

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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H.B. No. 5

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the powers and duties of the Department of Family and  
3 Protective Services and the transfer of certain powers and duties  
4 from the Health and Human Services Commission.

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

6 SECTION 1. Section 58.0051(a)(2), Family Code, is amended  
7 to read as follows:

8 (2) "Juvenile service provider" means a governmental  
9 entity that provides juvenile justice or prevention, medical,  
10 educational, or other support services to a juvenile. The term  
11 includes:

12 (A) a state or local juvenile justice agency as  
13 defined by Section 58.101;

14 (B) health and human services agencies, as  
15 defined by Section 531.001, Government Code, and the Health and  
16 Human Services Commission;

17 (C) the Department of Family and Protective  
18 Services;

19 (D) the Department of Public Safety;

20 (E) [~~(D)~~] the Texas Education Agency;

21 (F) [~~(E)~~] an independent school district;

22 (G) [~~(F)~~] a juvenile justice alternative  
23 education program;

24 (H) [~~(G)~~] a charter school;

1            (I) [~~(H)~~] a local mental health or mental  
2 retardation authority;

3            (J) [~~(I)~~] a court with jurisdiction over  
4 juveniles;

5            (K) [~~(J)~~] a district attorney's office;

6            (L) [~~(K)~~] a county attorney's office; and

7            (M) [~~(L)~~] a children's advocacy center  
8 established under Section 264.402.

9            SECTION 2. Section 58.0072(c), Family Code, is amended to  
10 read as follows:

11            (c) The Texas Juvenile Justice Department may grant the  
12 following entities access to juvenile justice information for  
13 research and statistical purposes or for any other purpose approved  
14 by the department:

15            (1) criminal justice agencies as defined by Section  
16 411.082, Government Code;

17            (2) the Texas Education Agency, as authorized under  
18 Section 37.084, Education Code;

19            (3) any agency under the authority of the Health and  
20 Human Services Commission; [~~or~~]

21            (4) the Department of Family and Protective Services;  
22 or

23            (5) a public or private university.

24            SECTION 3. Section 107.152(c), Family Code, is amended to  
25 read as follows:

26            (c) The pre-placement and post-placement parts of an  
27 adoption evaluation conducted by a licensed child-placing agency or

1 the department are governed by rules adopted by the [~~executive~~]  
2 commissioner of the department [~~Health and Human Services~~  
3 ~~Commission~~].

4 SECTION 4. Section 107.159(a), Family Code, is amended to  
5 read as follows:

6 (a) Unless otherwise agreed to by the court, the  
7 pre-placement part of an adoption evaluation must comply with the  
8 minimum requirements for the pre-placement part of an adoption  
9 evaluation under rules adopted by the [~~executive~~] commissioner of  
10 the department [~~Health and Human Services Commission~~].

11 SECTION 5. Section 107.160(a), Family Code, is amended to  
12 read as follows:

13 (a) Unless otherwise agreed to by the court, the  
14 post-placement part of an adoption evaluation must comply with the  
15 minimum requirements for the post-placement part of an adoption  
16 evaluation under rules adopted by the [~~executive~~] commissioner of  
17 the department [~~Health and Human Services Commission~~].

18 SECTION 6. Sections 162.304(b-2) and (g), Family Code, are  
19 amended to read as follows:

20 (b-2) The [~~executive~~] commissioner of the department  
21 [~~Health and Human Services Commission~~] shall adopt rules necessary  
22 to implement Subsection (b-1), including rules that:

23 (1) limit eligibility for the subsidy under that  
24 subsection to a child whose adoptive family income is less than 300  
25 percent of the federal poverty level;

26 (2) provide for the manner in which the department  
27 shall pay the subsidy under that subsection; and

1           (3) specify any documentation required to be provided  
2 by an adoptive parent as proof that the subsidy is used to obtain  
3 and maintain health benefits coverage for the adopted child.

4           (g) The [~~executive~~] commissioner of the department [~~Health~~  
5 ~~and Human Services Commission~~] by rule shall provide that the  
6 maximum amount of the subsidy under Subsection (b) that may be paid  
7 to an adoptive parent of a child under an adoption assistance  
8 agreement is an amount that is equal to the amount that would have  
9 been paid to the foster parent of the child, based on the child's  
10 foster care service level on the date the department and the  
11 adoptive parent enter into the adoption assistance agreement. This  
12 subsection applies only to a child who, based on factors specified  
13 in rules of the department, the department determines would  
14 otherwise have been expected to remain in foster care until the  
15 child's 18th birthday and for whom this state would have made foster  
16 care payments for that care. Factors the department may consider in  
17 determining whether a child is eligible for the amount of the  
18 subsidy authorized by this subsection include the following:

19           (1) the child's mental or physical disability, age,  
20 and membership in a sibling group; and

21           (2) the number of prior placement disruptions the  
22 child has experienced.

23           SECTION 7. Section 162.3041(a-1), Family Code, is amended  
24 to read as follows:

25           (a-1) Notwithstanding Subsection (a), if the department  
26 first entered into an adoption assistance agreement with a child's  
27 adoptive parents after the child's 16th birthday, the department

1 shall, in accordance with rules adopted by the [~~executive~~  
2 commissioner of the department [~~Health and Human Services~~  
3 ~~Commission~~], offer adoption assistance after the child's 18th  
4 birthday to the child's adoptive parents under an existing adoption  
5 agreement until the last day of the month of the child's 21st  
6 birthday, provided the child is:

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

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

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

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

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

17 SECTION 8. Subchapter A, Chapter 261, Family Code, is  
18 amended by adding Section 261.004 to read as follows:

19 Sec. 261.004. REFERENCE TO EXECUTIVE COMMISSIONER OR  
20 COMMISSION. In this chapter:

21 (1) a reference to the executive commissioner or the  
22 executive commissioner of the Health and Human Services Commission  
23 means the commissioner of the department; and

24 (2) a reference to the Health and Human Services  
25 Commission means the department.

26 SECTION 9. Section 263.009(a), Family Code, is amended to  
27 read as follows:

1 (a) The department shall hold a permanency planning meeting  
2 for each child for whom the department is appointed temporary  
3 managing conservator in accordance with a schedule adopted by the  
4 ~~[executive]~~ commissioner of the department ~~[Health and Human~~  
5 ~~Services Commission]~~ by rule that is designed to allow the child to  
6 exit the managing conservatorship of the department safely and as  
7 soon as possible and be placed with an appropriate adult caregiver  
8 who will permanently assume legal responsibility for the child.

9 SECTION 10. Subchapter A, Chapter 264, Family Code, is  
10 amended by adding Section 264.0011 to read as follows:

11 Sec. 264.0011. REFERENCE TO EXECUTIVE COMMISSIONER OR  
12 COMMISSION. In this chapter:

13 (1) a reference to the executive commissioner or the  
14 executive commissioner of the Health and Human Services Commission  
15 means the commissioner of the department; and

16 (2) a reference to the commission or the Health and  
17 Human Services Commission means the department.

18 SECTION 11. Section 265.105, Family Code, as added by  
19 Chapter 1257 (H.B. 2630), Acts of the 84th Legislature, Regular  
20 Session, 2015, is amended to read as follows:

21 Sec. 265.105. RULES. The ~~[executive]~~ commissioner of the  
22 department ~~[Health and Human Services Commission]~~ may adopt rules  
23 as necessary to implement this subchapter.

