based system for assessing the risk of
17 harm to a child from abuse or neglect for each child who is the
18 subject of a report of abuse or neglect or of an active child
19 protective services case. The system shall provide a score for each
20 case on a scale from 1 for a child at the lowest risk of harm to 10
21 for a child at the highest risk of harm.

22 (b) The department, with assistance from the Bush School of
23 Government and Public Service at Texas A&M University, the Lyndon
24 B. Johnson School of Public Affairs at The University of Texas, and
25 the Graduate College of Social Work at the University of Houston,
26 shall study child protective services cases to identify factors
27 that indicate a risk of child abuse or neglect and develop objective

1 criteria to be used in the risk of harm assessment.

2 (c) In assessing the risk of harm to a child from abuse or
3 neglect, the department shall consider:

4 (1) the risk of harm a parent poses to a child who
5 remains in the child's home, including:

6 (A) the likelihood of the child's death or
7 serious injury; and

8 (B) the likelihood of serious psychological harm
9 to the child;

10 (2) the potential psychological harm to a child who
11 remains in the child's home;

12 (3) the potential psychological harm to a child who is
13 removed from the child's home;

14 (4) the risk of harm to a child who is returned to the
15 child's home; and

16 (5) the services required to address the child's
17 needs, including the child's medical and mental health care needs.

18 (d) After the department assigns a risk of harm assessment
19 score to a child's case, the child protective services caseworker
20 for the child's case may adjust the score by up to one point based on
21 the caseworker's knowledge and experience with the child.

22 (e) The department shall complete a risk of harm assessment
23 for each child protective services case before a court holds a full
24 adversary hearing on the case and shall periodically reassess the
25 risk of harm to the child.

26 (f) The department shall use the risk of harm assessment
27 score when making decisions relating to:

- 1 (1) caseworker assignments;
- 2 (2) parental access to the child; and
- 3 (3) caseload limits for caseworkers.

4 (g) The department may only assign an experienced
5 caseworker to a child protective services case that has been
6 assigned a high risk of harm assessment score.

7 (h) The risk of harm assessment score is inadmissible in
8 court as evidence.

9 SECTION 10. Subchapter C, Chapter 42, Human Resources Code,
10 is amended by adding Section 42.0533 to read as follows:

11 Sec. 42.0533. EMERGENCY PLACEMENT. (a) In this section,
12 "emergency placement" means the temporary placement of a child in a
13 foster home, foster group home, agency foster home, or agency
14 foster group home for not more than 30 days.

15 (b) The department shall identify all licensed foster homes
16 and foster group homes or verified agency foster homes and agency
17 foster group homes that are able to accept the emergency placement
18 of a child when a safe and suitable long-term placement is not
19 available. A licensed foster home and foster group home and a
20 verified agency foster home and agency foster group home shall take
21 an emergency placement on request of the department or child
22 placing agency.

23 (c) The department shall ensure that a child placed in an
24 emergency placement continues to attend the school in which the
25 child was enrolled immediately before the child was removed from
26 the child's home or another school in that school district if it is
27 not in the best interest of the child to remain in the same school.

1 (d) The department shall:

2 (1) develop procedures for the emergency placement of
3 children; and

4 (2) increase the number of foster homes, foster group
5 homes, agency foster homes, and agency foster group homes that are
6 able to accept the emergency placement of children.

7 (e) The executive commissioner shall adopt rules governing
8 the reimbursement of a foster home, a foster group home, an agency
9 foster home, or an agency foster group home that accepts the
10 emergency placement of a child.

11 SECTION 11. Section 25.025(a), Tax Code, is amended to read
12 as follows:

13 (a) This section applies only to:

14 (1) a current or former peace officer as defined by
15 Article 2.12, Code of Criminal Procedure;

16 (2) a county jailer as defined by Section 1701.001,
17 Occupations Code;

18 (3) an employee of the Texas Department of Criminal
19 Justice;

20 (4) a commissioned security officer as defined by
21 Section 1702.002, Occupations Code;

22 (5) a victim of family violence as defined by Section
23 71.004, Family Code, if as a result of the act of family violence
24 against the victim, the actor is convicted of a felony or a Class A
25 misdemeanor;

26 (6) a federal judge, a state judge, or the spouse of a
27 federal judge or state judge;

1 (7) a current or former employee of a district
2 attorney, criminal district attorney, or county or municipal
3 attorney whose jurisdiction includes any criminal law or child
4 protective services matters;

5 (8) an officer or employee of a community supervision
6 and corrections department established under Chapter 76,
7 Government Code, who performs a duty described by Section 76.004(b)
8 of that code;

9 (9) a criminal investigator of the United States as
10 described by Article 2.122(a), Code of Criminal Procedure;

11 (10) a police officer or inspector of the United
12 States Federal Protective Service;

13 (11) a current or former United States attorney or
14 assistant United States attorney and the spouse and child of the
15 attorney;

16 (12) a current or former employee of the office of the
17 attorney general who is or was assigned to a division of that office
18 the duties of which involve law enforcement;

19 (13) a medical examiner or person who performs
20 forensic analysis or testing who is employed by this state or one or
21 more political subdivisions of this state;

22 (14) a current or former member of the United States
23 armed forces who has served in an area that the president of the
24 United States by executive order designates for purposes of 26
25 U.S.C. Section 112 as an area in which armed forces of the United
26 States are or have engaged in combat;

27 (15) a current or former employee of the Texas

1 Juvenile Justice Department or of the predecessors in function of
2 the department;

3 (16) a current or former juvenile probation or
4 supervision officer certified by the Texas Juvenile Justice
5 Department, or the predecessors in function of the department,
6 under Title 12, Human Resources Code; ~~and~~

7 (17) a current or former employee of a juvenile
8 justice program or facility, as those terms are defined by Section
9 [261.405](#), Family Code; and

10 (18) a current or former child protective services
11 caseworker or investigator for the Department of Family and
12 Protective Services or a current or former employee of a department
13 contractor performing child protective services caseworker or
14 investigator functions for the contractor on behalf of the
15 department.

16 SECTION 12. (a) Section 266.0031, Family Code, as added by
17 this Act, applies only to a child who enters the conservatorship of
18 the Department of Family and Protective Services on or after the
19 effective date of this Act. A child who enters the conservatorship
20 of the Department of Family and Protective Services before the
21 effective date of this Act is governed by the law in effect on the
22 date the child entered foster care, and the former law is continued
23 in effect for that purpose.

24 (b) The changes in law made by this Act to Sections [552.117](#)
25 and [552.1175](#), Government Code, and Section [25.025](#), Tax Code, apply
26 only to a request for information that is received by a governmental
27 body or an officer on or after the effective date of this Act. A

1 request for information that was received before the effective date
2 of this Act is governed by the law in effect on the date the request
3 was received, and the former law is continued in effect for that
4 purpose.

5 (c) As soon as practicable after the effective date of this
6 Act, the Department of Family and Protective Services shall
7 establish and implement the caseload management system as required
8 under Section 40.0328, Human Resources Code, as added by this Act.

9 (d) Section 42.0529, Human Resources Code, as added by this
10 Act applies only to a child protective services case initiated on or
11 after the effective date of this Act. A child protective services
12 case initiated before that date is governed by the law in effect on
13 the date the case began, and the former law is continued in effect
14 for that purpose.

15 SECTION 13. This Act takes effect September 1, 2017.