

1-1 By: Burkett, et al. (Senate Sponsor - Kolkhorst) H.B. No. 1549  
 1-2 (In the Senate - Received from the House May 8, 2017;  
 1-3 May 9, 2017, read first time and referred to Committee on Health &  
 1-4 Human Services; May 22, 2017, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
 1-6 May 22, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1549 By: Kolkhorst

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the provision of services by the Department of Family  
 1-22 and Protective Services, including child protective services and  
 1-23 prevention and early intervention services.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 261.204(a), Family Code, is amended to  
 1-26 read as follows:

1-27 (a) Not later than March 1 of each year, the [The]  
 1-28 department shall publish an [annual] aggregated report using  
 1-29 information compiled from each child fatality investigation for  
 1-30 which the department made a finding regarding abuse or neglect,  
 1-31 including cases in which the department determined the fatality was  
 1-32 not the result of abuse or neglect. The report must protect the  
 1-33 identity of individuals involved and contain the following  
 1-34 information:

1-35 (1) the age and sex of the child and the county in  
 1-36 which the fatality occurred;

1-37 (2) whether the state was the managing conservator of  
 1-38 the child or whether the child resided with the child's parent,  
 1-39 managing conservator, guardian, or other person entitled to the  
 1-40 possession of the child at the time of the fatality;

1-41 (3) the relationship to the child of the individual  
 1-42 alleged to have abused or neglected the child, if any;

1-43 (4) the number of any department abuse or neglect  
 1-44 investigations involving the child or the individual alleged to  
 1-45 have abused or neglected the child during the two years preceding  
 1-46 the date of the fatality and the results of the investigations;

1-47 (5) whether the department offered family-based  
 1-48 safety services or conservatorship services to the child or family;

1-49 (6) the types of abuse and neglect alleged in the  
 1-50 reported investigations, if any; and

1-51 (7) any trends identified in the investigations  
 1-52 contained in the report.

1-53 SECTION 2. Section 261.301, Family Code, is amended by  
 1-54 adding Subsection (j) to read as follows:

1-55 (j) In geographic areas with demonstrated need, the  
 1-56 department shall designate employees to serve specifically as  
 1-57 investigators and responders for after-hours reports of child abuse  
 1-58 or neglect.

1-59 SECTION 3. Subchapter B, Chapter 264, Family Code, is  
 1-60 amended by adding Section 264.1261 to read as follows:

2-1 Sec. 264.1261. FOSTER CARE CAPACITY NEEDS PLAN. (a) In  
2-2 this section, "community-based foster care" means the redesigned  
2-3 foster care services system required by Chapter 598 (S.B. 218),  
2-4 Acts of the 82nd Legislature, Regular Session, 2011.

2-5 (b) Appropriate department management personnel from a  
2-6 child protective services region in which community-based foster  
2-7 care has not been implemented, in collaboration with foster care  
2-8 providers, faith-based entities, and child advocates in that  
2-9 region, shall use data collected by the department on foster care  
2-10 capacity needs and availability of each type of foster care and  
2-11 kinship placement in the region to create a plan to address the  
2-12 substitute care capacity needs in the region. The plan must  
2-13 identify both short-term and long-term goals and strategies for  
2-14 addressing those capacity needs.

2-15 (c) A foster care capacity needs plan developed under  
2-16 Subsection (b) must be:

- 2-17 (1) submitted to and approved by the commissioner; and
- 2-18 (2) updated annually.

2-19 (d) The department shall publish each initial foster care  
2-20 capacity needs plan and each annual update to a plan on the  
2-21 department's Internet website.

2-22 SECTION 4. Sections 264.502(a) and (b), Family Code, are  
2-23 amended to read as follows:

2-24 (a) The child fatality review team committee is composed of:

- 2-25 (1) a person appointed by and representing the state  
2-26 registrar of vital statistics;
- 2-27 (2) a person appointed by and representing the  
2-28 commissioner of the department;
- 2-29 (3) a person appointed by and representing the Title V  
2-30 director of the Department of State Health Services; [~~and~~]
- 2-31 (4) a person appointed by and representing the speaker  
2-32 of the house of representatives;
- 2-33 (5) a person appointed by and representing the  
2-34 lieutenant governor;
- 2-35 (6) a person appointed by and representing the  
2-36 governor; and
- 2-37 (7) individuals selected under Subsection (b).