24 SECTION 12. Section 265.106, Family Code, is amended to  
25 read as follows:

26 Sec. 265.106. PARTNERSHIP PROGRAM STANDARDS. The  
27 ~~[executive]~~ commissioner, with the assistance of the Nurse-Family

1 Partnership National Service Office, shall adopt standards for the  
2 partnership programs funded under this subchapter. The standards  
3 must adhere to the Nurse-Family Partnership National Service Office  
4 program model standards and guidelines that were developed in  
5 multiple, randomized clinical trials and have been tested and  
6 replicated in multiple communities.

7 SECTION 13. Section 265.109(a), Family Code, is amended to  
8 read as follows:

9 (a) The department, with the assistance of the Nurse-Family  
10 Partnership National Service Office, shall:

11 (1) adopt performance indicators that are designed to  
12 measure a grant recipient's performance with respect to the  
13 partnership program standards adopted by the ~~[executive]~~  
14 commissioner under Section 265.106;

15 (2) use the performance indicators to continuously  
16 monitor and formally evaluate on an annual basis the performance of  
17 each grant recipient; and

18 (3) prepare and submit an annual report, not later  
19 than December 1 of each year, to the Senate Health and Human  
20 Services Committee, or its successor, and the House Human Services  
21 Committee, or its successor, regarding the performance of each  
22 grant recipient during the preceding state fiscal year with respect  
23 to providing partnership program services.

24 SECTION 14. Section 266.001, Family Code, is amended by  
25 adding Subdivision (1-b) to read as follows:

26 (1-b) "Commissioner" means the commissioner of the  
27 Department of Family and Protective Services.

1 SECTION 15. Section 266.003, Family Code, is amended to  
2 read as follows:

3 Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT  
4 VICTIMS. (a) The department [~~commission~~] shall collaborate with  
5 the commission and health care and child welfare professionals to  
6 design a comprehensive, cost-effective medical services delivery  
7 model, either directly or by contract, to meet the needs of children  
8 served by the department. The medical services delivery model must  
9 include:

10 (1) the designation of health care facilities with  
11 expertise in the forensic assessment, diagnosis, and treatment of  
12 child abuse and neglect as pediatric centers of excellence;

13 (2) a statewide telemedicine system to link department  
14 investigators and caseworkers with pediatric centers of excellence  
15 or other medical experts for consultation;

16 (3) identification of a medical home for each foster  
17 child on entering foster care at which the child will receive an  
18 initial comprehensive assessment as well as preventive treatments,  
19 acute medical services, and therapeutic and rehabilitative care to  
20 meet the child's ongoing physical and mental health needs  
21 throughout the duration of the child's stay in foster care;

22 (4) the development and implementation of health  
23 passports as described in Section 266.006;

24 (5) establishment and use of a management information  
25 system that allows monitoring of medical care that is provided to  
26 all children in foster care;

27 (6) the use of medical advisory committees and medical

1 review teams, as appropriate, to establish treatment guidelines and  
2 criteria by which individual cases of medical care provided to  
3 children in foster care will be identified for further, in-depth  
4 review;

5 (7) development of the training program described by  
6 Section 266.004(h);

7 (8) provision for the summary of medical care  
8 described by Section 266.007; and

9 (9) provision for the participation of the person  
10 authorized to consent to medical care for a child in foster care in  
11 each appointment of the child with the provider of medical care.

12 (b) The department [~~commission~~] shall collaborate with  
13 health and human services agencies, community partners, the health  
14 care community, and federal health and social services programs to  
15 maximize services and benefits available under this section.

16 (c) The [~~executive~~] commissioner shall adopt rules  
17 necessary to implement this chapter.

18 (d) The commission is responsible for administering  
19 contracts with managed care providers for the provision of medical  
20 care to children in foster care.

21 SECTION 16. Sections 266.006(a), (b), and (e), Family Code,  
22 are amended to read as follows:

23 (a) The commission, in conjunction with the department, and  
24 with the assistance of physicians and other health care providers  
25 experienced in the care of foster children and children with  
26 disabilities and with the use of electronic health records, shall  
27 develop and provide a health passport for each foster child. The

1 passport must be maintained in an electronic format and use [~~the~~  
2 ~~commission's and~~] the department's existing computer resources to  
3 the greatest extent possible.

4 (b) The executive commissioner, in collaboration with the  
5 commissioner, shall adopt rules specifying the information  
6 required to be included in the passport. The required information  
7 may include:

8 (1) the name and address of each of the child's  
9 physicians and health care providers;

10 (2) a record of each visit to a physician or other  
11 health care provider, including routine checkups conducted in  
12 accordance with the Texas Health Steps program;

13 (3) an immunization record that may be exchanged with  
14 ImmTrac;

15 (4) a list of the child's known health problems and  
16 allergies;

17 (5) information on all medications prescribed to the  
18 child in adequate detail to permit refill of prescriptions,  
19 including the disease or condition that the medication treats; and

20 (6) any other available health history that physicians  
21 and other health care providers who provide care for the child  
22 determine is important.

23 (e) The commission in collaboration with the department  
24 shall provide training or instructional materials to foster  
25 parents, physicians, and other health care providers regarding use  
26 of the health passport.

27 SECTION 17. Sections 266.008(a) and (d), Family Code, are

1 amended to read as follows:

2 (a) The department [~~commission~~] shall develop an education  
3 passport for each foster child. The department [~~commission, in~~  
4 ~~conjunction with the department,~~] shall determine the format of the  
5 passport. The passport may be maintained in an electronic format.  
6 The passport must contain educational records of the child,  
7 including the names and addresses of educational providers, the  
8 child's grade-level performance, and any other educational  
9 information the department [~~commission~~] determines is important.

10 (d) The department [~~and the commission~~] shall collaborate  
11 with the Texas Education Agency to develop policies and procedures  
12 to ensure that the needs of foster children are met in every school  
13 district.

14 SECTION 18. Chapter 266, Family Code, is amended by adding  
15 Section 266.013 to read as follows:

16 Sec. 266.013. CONTINUITY OF SERVICES PROVIDED BY  
17 COMMISSION. (a) In addition to the requirements of Section  
18 266.003(d), the commission shall continue to provide any services  
19 to children in the conservatorship of the department that the  
20 commission provided to those children before September 1, 2017.

21 (b) Subsection (a) does not apply to any services provided  
22 by the commission in relation to a child's education passport  
23 created under Section 266.008.

24 SECTION 19. Section 531.001(4), Government Code, is amended  
25 to read as follows:

26 (4) "Health and human services agencies" includes the:

27 (A) Department of Aging and Disability Services;

1 (B) Department of State Health Services; and  
2 (C) Department of Assistive and Rehabilitative  
3 Services[ ~~and~~  
4 [~~(D) Department of Family and Protective~~  
5 ~~Services~~].

6 SECTION 20. (a) Section 531.02013, Government Code, is  
7 amended to read as follows:

8 Sec. 531.02013. FUNCTIONS REMAINING WITH CERTAIN AGENCIES.  
9 The following functions are not subject to transfer under Sections  
10 531.0201 and 531.02011:

11 (1) the functions of the Department of Family and  
12 Protective Services, including the statewide intake of reports and  
13 other information, related to the following:

14 (A) child protective services, including  
15 services that are required by federal law to be provided by this  
16 state's child welfare agency;

17 (B) adult protective services, including [~~other~~  
18 ~~than~~] investigations of the alleged abuse, neglect, or exploitation  
19 of an elderly person or person with a disability:

20 (i) in a facility operated, or in a facility  
21 or by a person licensed, certified, or registered, by a state  
22 agency; or

23 (ii) by a provider that has contracted to  
24 provide home and community-based services; [~~and~~]

25 (C) prevention and early intervention services;  
26 and

27 (D) investigations of alleged abuse, neglect, or

1 exploitation occurring at a child-care facility, including a  
2 residential child-care facility, as those terms are defined by  
3 Section 42.002, Human Resources Code; and

4 (2) the public health functions of the Department of  
5 State Health Services, including health care data collection and  
6 maintenance of the Texas Health Care Information Collection  
7 program.

8 (b) Notwithstanding any provision of Subchapter A-1,  
9 Chapter 531, Government Code, or any other law, the responsibility  
10 for conducting investigations of reports of abuse, neglect, or  
11 exploitation occurring at a child-care facility, including a  
12 residential child-care facility, as those terms are defined by  
13 Section 42.002, Human Resources Code, may not be transferred to the  
14 Health and Human Services Commission and remains the responsibility  
15 of the Department of Family and Protective Services.

16 (c) As soon as possible after the effective date of this  
17 section, the commissioner of the Department of Family and  
18 Protective Services shall transfer the responsibility for  
19 conducting investigations of reports of abuse, neglect, or  
20 exploitation occurring at a child-care facility, including a  
21 residential child-care facility, as those terms are defined by  
22 Section 42.002, Human Resources Code, to the child protective  
23 services division of the department. The commissioner shall  
24 transfer appropriate investigators and staff as necessary to  
25 implement this section.

26 (d) This section takes effect immediately if this Act  
27 receives a vote of two-thirds of all the members of each house, as

1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for this section to take  
3 immediate effect, this section takes effect on the 91st day after  
4 the last day of the legislative session.

5 SECTION 21. Section 531.0202(a), Government Code, is  
6 amended to read as follows:

7 (a) Each of the following state agencies and entities is  
8 abolished on a date that is within the period prescribed by Section  
9 531.02001(1), that is specified in the transition plan required  
10 under Section 531.0204 for the abolition of the agency or entity,  
11 and that occurs after all of the agency's or entity's functions have  
12 been transferred in accordance with Section 531.0201:

13 (1) the Department of Assistive and Rehabilitative  
14 Services;

15 (2) the Health and Human Services Council;

16 (3) the Aging and Disability Services Council;

17 (4) the Assistive and Rehabilitative Services  
18 Council;

19 ~~(5) [the Family and Protective Services Council,~~

20 ~~(6)]~~ the State Health Services Council; and

21 (6) ~~(7)]~~ the Texas Council on Autism and Pervasive  
22 Developmental Disorders.

23 SECTION 22. Section 531.0206(a), Government Code, is  
24 amended to read as follows:

25 (a) The Sunset Advisory Commission shall conduct a  
26 limited-scope review of the commission during the state fiscal  
27 biennium ending August 31, 2023, in the manner provided by Chapter

1 325 (Texas Sunset Act). The review must provide:

2 (1) an update on the commission's progress with  
3 respect to the consolidation of the health and human services  
4 system mandated by this subchapter, including the commission's  
5 compliance with the transition plan required under Section  
6 531.0204;

7 (2) an evaluation and recommendations regarding the  
8 need to continue [~~the Department of Family and Protective Services~~  
9 ~~and~~] the Department of State Health Services as a state agency  
10 [~~agencies~~] separate from the commission; and

11 (3) any additional information the Sunset Advisory  
12 Commission determines appropriate, including information regarding  
13 any additional organizational changes the Sunset Advisory  
14 Commission recommends.

15 SECTION 23. Section 531.102(a), Government Code, is amended  
16 to read as follows:

17 (a) The commission's office of inspector general is  
18 responsible for the prevention, detection, audit, inspection,  
19 review, and investigation of fraud, waste, and abuse in the  
20 provision and delivery of all health and human services in the  
21 state, including services through any state-administered health or  
22 human services program that is wholly or partly federally funded or  
23 services provided by the Department of Family and Protective  
24 Services, and the enforcement of state law relating to the  
25 provision of those services. The commission may obtain any  
26 information or technology necessary to enable the office to meet  
27 its responsibilities under this subchapter or other law.

1 SECTION 24. Sections 40.0026 and 40.0027, Human Resources  
2 Code, as effective on September 1, 2017, are amended to read as  
3 follows:

4 Sec. 40.0026. REFERENCES IN LAW MEANING DEPARTMENT. In  
5 this code or any other law, a reference to the department or the  
6 commission in relation to a function described by Section  
7 40.0025(b) or an administrative support function for the department  
8 means the department. [~~A reference in law to the department in~~  
9 ~~relation to any other function has the meaning assigned by Section~~  
10 ~~531.0011, Government Code.~~]

11 Sec. 40.0027. REFERENCES IN LAW MEANING COMMISSIONER OR  
12 DESIGNEE. In this code or in any other law, a reference to the  
13 commissioner or the executive commissioner in relation to a  
14 function described by Section 40.0025(b) or an administrative  
15 support function for the department means the commissioner. [~~A~~  
16 ~~reference in law to the commissioner in relation to any other~~  
17 ~~function has the meaning assigned by Section 531.0012, Government~~  
18 ~~Code.~~]

19 SECTION 25. Subchapter B, Chapter 40, Human Resources Code,  
20 is amended by adding Sections 40.021, 40.022, 40.023, 40.024,  
21 40.025, and 40.026 to read as follows:

22 Sec. 40.021. FAMILY AND PROTECTIVE SERVICES COUNCIL. (a)  
23 The Family and Protective Services Council is created to assist the  
24 commissioner in developing rules and policies for the department.

25 (b) The council is composed of the following nine members:

26 (1) three members of the public appointed by the  
27 governor, at least one of whom must be either a court-appointed

1 volunteer advocate or a staff member or volunteer of a children's  
2 advocacy center;

3 (2) three members of the public appointed by the  
4 lieutenant governor, at least one of whom must be a current or  
5 former foster parent; and

6 (3) three members of the public appointed by the  
7 speaker of the house of representatives, at least one of whom must  
8 be a current or former foster child.

9 (c) The council shall study and make recommendations to the  
10 commissioner regarding the management and operation of the  
11 department, including policies and rules governing the delivery of  
12 services to persons who are served by the department and the rights  
13 and duties of persons who are served or regulated by the department.

14 (d) Chapter 551, Government Code, applies to the council.

15 (e) Chapter 2110, Government Code, does not apply to the  
16 council.

17 (f) A majority of the members of the council constitute a  
18 quorum for the transaction of business.

19 Sec. 40.022. APPOINTMENTS. (a) Appointments to the  
20 council shall be made without regard to the race, color,  
21 disability, sex, religion, age, or national origin of the  
22 appointees.

23 (b) Appointments to the council shall be made so that each  
24 geographic area of the state is represented on the council.  
25 Notwithstanding Subsection (a), appointments to the council must  
26 reflect the ethnic diversity of this state.

27 Sec. 40.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A

1 person who is appointed as a member of the council may not vote,  
2 deliberate, or be counted as a member in attendance at a meeting of  
3 the council until the person completes a training program that  
4 complies with this section.