2-38 (b) The members of the committee who serve under Subsections  
2-39 (a)(1) through (6) [~~(3)~~] shall select the following additional  
2-40 committee members:

- 2-41 (1) a criminal prosecutor involved in prosecuting  
2-42 crimes against children;
- 2-43 (2) a sheriff;
- 2-44 (3) a justice of the peace;
- 2-45 (4) a medical examiner;
- 2-46 (5) a police chief;
- 2-47 (6) a pediatrician experienced in diagnosing and  
2-48 treating child abuse and neglect;
- 2-49 (7) a child educator;
- 2-50 (8) a child mental health provider;
- 2-51 (9) a public health professional;
- 2-52 (10) a child protective services specialist;
- 2-53 (11) a sudden infant death syndrome family service  
2-54 provider;
- 2-55 (12) a neonatologist;
- 2-56 (13) a child advocate;
- 2-57 (14) a chief juvenile probation officer;
- 2-58 (15) a child abuse prevention specialist;
- 2-59 (16) a representative of the Department of Public  
2-60 Safety;
- 2-61 (17) a representative of the Texas Department of  
2-62 Transportation;
- 2-63 (18) an emergency medical services provider; and
- 2-64 (19) a provider of services to, or an advocate for,  
2-65 victims of family violence.

2-66 SECTION 5. Section 264.503, Family Code, is amended by  
2-67 amending Subsections (d) and (e) and adding Subsection (h) to read  
2-68 as follows:

2-69 (d) The Department of State Health Services shall:

3-1 (1) recognize the creation and participation of review  
3-2 teams;  
3-3 (2) promote and coordinate training to assist the  
3-4 review teams in carrying out their duties;  
3-5 (3) assist the committee in developing model protocols  
3-6 for:  
3-7 (A) the reporting and investigating of child  
3-8 fatalities for law enforcement agencies, child protective  
3-9 services, justices of the peace and medical examiners, and other  
3-10 professionals involved in the investigations of child deaths;  
3-11 (B) the collection of data regarding child  
3-12 deaths; and  
3-13 (C) the operation of the review teams;  
3-14 (4) develop and implement procedures necessary for the  
3-15 operation of the committee; ~~and~~  
3-16 (5) develop and make available training for justices  
3-17 of the peace and medical examiners regarding inquests in child  
3-18 death cases; and  
3-19 (6) promote education of the public regarding the  
3-20 incidence and causes of child deaths, the public role in preventing  
3-21 child deaths, and specific steps the public can undertake to  
3-22 prevent child deaths.  
3-23 (e) In addition to the duties under Subsection (d), the  
3-24 Department of State Health Services shall:  
3-25 (1) collect data under this subchapter and coordinate  
3-26 the collection of data under this subchapter with other data  
3-27 collection activities; ~~and~~  
3-28 (2) perform annual statistical studies of the  
3-29 incidence and causes of child fatalities using the data collected  
3-30 under this subchapter; and  
3-31 (3) evaluate the available child fatality data and use  
3-32 the data to create public health strategies for the prevention of  
3-33 child fatalities.  
3-34 (h) Each member of the committee must be a member of the  
3-35 child fatality review team in the county where the committee member  
3-36 resides unless the committee member is an appointed representative  
3-37 of a state agency.  
3-38 SECTION 6. Subchapter F, Chapter 264, Family Code, is  
3-39 amended by adding Sections 264.5031 and 264.5032 to read as  
3-40 follows:  
3-41 Sec. 264.5031. COLLECTION OF NEAR FATALITY DATA. (a) In  
3-42 this section, "near fatality" means a case where a physician has  
3-43 certified that a child is in critical or serious condition, and a  
3-44 caseworker determines that the child's condition was caused by the  
3-45 abuse or neglect of the child.  
3-46 (b) The department shall include near fatality child abuse  
3-47 or neglect cases in the child fatality case database, for cases in  
3-48 which child abuse or neglect is determined to have been the cause of  
3-49 the near fatality. The department must also develop a data  
3-50 collection strategy for near fatality child abuse or neglect cases.  
3-51 Sec. 264.5032. REPORT ON CHILD FATALITY AND NEAR FATALITY  
3-52 DATA. (a) The department shall produce an aggregated report  
3-53 relating to child fatality and near fatality cases resulting from  
3-54 child abuse or neglect containing the following information:  
3-55 (1) any prior contact the department had with the  
3-56 child's family and the manner in which the case was disposed,  
3-57 including cases in which the department made the following  
3-58 dispositions:  
3-59 (A) priority none or administrative closure;  
3-60 (B) call screened out;  
3-61 (C) alternative or differential response  
3-62 provided;  
3-63 (D) unable to complete the investigation;  
3-64 (E) unable to determine whether abuse or neglect  
3-65 occurred;  
3-66 (F) reason to believe abuse or neglect occurred;  
3-67 or  
3-68 (G) child removed and placed into substitute  
3-69 care;

4-1 (2) for any case investigated by the department  
4-2 involving the child or the child's family:

4-3 (A) the number of caseworkers assigned to the  
4-4 case before the fatality or near fatality occurred; and

4-5 (B) the caseworker's caseload at the time the  
4-6 case was opened and at the time the case was closed;

4-7 (3) for any case in which the department investigation  
4-8 concluded that there was reason to believe that abuse or neglect  
4-9 occurred, and the family was referred to family-based safety  
4-10 services:

4-11 (A) the safety plan provided to the family;

4-12 (B) the services offered to the family; and

4-13 (C) the level of compliance with the safety plan  
4-14 or completion of the services by the family;

4-15 (4) the number of contacts the department made with  
4-16 children and families in family-based safety services cases; and

4-17 (5) the initial and attempted contacts the department  
4-18 made with child abuse and neglect victims.

4-19 (b) In preparing the part of the report required by  
4-20 Subsection (a)(1), the department shall include information  
4-21 contained in department records retained in accordance with the  
4-22 department's records retention schedule.

4-23 (c) The report produced under this section must protect the  
4-24 identity of individuals involved in a case that is included in the  
4-25 report.

4-26 (d) The department may combine the report required under  
4-27 this section with the annual child fatality report required to be  
4-28 produced under Section 261.204.

4-29 SECTION 7. Sections 264.505(a) and (c), Family Code, are  
4-30 amended to read as follows:

4-31 (a) A multidisciplinary and multiagency child fatality  
4-32 review team may be established for a county to review child deaths  
4-33 in that county. A ~~review team for a~~ county ~~[with a population of~~  
4-34 ~~less than 50,000]~~ may join with an adjacent county or counties to  
4-35 establish a combined review team.

4-36 (c) A review team must reflect the diversity of the county's  
4-37 population and may include:

4-38 (1) a criminal prosecutor involved in prosecuting  
4-39 crimes against children;

4-40 (2) a sheriff;

4-41 (3) a justice of the peace or medical examiner;

4-42 (4) a police chief;

4-43 (5) a pediatrician experienced in diagnosing and  
4-44 treating child abuse and neglect;

4-45 (6) a child educator;

4-46 (7) a child mental health provider;

4-47 (8) a public health professional;

4-48 (9) a child protective services specialist;

4-49 (10) a sudden infant death syndrome family service  
4-50 provider;

4-51 (11) a neonatologist;

4-52 (12) a child advocate;

4-53 (13) a chief juvenile probation officer; and

4-54 (14) a child abuse prevention specialist.