5 (b) The training program must provide information to the  
6 member regarding:

7 (1) the legislation that created the department and  
8 the council;

9 (2) the programs operated by the department;

10 (3) the role and functions of the department and the  
11 council, including detailed information regarding the advisory  
12 responsibilities of the council;

13 (4) the rules of the department, with an emphasis on  
14 rules that relate to disciplinary and investigatory authority;

15 (5) the current budget for the department;

16 (6) the results of the most recent formal audit of the  
17 department;

18 (7) the requirements of the:

19 (A) open meetings law, Chapter 551, Government  
20 Code;

21 (B) public information law, Chapter 552,  
22 Government Code; and

23 (C) administrative procedure law, Chapter 2001,  
24 Government Code;

25 (8) the requirements of the conflict-of-interest laws  
26 and other laws relating to public officials; and

27 (9) any applicable ethics policies adopted by the

1 commissioner or the Texas Ethics Commission.

2 Sec. 40.024. TERMS; VACANCY. (a) Members of the council  
3 serve for staggered six-year terms, with the terms of three members  
4 expiring February 1 of each odd-numbered year.

5 (b) A member of the council may not serve more than two  
6 consecutive full terms as a council member.

7 (c) A vacancy on the council shall be filled in the same  
8 manner as the original appointment.

9 Sec. 40.025. REIMBURSEMENT FOR EXPENSES. A council member  
10 may not receive compensation for service as a member of the council  
11 but is entitled to reimbursement for travel expenses incurred by  
12 the member while conducting the business of the council as provided  
13 by the General Appropriations Act.

14 Sec. 40.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS.

15 (a) The governor shall designate a member of the council as the  
16 presiding officer to serve in that capacity at the pleasure of the  
17 governor.

18 (b) The members of the council shall elect any other  
19 necessary officers.

20 (c) The council shall meet quarterly and at other times at  
21 the call of the presiding officer. The council may hold meetings in  
22 different areas of the state.

23 SECTION 26. Section 40.027, Human Resources Code, is  
24 amended to read as follows:

25 Sec. 40.027. COMMISSIONER. (a) The governor [~~executive~~  
26 ~~commissioner~~] shall appoint a commissioner [~~in accordance with~~  
27 ~~Section 531.0056, Government Code~~]. The commissioner is to be

1 selected according to education, training, experience, and  
2 demonstrated ability.

3 (b) The commissioner serves at the pleasure of the governor  
4 [~~executive commissioner~~].

5 (c) The [~~Subject to the control of the executive~~  
6 ~~commissioner, the~~] commissioner shall:

7 (1) act as the department's chief administrative  
8 officer;

9 (2) oversee [~~in accordance with the procedures~~  
10 ~~prescribed by Section 531.00551, Government Code, assist the~~  
11 ~~executive commissioner in~~] the development and implementation of  
12 policies and guidelines needed for the administration of the  
13 department's functions;

14 (3) oversee [~~in accordance with the procedures adopted~~  
15 ~~by the executive commissioner under Section 531.00551, Government~~  
16 ~~Code, assist the executive commissioner in~~] the development of  
17 rules relating to the matters within the department's jurisdiction,  
18 including the delivery of services to persons and the rights and  
19 duties of persons who are served or regulated by the department; and

20 (4) serve as a liaison between the department and  
21 commission.

22 (d) The commissioner shall administer this chapter and  
23 other laws relating to the department [~~under operational policies~~  
24 ~~established by the executive commissioner and in accordance with~~  
25 ~~the memorandum of understanding under Section 531.0055(k),~~  
26 ~~Government Code, between the commissioner and the executive~~  
27 ~~commissioner, as adopted by rule~~].

1        (e) Notwithstanding any other law, the commissioner shall  
2 adopt rules and policies for the operation of and the provision of  
3 services by the department.

4        SECTION 27. Section 40.030, Human Resources Code, is  
5 amended to read as follows:

6        Sec. 40.030. ADVISORY COMMITTEES. (a) The [~~executive~~]  
7 commissioner or the [~~executive~~] commissioner's designee may  
8 appoint advisory committees in accordance with Chapter 2110,  
9 Government Code.

10        (b) The [~~executive~~] commissioner shall adopt rules, in  
11 compliance with Chapter 2110, Government Code, regarding the  
12 purpose, structure, and use of advisory committees by the  
13 department. The rules may include provisions governing:

14            (1) an advisory committee's size and quorum  
15 requirements;

16            (2) qualifications for membership of an advisory  
17 committee, including:

18                    (A) requirements relating to experience and  
19 geographic representation; and

20                    (B) requirements for the department to include as  
21 members of advisory committees youth who have aged out of foster  
22 care and parents who have successfully completed family service  
23 plans and whose children were returned to the parents, as  
24 applicable;

25            (3) appointment procedures for an advisory committee;

26            (4) terms for advisory committee members; and

27            (5) compliance with Chapter 551, Government Code.

1 SECTION 28. Section 40.0505, Human Resources Code, is  
2 amended to read as follows:

3 Sec. 40.0505. DIVISIONS OF DEPARTMENT [~~POWERS AND DUTIES OF~~  
4 ~~COMMISSIONER; EFFECT OF CONFLICT WITH OTHER LAW~~]. (a) The  
5 commissioner shall establish the following divisions and offices  
6 within the department:

7 (1) an investigations division;  
8 (2) a contracting division that oversees the  
9 following:

10 (A) quality assurance;  
11 (B) vendor oversight;  
12 (C) contract adherence;  
13 (D) contracting; and  
14 (E) oversight of single source continuum  
15 contractors providing foster care services;

16 (3) an office of consumer affairs;  
17 (4) a consolidated data division; and  
18 (5) a legal division that oversees the following:

19 (A) human resources, as necessary to manage the  
20 department's workforce and establish the department's hiring and  
21 termination policies;  
22 (B) open records;  
23 (C) privacy and confidentiality;  
24 (D) litigation; and  
25 (E) contract compliance.

26 (b) The commissioner may establish additional divisions  
27 within the department as the commissioner determines appropriate.

1        (c) The commissioner may assign department functions among  
2 the department's divisions. [~~To the extent a power or duty given to~~  
3 ~~the commissioner by this chapter or another law conflicts with~~  
4 ~~Section 531.0055, Government Code, Section 531.0055 controls.~~]

5        SECTION 29. Section 40.058, Human Resources Code, is  
6 amended by adding Subsection (i) to read as follows:

7        (i) The department and the commission shall enter into  
8 contracts for the provision of shared administrative services,  
9 subject to approval by the governor, including payroll,  
10 procurement, information resources, rate setting, and regional  
11 administrative services.

12        SECTION 30. Subchapter A, Chapter 48, Human Resources Code,  
13 is amended by adding Section 48.0021 to read as follows:

14        Sec. 48.0021. REFERENCE TO COMMISSION OR EXECUTIVE  
15 COMMISSIONER. In this chapter:

16                (1) a reference to the Health and Human Services  
17 Commission means the Department of Family and Protective Services;  
18 and

19                (2) a reference to the executive commissioner means  
20 the commissioner of the Department of Family and Protective  
21 Services.

22        SECTION 31. The following provisions are repealed:

23                (1) Sections 261.001(7) and 264.001(2) and (3), Family  
24 Code; and

25                (2) Sections 40.0506 and 40.0507, Human Resources  
26 Code.

27        SECTION 32. As soon as possible after the effective date of

1 this Act, the executive commissioner of the Health and Human  
2 Services Commission shall transfer the appropriate divisions,  
3 resources, and personnel to the Department of Family and Protective  
4 Services to allow the department to perform the general functions  
5 of the department under Chapter 40, Human Resources Code, as  
6 amended by this Act.