4-55 SECTION 8. Section 264.506(b), Family Code, is amended to  
4-56 read as follows:

4-57 (b) To achieve its purpose, a review team shall:

4-58 (1) adapt and implement, according to local needs and  
4-59 resources, the model protocols developed by the department and the  
4-60 committee;

4-61 (2) meet on a regular basis to review child fatality  
4-62 cases and recommend methods to improve coordination of services and  
4-63 investigations between agencies that are represented on the team;

4-64 (3) collect and maintain data as required by the  
4-65 committee; ~~and~~

4-66 (4) review and analyze the collected data to identify  
4-67 any demographic trends in child fatality cases, including whether  
4-68 there is a disproportionate number of child fatalities in a  
4-69 particular population group or geographic area; and

5-1 (5) submit to the vital statistics unit data reports  
5-2 on deaths reviewed as specified by the committee.

5-3 SECTION 9. Section 264.509, Family Code, is amended by  
5-4 adding Subsection (b-1) to read as follows:

5-5 (b-1) The Department of State Health Services shall provide  
5-6 a review team with electronic access to the preliminary death  
5-7 certificate for a deceased child.

5-8 SECTION 10. (a) Section 264.514, Family Code, is amended by  
5-9 adding Subsection (a-1) and amending Subsection (b) to read as  
5-10 follows:

5-11 (a-1) The commissioners court of a county shall adopt  
5-12 regulations relating to the timeliness for conducting an inquest  
5-13 into the death of a child. The regulations adopted under this  
5-14 subsection must be as stringent as the standards issued by the  
5-15 National Association of Medical Examiners unless the commissioners  
5-16 court determines that it would be cost prohibitive for the county to  
5-17 comply with those standards.

5-18 (b) The medical examiner or justice of the peace shall  
5-19 immediately notify an appropriate local law enforcement agency if  
5-20 the medical examiner or justice of the peace determines that the  
5-21 death is unexpected or the result of abuse or neglect, and that  
5-22 agency shall investigate the child's death. The medical examiner or  
5-23 justice of the peace shall notify the appropriate county child  
5-24 fatality review team of the child's death not later than the 120th  
5-25 day after the date the death is reported.

5-26 (b) A county must attempt to implement the timeliness  
5-27 standards for inquests as described by Section 264.514(a-1), Family  
5-28 Code, as added by this Act, as soon as possible after the effective  
5-29 date of this Act.

5-30 SECTION 11. Section 264.903, Family Code, is amended by  
5-31 adding Subsection (a-1) to read as follows:

5-32 (a-1) The department shall expedite the evaluation of a  
5-33 potential caregiver under this section to ensure that the child is  
5-34 placed with a caregiver who has the ability to protect the child  
5-35 from the alleged perpetrator of abuse or neglect against the child.

5-36 SECTION 12. Section 265.005(b), Family Code, is amended to  
5-37 read as follows:

5-38 (b) A strategic plan required under this section must:

5-39 (1) identify methods to leverage other sources of  
5-40 funding or provide support for existing community-based prevention  
5-41 efforts;

5-42 (2) include a needs assessment that identifies  
5-43 programs to best target the needs of the highest risk populations  
5-44 and geographic areas;

5-45 (3) identify the goals and priorities for the  
5-46 department's overall prevention efforts;

5-47 (4) report the results of previous prevention efforts  
5-48 using available information in the plan;

5-49 (5) identify additional methods of measuring program  
5-50 effectiveness and results or outcomes;

5-51 (6) identify methods to collaborate with other state  
5-52 agencies on prevention efforts; ~~and~~

5-53 (7) identify specific strategies to implement the plan  
5-54 and to develop measures for reporting on the overall progress  
5-55 toward the plan's goals; and

5-56 (8) identify strategies to increase the number of  
5-57 high-risk families and communities receiving prevention and early  
5-58 intervention services each year, subject to the availability of  
5-59 funds.

5-60 SECTION 13. Subchapter B, Chapter 40, Human Resources Code,  
5-61 is amended by adding Section 40.038 to read as follows:

5-62 Sec. 40.038. SECONDARY TRAUMA SUPPORT FOR CASEWORKERS. (a)  
5-63 In this section, "secondary trauma" means trauma incurred as a  
5-64 consequence of a person's exposure to acute or chronic trauma.

5-65 (b) The department shall develop and make available a  
5-66 program to provide ongoing support to caseworkers who experience  
5-67 secondary trauma resulting from exposure to trauma in the course of  
5-68 the caseworker's employment. The program must include critical  
5-69 incident stress debriefing. The department may not require that a

6-1 caseworker participate in the program.

6-2 SECTION 14. Subchapter C, Chapter 40, Human Resources Code,  
6-3 is amended by adding Section 40.0516 to read as follows:

6-4 Sec. 40.0516. COLLECTION OF DATA; ANNUAL REPORT. (a) The  
6-5 department shall collect and compile the following data on the  
6-6 state and county level:

6-7 (1) the following information for reports of abuse and  
6-8 neglect in residential child-care facilities, as defined by Section  
6-9 42.002:

6-10 (A) the number of reports of abuse and neglect  
6-11 made to the department hotline;

6-12 (B) the types of abuse and neglect reported;

6-13 (C) the investigation priority level assigned to  
6-14 each report;

6-15 (D) the investigation response times, sorted by  
6-16 investigation priority;

6-17 (E) the disposition of each investigation;

6-18 (F) the number of reports of abuse and neglect to  
6-19 which the department assigned a disposition of call screened out or  
6-20 alternative or differential response provided; and

6-21 (G) the overall safety and risk finding for each  
6-22 investigation;

6-23 (2) the number of families referred to family  
6-24 preservation services, organized by the risk level assigned to each  
6-25 family through structured decision-making;

6-26 (3) the number of children removed from the child's  
6-27 home as the result of an investigation of a report of abuse or  
6-28 neglect and the primary circumstances that contributed to the  
6-29 removal;

6-30 (4) the number of children placed in substitute care,  
6-31 organized by type of placement;

6-32 (5) the number of children placed out of the child's  
6-33 home county or region;

6-34 (6) the number of children in the conservatorship of  
6-35 the department at each service level;

6-36 (7) the number of children in the conservatorship of  
6-37 the department who are pregnant or who are a parent;

6-38 (8) the number of children in the managing  
6-39 conservatorship of the department who are the parent of a child who  
6-40 is also in the managing conservatorship of the department;

6-41 (9) the recurrence of child abuse or neglect in a  
6-42 household in which the department investigated a report of abuse or  
6-43 neglect within six months and one year of the date the case was  
6-44 closed separated by the following type of case:

6-45 (A) cases that were administratively closed  
6-46 without further action;

6-47 (B) cases in which the child was removed and  
6-48 placed in the managing conservatorship of the department; and

6-49 (C) cases in which the department provided family  
6-50 preservation services;

6-51 (10) the recurrence of child abuse and neglect in a  
6-52 household within five years of the date the case was closed for  
6-53 cases described by Subdivisions (9)(B) and (C); and

6-54 (11) workforce turnover data for child protective  
6-55 services employees, including the average tenure of caseworkers and  
6-56 supervisors and the average salary of caseworkers and supervisors.

6-57 (b) Not later than February 1 of each year, the department  
6-58 shall publish a report containing data collected under this  
6-59 section. The report must include the statewide data and the data  
6-60 reported by county.

6-61 SECTION 15. Subchapter C, Chapter 40, Human Resources Code,  
6-62 is amended by adding Section 40.0529 to read as follows:

6-63 Sec. 40.0529. CASELOAD MANAGEMENT. (a) Subject to a  
6-64 specific appropriation for that purpose, the department shall  
6-65 develop and implement a caseload management system for child  
6-66 protective services caseworkers and managers that:

6-67 (1) ensures equity in the distribution of workload,  
6-68 based on the complexity of each case;

6-69 (2) calculates caseloads based on the number of

7-1 individual caseworkers who are available to handle cases;  
 7-2 (3) includes geographic case assignment in areas with  
 7-3 concentrated high risk populations, to ensure that an adequate  
 7-4 number of caseworkers and managers with expertise and specialized  
 7-5 training are available;  
 7-6 (4) includes a plan to deploy master investigators in  
 7-7 anticipation of emergency shortages of personnel; and  
 7-8 (5) anticipates vacancies in caseworker positions in  
 7-9 areas of the state with high caseworker turnover to ensure the  
 7-10 timely hiring of new caseworkers in those areas.