7 SECTION 33. Except as otherwise provided by this Act, this  
8 Act takes effect September 1, 2017.

ADOPTED

MAY 22 2017

*Lately Spauld*  
Secretary of the Senate

By: Frank

H.B. No. 5

Substitute the following for \_\_.B. No. \_\_\_\_\_:

By: Thurk Dutton

C.S. H.B. No. 5

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the powers and duties of the Department of Family and  
3 Protective Services and the transfer of certain powers and duties  
4 from the Health and Human Services Commission.

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

6 SECTION 1. Section 58.0051(a)(2), Family Code, is amended  
7 to read as follows:

8 (2) "Juvenile service provider" means a governmental  
9 entity that provides juvenile justice or prevention, medical,  
10 educational, or other support services to a juvenile. The term  
11 includes:

12 (A) a state or local juvenile justice agency as  
13 defined by Section 58.101;

14 (B) health and human services agencies, as  
15 defined by Section 531.001, Government Code, and the Health and  
16 Human Services Commission;

17 (C) the Department of Family and Protective  
18 Services;

19 (D) the Department of Public Safety;

20 (E) [~~D~~] the Texas Education Agency;

21 (F) [~~E~~] an independent school district;

22 (G) [~~F~~] a juvenile justice alternative  
23 education program;

24 (H) [~~G~~] a charter school;

1                    (I) [~~(H)~~] a local mental health or mental  
2 retardation authority;  
3                    (J) [~~(I)~~] a court with jurisdiction over  
4 juveniles;  
5                    (K) [~~(J)~~] a district attorney's office;  
6                    (L) [~~(K)~~] a county attorney's office; and  
7                    (M) [~~(L)~~] a children's advocacy center  
8 established under Section 264.402.

9           SECTION 2. Section 58.0072(c), Family Code, is amended to  
10 read as follows:

11           (c) The Texas Juvenile Justice Department may grant the  
12 following entities access to juvenile justice information for  
13 research and statistical purposes or for any other purpose approved  
14 by the department:

15                   (1) criminal justice agencies as defined by Section  
16 411.082, Government Code;

17                   (2) the Texas Education Agency, as authorized under  
18 Section 37.084, Education Code;

19                   (3) any agency under the authority of the Health and  
20 Human Services Commission; [~~or~~]

21                   (4) the Department of Family and Protective Services;  
22 or

23                   (5) a public or private university.

24           SECTION 3. Section 107.152(c), Family Code, is amended to  
25 read as follows:

26           (c) The pre-placement and post-placement parts of an  
27 adoption evaluation conducted by a licensed child-placing agency or

1 the department are governed by rules adopted by the [~~executive~~]  
2 commissioner of the department [~~Health and Human Services~~  
3 ~~Commission~~].

4 SECTION 4. Section 107.159(a), Family Code, is amended to  
5 read as follows:

6 (a) Unless otherwise agreed to by the court, the  
7 pre-placement part of an adoption evaluation must comply with the  
8 minimum requirements for the pre-placement part of an adoption  
9 evaluation under rules adopted by the [~~executive~~] commissioner of  
10 the department [~~Health and Human Services Commission~~].

11 SECTION 5. Section 107.160(a), Family Code, is amended to  
12 read as follows:

13 (a) Unless otherwise agreed to by the court, the  
14 post-placement part of an adoption evaluation must comply with the  
15 minimum requirements for the post-placement part of an adoption  
16 evaluation under rules adopted by the [~~executive~~] commissioner of  
17 the department [~~Health and Human Services Commission~~].

18 SECTION 6. Sections 162.304(b-2) and (g), Family Code, are  
19 amended to read as follows:

20 (b-2) The [~~executive~~] commissioner of the department  
21 [~~Health and Human Services Commission~~] shall adopt rules necessary  
22 to implement Subsection (b-1), including rules that:

23 (1) limit eligibility for the subsidy under that  
24 subsection to a child whose adoptive family income is less than 300  
25 percent of the federal poverty level;

26 (2) provide for the manner in which the department  
27 shall pay the subsidy under that subsection; and

1           (3) specify any documentation required to be provided  
2 by an adoptive parent as proof that the subsidy is used to obtain  
3 and maintain health benefits coverage for the adopted child.

4           (g) The [~~executive~~] commissioner of the department [~~Health~~  
5 ~~and Human Services Commission~~] by rule shall provide that the  
6 maximum amount of the subsidy under Subsection (b) that may be paid  
7 to an adoptive parent of a child under an adoption assistance  
8 agreement is an amount that is equal to the amount that would have  
9 been paid to the foster parent of the child, based on the child's  
10 foster care service level on the date the department and the  
11 adoptive parent enter into the adoption assistance agreement. This  
12 subsection applies only to a child who, based on factors specified  
13 in rules of the department, the department determines would  
14 otherwise have been expected to remain in foster care until the  
15 child's 18th birthday and for whom this state would have made foster  
16 care payments for that care. Factors the department may consider in  
17 determining whether a child is eligible for the amount of the  
18 subsidy authorized by this subsection include the following:

19           (1) the child's mental or physical disability, age,  
20 and membership in a sibling group; and

21           (2) the number of prior placement disruptions the  
22 child has experienced.

23           SECTION 7. Section 162.3041(a-1), Family Code, is amended  
24 to read as follows:

25           (a-1) Notwithstanding Subsection (a), if the department  
26 first entered into an adoption assistance agreement with a child's  
27 adoptive parents after the child's 16th birthday, the department

1 shall, in accordance with rules adopted by the [~~executive~~]  
2 commissioner of the department [~~Health and Human Services~~  
3 ~~Commission~~], offer adoption assistance after the child's 18th  
4 birthday to the child's adoptive parents under an existing adoption  
5 agreement until the last day of the month of the child's 21st  
6 birthday, provided the child is:

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

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

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

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

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

17 SECTION 8. Subchapter A, Chapter 261, Family Code, is  
18 amended by adding Section 261.004 to read as follows:

19 Sec. 261.004. REFERENCE TO EXECUTIVE COMMISSIONER OR  
20 COMMISSION. In this chapter:

21 (1) a reference to the executive commissioner or the  
22 executive commissioner of the Health and Human Services Commission  
23 means the commissioner of the department; and

24 (2) a reference to the Health and Human Services  
25 Commission means the department.

26 SECTION 9. Section 263.009(a), Family Code, is amended to  
27 read as follows:

1 (a) The department shall hold a permanency planning meeting  
2 for each child for whom the department is appointed temporary  
3 managing conservator in accordance with a schedule adopted by the  
4 [~~executive~~] commissioner of the department [~~Health and Human~~  
5 ~~Services Commission~~] by rule that is designed to allow the child to  
6 exit the managing conservatorship of the department safely and as  
7 soon as possible and be placed with an appropriate adult caregiver  
8 who will permanently assume legal responsibility for the child.

9 SECTION 10. Subchapter A, Chapter 264, Family Code, is  
10 amended by adding Section 264.0011 to read as follows:

11 Sec. 264.0011. REFERENCE TO EXECUTIVE COMMISSIONER OR  
12 COMMISSIONER. In this chapter:

13 (1) a reference to the executive commissioner or the  
14 executive commissioner of the Health and Human Services Commission  
15 means the commissioner of the department; and

16 (2) a reference to the commission or the Health and  
17 Human Services Commission means the department.