7-11 (b) In calculating the caseworker caseload under Subsection  
 7-12 (a)(2), the department shall consider at least the following:

7-13 (1) caseworkers who are on extended leave;  
 7-14 (2) caseworkers who worked hours beyond a normal work  
 7-15 week; and  
 7-16 (3) caseworkers who are on a reduced workload.

7-17 SECTION 16. Subchapter C, Chapter 40, Human Resources Code,  
 7-18 is amended by adding Section 40.078 to read as follows:

7-19 Sec. 40.078. PREVENTION TASK FORCE. (a) In this section,  
 7-20 "task force" means the Prevention Task Force.

7-21 (b) The commissioner shall establish the Prevention Task  
 7-22 Force to make recommendations to the department for changes to law,  
 7-23 policy, and practices regarding:

7-24 (1) the prevention of child abuse and neglect;  
 7-25 (2) the implementation of the changes in law made by  
 7-26 H.B. 1549, Acts of the 85th Legislature, Regular Session, 2017; and  
 7-27 (3) the implementation of the department's five-year  
 7-28 strategic plan for prevention and early intervention services  
 7-29 developed under Section 265.005, Family Code.

7-30 (c) The commissioner shall determine the number of members  
 7-31 on the task force and shall appoint members to the task force  
 7-32 accordingly. Members of the task force may include:

7-33 (1) a chair of a child fatality review team committee;  
 7-34 (2) a pediatrician;  
 7-35 (3) a judge;  
 7-36 (4) representatives of relevant state agencies;  
 7-37 (5) prosecutors who specialize in child abuse and  
 7-38 neglect;  
 7-39 (6) medical examiners;  
 7-40 (7) representatives of service providers to the  
 7-41 department; and  
 7-42 (8) policy experts in child abuse and neglect  
 7-43 prevention, community advocacy, or related fields.

7-44 (d) The commissioner shall select the chair of the task  
 7-45 force.

7-46 (e) The task force shall meet at times and locations as  
 7-47 determined by the chair of the task force.

7-48 (f) A vacancy on the task force shall be filled in the same  
 7-49 manner as the original appointment.

7-50 (g) A member of the task force is not entitled to  
 7-51 compensation or reimbursement of expenses incurred in performing  
 7-52 duties related to the task force.

7-53 (h) The department shall provide reasonably necessary  
 7-54 administrative and technical support to the task force.

7-55 (i) The department may accept on behalf of the task force a  
 7-56 gift, grant, or donation from any source to carry out the purposes  
 7-57 of the task force.

7-58 (j) Chapter 2110, Government Code, does not apply to the  
 7-59 task force.

7-60 (k) Not later than August 31, 2018, the task force shall  
 7-61 submit a report to the commissioner. The report must include:

7-62 (1) a description of the activities of the task force;  
 7-63 and  
 7-64 (2) the findings and recommendations of the task  
 7-65 force.

7-66 (l) The task force is abolished and this section expires  
 7-67 August 31, 2018.

7-68 SECTION 17. As soon as practicable after the effective date  
 7-69 of this Act, the commissioner of the Department of Family and

8-1 Protective Services shall appoint members to the Prevention Task  
8-2 Force created by this Act under Section 40.078, Human Resources  
8-3 Code, as added by this Act.

8-4 SECTION 18. This Act takes effect only if a specific  
8-5 appropriation for the implementation of the Act is provided in a  
8-6 general appropriations act of the 85th Legislature. If the  
8-7 legislature does not appropriate money specifically for the purpose  
8-8 of implementing this Act, this Act has no effect.

8-9 SECTION 19. This Act takes effect September 1, 2017.

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