18 SECTION 11. Section 265.105, Family Code, as added by  
19 Chapter 1257 (H.B. 2630), Acts of the 84th Legislature, Regular  
20 Session, 2015, is amended to read as follows:

21 Sec. 265.105. RULES. The [~~executive~~] commissioner of the  
22 department [~~Health and Human Services Commission~~] may adopt rules  
23 as necessary to implement this subchapter.

24 SECTION 12. Section 265.106, Family Code, is amended to  
25 read as follows:

26 Sec. 265.106. PARTNERSHIP PROGRAM STANDARDS. The  
27 [~~executive~~] commissioner, with the assistance of the Nurse-Family

1 Partnership National Service Office, shall adopt standards for the  
2 partnership programs funded under this subchapter. The standards  
3 must adhere to the Nurse-Family Partnership National Service Office  
4 program model standards and guidelines that were developed in  
5 multiple, randomized clinical trials and have been tested and  
6 replicated in multiple communities.

7 SECTION 13. Section 265.109(a), Family Code, is amended to  
8 read as follows:

9 (a) The department, with the assistance of the Nurse-Family  
10 Partnership National Service Office, shall:

11 (1) adopt performance indicators that are designed to  
12 measure a grant recipient's performance with respect to the  
13 partnership program standards adopted by the [~~executive~~]  
14 commissioner under Section 265.106;

15 (2) use the performance indicators to continuously  
16 monitor and formally evaluate on an annual basis the performance of  
17 each grant recipient; and

18 (3) prepare and submit an annual report, not later  
19 than December 1 of each year, to the Senate Health and Human  
20 Services Committee, or its successor, and the House Human Services  
21 Committee, or its successor, regarding the performance of each  
22 grant recipient during the preceding state fiscal year with respect  
23 to providing partnership program services.

24 SECTION 14. Section 266.001, Family Code, is amended by  
25 adding Subdivision (1-b) to read as follows:

26 (1-b) "Commissioner" means the commissioner of the  
27 Department of Family and Protective Services.

1           SECTION 15. Section 266.003, Family Code, is amended to  
2 read as follows:

3           Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT  
4 VICTIMS. (a) The department [~~commission~~] shall collaborate with  
5 the commission and health care and child welfare professionals to  
6 design a comprehensive, cost-effective medical services delivery  
7 model, either directly or by contract, to meet the needs of children  
8 served by the department. The medical services delivery model must  
9 include:

10                   (1) the designation of health care facilities with  
11 expertise in the forensic assessment, diagnosis, and treatment of  
12 child abuse and neglect as pediatric centers of excellence;

13                   (2) a statewide telemedicine system to link department  
14 investigators and caseworkers with pediatric centers of excellence  
15 or other medical experts for consultation;

16                   (3) identification of a medical home for each foster  
17 child on entering foster care at which the child will receive an  
18 initial comprehensive assessment as well as preventive treatments,  
19 acute medical services, and therapeutic and rehabilitative care to  
20 meet the child's ongoing physical and mental health needs  
21 throughout the duration of the child's stay in foster care;

22                   (4) the development and implementation of health  
23 passports as described in Section 266.006;

24                   (5) establishment and use of a management information  
25 system that allows monitoring of medical care that is provided to  
26 all children in foster care;

27                   (6) the use of medical advisory committees and medical

1 review teams, as appropriate, to establish treatment guidelines and  
2 criteria by which individual cases of medical care provided to  
3 children in foster care will be identified for further, in-depth  
4 review;

5 (7) development of the training program described by  
6 Section 266.004(h);

7 (8) provision for the summary of medical care  
8 described by Section 266.007; and

9 (9) provision for the participation of the person  
10 authorized to consent to medical care for a child in foster care in  
11 each appointment of the child with the provider of medical care.

12 (b) The department [~~commission~~] shall collaborate with  
13 health and human services agencies, community partners, the health  
14 care community, and federal health and social services programs to  
15 maximize services and benefits available under this section.

16 (c) The [~~executive~~] commissioner shall adopt rules  
17 necessary to implement this chapter.

18 (d) The commission is responsible for administering  
19 contracts with managed care providers for the provision of medical  
20 care to children in foster care. The department shall collaborate  
21 with the commission to ensure that medical care services provided  
22 by managed care providers match the needs of children in foster  
23 care.

24 SECTION 16. Sections 266.006(a), (b), and (e), Family Code,  
25 are amended to read as follows:

26 (a) The commission, in conjunction with the department, and  
27 with the assistance of physicians and other health care providers

1 experienced in the care of foster children and children with  
2 disabilities and with the use of electronic health records, shall  
3 develop and provide a health passport for each foster child. The  
4 passport must be maintained in an electronic format and use [~~the~~  
5 ~~commission's and~~] the department's existing computer resources to  
6 the greatest extent possible.

7 (b) The executive commissioner, in collaboration with the  
8 commissioner, shall adopt rules specifying the information  
9 required to be included in the passport. The required information  
10 may include:

11 (1) the name and address of each of the child's  
12 physicians and health care providers;

13 (2) a record of each visit to a physician or other  
14 health care provider, including routine checkups conducted in  
15 accordance with the Texas Health Steps program;

16 (3) an immunization record that may be exchanged with  
17 ImmTrac;

18 (4) a list of the child's known health problems and  
19 allergies;

20 (5) information on all medications prescribed to the  
21 child in adequate detail to permit refill of prescriptions,  
22 including the disease or condition that the medication treats; and

23 (6) any other available health history that physicians  
24 and other health care providers who provide care for the child  
25 determine is important.

26 (e) The commission, in collaboration with the department,  
27 shall provide training or instructional materials to foster

1 parents, physicians, and other health care providers regarding use  
2 of the health passport.

3 SECTION 17. Sections 266.008(a) and (d), Family Code, are  
4 amended to read as follows:

5 (a) The department [~~commission~~] shall develop an education  
6 passport for each foster child. The department [~~commission, in~~  
7 ~~conjunction with the department,~~] shall determine the format of the  
8 passport. The passport may be maintained in an electronic format.  
9 The passport must contain educational records of the child,  
10 including the names and addresses of educational providers, the  
11 child's grade-level performance, and any other educational  
12 information the department [~~commission~~] determines is important.

13 (d) The department [~~and the commission~~] shall collaborate  
14 with the Texas Education Agency to develop policies and procedures  
15 to ensure that the needs of foster children are met in every school  
16 district.

17 SECTION 18. Chapter 266, Family Code, is amended by adding  
18 Section 266.013 to read as follows:

19 Sec. 266.013. CONTINUITY OF SERVICES PROVIDED BY  
20 COMMISSION. (a) In addition to the requirements of Section  
21 266.003(d), the commission shall continue to provide any services  
22 to children in the conservatorship of the department that the  
23 commission provided to those children before September 1, 2017.

24 (b) Subsection (a) does not apply to any services provided  
25 by the commission in relation to a child's education passport  
26 created under Section 266.008.

27 SECTION 19. Section 531.001(4), Government Code, is amended

1 to read as follows:

2 (4) "Health and human services agencies" includes the:  
3 (A) Department of Aging and Disability Services;  
4 (B) Department of State Health Services; and  
5 (C) Department of Assistive and Rehabilitative  
6 Services[, ~~and~~  
7 [~~(D) Department of Family and Protective~~  
8 ~~Services~~].

9 SECTION 20. Section 531.00553, Government Code, as added by  
10 Chapter 837 (S.B. 200), Acts of the 84th Legislature, Regular  
11 Session, 2015, is amended by amending Subsections (a) and (b) and  
12 adding Subsection (a-1) to read as follows:

13 (a) Except as provided by Subsection (a-1), in [FN] this  
14 section, the term "administrative support services" includes  
15 strategic planning and evaluation, audit, legal, human resources,  
16 information resources, purchasing, contracting, financial  
17 management, and accounting services.

18 (a-1) In relation to the Department of Family and Protective  
19 Services, the term "administrative support services" does not  
20 include legal, human resources, contracting, or strategic planning  
21 and evaluation services.

22 (b) Subject to Subsection (c), the executive commissioner  
23 shall plan and implement an efficient and effective centralized  
24 system of administrative support services for the health and human  
25 services system and the Department of Family and Protective  
26 Services, as applicable. The performance of administrative  
27 support services for the health and human services system is the

1 responsibility of the commission.

2 SECTION 21. (a) Section 531.02013, Government Code, is  
3 amended to read as follows:

4 Sec. 531.02013. FUNCTIONS REMAINING WITH CERTAIN AGENCIES.  
5 The following functions are not subject to transfer under Sections  
6 531.0201 and 531.02011:

7 (1) the functions of the Department of Family and  
8 Protective Services, including the statewide intake of reports and  
9 other information, related to the following:

10 (A) child protective services, including  
11 services that are required by federal law to be provided by this  
12 state's child welfare agency;

13 (B) adult protective services, including ~~other~~  
14 ~~than~~ investigations of the alleged abuse, neglect, or exploitation  
15 of an elderly person or person with a disability:

16 (i) in a facility operated, or in a facility  
17 or by a person licensed, certified, or registered, by a state  
18 agency; or

19 (ii) by a provider that has contracted to  
20 provide home and community-based services; ~~and~~

21 (C) prevention and early intervention services;  
22 and

23 (D) investigations of alleged abuse, neglect, or  
24 exploitation occurring at a child-care facility, including a  
25 residential child-care facility, as those terms are defined by  
26 Section 42.002, Human Resources Code; and

27 (2) the public health functions of the Department of

1 State Health Services, including health care data collection and  
2 maintenance of the Texas Health Care Information Collection  
3 program.

4 (b) Notwithstanding any provision of Subchapter A-1,  
5 Chapter 531, Government Code, or any other law, the responsibility  
6 for conducting investigations of reports of abuse, neglect, or  
7 exploitation occurring at a child-care facility, including a  
8 residential child-care facility, as those terms are defined by  
9 Section 42.002, Human Resources Code, may not be transferred to the  
10 Health and Human Services Commission and remains the responsibility  
11 of the Department of Family and Protective Services.

12 (c) As soon as possible after the effective date of this  
13 section, the commissioner of the Department of Family and  
14 Protective Services shall transfer the responsibility for  
15 conducting investigations of reports of abuse, neglect, or  
16 exploitation occurring at a child-care facility, including a  
17 residential child-care facility, as those terms are defined by  
18 Section 42.002, Human Resources Code, to the child protective  
19 services division of the department. The commissioner shall  
20 transfer appropriate investigators and staff as necessary to  
21 implement this section.

22 (d) This section takes effect immediately if this Act  
23 receives a vote of two-thirds of all the members of each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for this section to take  
26 immediate effect, this section takes effect on the 91st day after  
27 the last day of the legislative session.

1           SECTION 22. Section 531.0202(a), Government Code, is  
2 amended to read as follows:

3           (a) Each of the following state agencies and entities is  
4 abolished on a date that is within the period prescribed by Section  
5 531.02001(1), that is specified in the transition plan required  
6 under Section 531.0204 for the abolition of the agency or entity,  
7 and that occurs after all of the agency's or entity's functions have  
8 been transferred in accordance with Section 531.0201:

- 9           (1) the Department of Assistive and Rehabilitative  
10 Services;
- 11           (2) the Health and Human Services Council;
- 12           (3) the Aging and Disability Services Council;
- 13           (4) the Assistive and Rehabilitative Services  
14 Council;
- 15           (5) ~~[the Family and Protective Services Council,~~  
16 ~~[(6)]~~ the State Health Services Council; and
- 17           (6) ~~[(7)]~~ the Texas Council on Autism and Pervasive  
18 Developmental Disorders.

19           SECTION 23. Section 531.0206(a), Government Code, is  
20 amended to read as follows:

21           (a) The Sunset Advisory Commission shall conduct a  
22 limited-scope review of the commission during the state fiscal  
23 biennium ending August 31, 2023, in the manner provided by Chapter  
24 325 (Texas Sunset Act). The review must provide:

- 25           (1) an update on the commission's progress with  
26 respect to the consolidation of the health and human services  
27 system mandated by this subchapter, including the commission's

1 compliance with the transition plan required under Section  
2 531.0204;

3 (2) an evaluation and recommendations regarding the  
4 need to continue [~~the Department of Family and Protective Services~~  
5 ~~and~~] the Department of State Health Services as a state agency  
6 [~~agencies~~] separate from the commission; and

7 (3) any additional information the Sunset Advisory  
8 Commission determines appropriate, including information regarding  
9 any additional organizational changes the Sunset Advisory  
10 Commission recommends.

11 SECTION 24. Section 531.102(a), Government Code, is amended  
12 to read as follows:

13 (a) The commission's office of inspector general is  
14 responsible for the prevention, detection, audit, inspection,  
15 review, and investigation of fraud, waste, and abuse in the  
16 provision and delivery of all health and human services in the  
17 state, including services through any state-administered health or  
18 human services program that is wholly or partly federally funded or  
19 services provided by the Department of Family and Protective  
20 Services, and the enforcement of state law relating to the  
21 provision of those services. The commission may obtain any  
22 information or technology necessary to enable the office to meet  
23 its responsibilities under this subchapter or other law.

24 SECTION 25. Sections 40.0026 and 40.0027, Human Resources  
25 Code, as effective September 1, 2017, are amended to read as  
26 follows:

27 Sec. 40.0026. REFERENCES IN LAW MEANING DEPARTMENT. In

1 this code or any other law, a reference to the department or the  
2 commission in relation to a function described by Section  
3 40.0025(b) or a legal, human resources, contracting, or strategic  
4 planning and evaluation function for the department means the  
5 department. [~~A reference in law to the department in relation to~~  
6 ~~any other function has the meaning assigned by Section 531.0011,~~  
7 ~~Government Code.~~]

8 Sec. 40.0027. REFERENCES IN LAW MEANING COMMISSIONER OR  
9 DESIGNEE. In this code or in any other law, a reference to the  
10 commissioner or the executive commissioner in relation to a  
11 function described by Section 40.0025(b) or a legal, human  
12 resources, contracting, or strategic planning and evaluation  
13 function for the department means the commissioner. [~~A reference~~  
14 ~~in law to the commissioner in relation to any other function has the~~  
15 ~~meaning assigned by Section 531.0012, Government Code.~~]

16 SECTION 26. Subchapter B, Chapter 40, Human Resources Code,  
17 is amended by adding Sections 40.021, 40.022, 40.023, 40.024,  
18 40.025, and 40.026 to read as follows:

19 Sec. 40.021. FAMILY AND PROTECTIVE SERVICES COUNCIL. (a)  
20 The Family and Protective Services Council is created to assist the  
21 commissioner in developing rules and policies for the department.

22 (b) The council is composed of nine members of the public  
23 appointed by the governor with the advice and consent of the senate.  
24 In making appointments to the council, the governor shall consider  
25 persons who have a demonstrated knowledge of the department and the  
26 health and human services system in general, including former  
27 department employees, court-appointed special advocates, foster

1 care providers, and employees of child advocacy centers.

2 (c) The council shall study and make recommendations to the  
3 commissioner regarding the management and operation of the  
4 department, including policies and rules governing the delivery of  
5 services to persons who are served by the department, the rights and  
6 duties of persons who are served or regulated by the department, and  
7 the consolidation of the provision of administrative support  
8 services as provided by Section 531.00553, Government Code. The  
9 council may not develop policies or rules relating to  
10 administrative support services provided by the commission for the  
11 department.

12 (d) Chapter 551, Government Code, applies to the council.

13 (e) Chapter 2110, Government Code, does not apply to the  
14 council.

15 (f) A majority of the members of the council constitute a  
16 quorum for the transaction of business.

17 Sec. 40.022. APPOINTMENTS. (a) Appointments to the  
18 council shall be made without regard to the race, color,  
19 disability, sex, religion, age, or national origin of the  
20 appointees.

21 (b) Appointments to the council shall be made so that each  
22 geographic area of the state is represented on the council.  
23 Notwithstanding Subsection (a), appointments to the council must  
24 reflect the ethnic diversity of this state.

25 Sec. 40.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A  
26 person who is appointed as a member of the council may not vote,  
27 deliberate, or be counted as a member in attendance at a meeting of

1 the council until the person completes a training program that  
2 complies with this section.

3 (b) The training program must provide information to the  
4 member regarding:

5 (1) the legislation that created the department and  
6 the council;

7 (2) the programs operated by the department;

8 (3) the role and functions of the department and the  
9 council, including detailed information regarding the advisory  
10 responsibilities of the council;

11 (4) the role of the commission and the  
12 responsibilities of the commission in relation to the department;

13 (5) the rules of the department, with an emphasis on  
14 rules that relate to disciplinary and investigatory authority;

15 (6) the current budget for the department;

16 (7) the results of the most recent formal audit of the  
17 department;

18 (8) the requirements of the:

19 (A) open meetings law, Chapter 551, Government  
20 Code;

21 (B) public information law, Chapter 552,  
22 Government Code; and

23 (C) administrative procedure law, Chapter 2001,  
24 Government Code;

25 (9) the requirements of the conflict-of-interest laws  
26 and other laws relating to public officials; and

27 (10) any applicable ethics policies adopted by the

1 commissioner or the Texas Ethics Commission.

2 Sec. 40.024. TERMS; VACANCY. (a) Members of the council  
3 serve for staggered six-year terms, with the terms of three members  
4 expiring February 1 of each odd-numbered year.

5 (b) A member of the council may not serve more than two  
6 consecutive full terms as a council member.

7 (c) A vacancy on the council shall be filled in the same  
8 manner as the original appointment.

9 Sec. 40.025. REIMBURSEMENT FOR EXPENSES. A council member  
10 may not receive compensation for service as a member of the council  
11 but is entitled to reimbursement for travel expenses incurred by  
12 the member while conducting the business of the council as provided  
13 by the General Appropriations Act.

14 Sec. 40.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS.

15 (a) The governor shall designate a member of the council as the  
16 presiding officer to serve in that capacity at the pleasure of the  
17 governor.

18 (b) The members of the council shall elect any other  
19 necessary officers.

20 (c) The council shall meet quarterly and at other times at  
21 the call of the presiding officer. The council may hold meetings in  
22 different areas of the state.

23 SECTION 27. Section 40.027, Human Resources Code, is  
24 amended to read as follows:

25 Sec. 40.027. COMMISSIONER. (a) The governor, with the  
26 advice and consent of the senate, [~~executive commissioner~~] shall  
27 appoint a commissioner [~~in accordance with Section 531.0056,~~

1 ~~Government Code~~]. The commissioner is to be selected according to  
2 education, training, experience, and demonstrated ability.

3 (b) The commissioner serves a term of two years [~~at the~~  
4 ~~pleasure of the executive commissioner~~].

5 (c) The [~~Subject to the control of the executive~~  
6 ~~commissioner, the~~] commissioner shall:

7 (1) act as the department's chief administrative  
8 officer;

9 (2) oversee [~~in accordance with the procedures~~  
10 ~~prescribed by Section 531.00551, Government Code, assist the~~  
11 ~~executive commissioner in~~] the development and implementation of  
12 policies and guidelines needed for the administration of the  
13 department's functions;

14 (3) oversee [~~in accordance with the procedures adopted~~  
15 ~~by the executive commissioner under Section 531.00551, Government~~  
16 ~~Code, assist the executive commissioner in~~] the development of  
17 rules relating to the matters within the department's jurisdiction,  
18 including the delivery of services to persons and the rights and  
19 duties of persons who are served or regulated by the department; and

20 (4) serve as a liaison between the department and  
21 commission.

22 (d) The commissioner shall administer this chapter and  
23 other laws relating to the department [~~under operational policies~~  
24 ~~established by the executive commissioner and in accordance with~~  
25 ~~the memorandum of understanding under Section 531.0055(k),~~  
26 ~~Government Code, between the commissioner and the executive~~  
27 ~~commissioner, as adopted by rule~~].

1       (e) Notwithstanding any other law, the commissioner shall  
2 adopt rules and policies for the operation of and the provision of  
3 services by the department.

4       SECTION 28. Section 40.030, Human Resources Code, is  
5 amended to read as follows:

6       Sec. 40.030. ADVISORY COMMITTEES. (a) The [~~executive~~]  
7 commissioner or the [~~executive~~] commissioner's designee may  
8 appoint advisory committees in accordance with Chapter 2110,  
9 Government Code.

10       (b) The [~~executive~~] commissioner shall adopt rules, in  
11 compliance with Chapter 2110, Government Code, regarding the  
12 purpose, structure, and use of advisory committees by the  
13 department. The rules may include provisions governing:

14               (1) an advisory committee's size and quorum  
15 requirements;

16               (2) qualifications for membership of an advisory  
17 committee, including:

18                       (A) requirements relating to experience and  
19 geographic representation; and

20                       (B) requirements for the department to include as  
21 members of advisory committees youth who have aged out of foster  
22 care and parents who have successfully completed family service  
23 plans and whose children were returned to the parents, as  
24 applicable;

25               (3) appointment procedures for an advisory committee;

26               (4) terms for advisory committee members; and

27               (5) compliance with Chapter 551, Government Code.

1 SECTION 29. Section 40.0505, Human Resources Code, is  
2 amended to read as follows:

3 Sec. 40.0505. DIVISIONS OF DEPARTMENT [~~POWERS AND DUTIES OF~~  
4 ~~COMMISSIONER; EFFECT OF CONFLICT WITH OTHER LAW~~]. (a) The  
5 commissioner shall establish the following divisions and offices  
6 within the department:

7 (1) an investigations division;

8 (2) a contracting division that oversees the following  
9 in each programmatic division of the department:

10 (A) quality assurance;

11 (B) vendor oversight;

12 (C) contract adherence;

13 (D) contracting; and

14 (E) oversight of single source continuum  
15 contractors providing foster care services;

16 (3) a consolidated data division;

17 (4) a legal division that oversees the following:

18 (A) legal matters relating to human resources, as  
19 necessary to manage the department's workforce and establish the  
20 department's hiring and termination policies;

21 (B) open records;

22 (C) privacy and confidentiality;

23 (D) litigation; and

24 (E) contract compliance; and

25 (5) an operations division that oversees department  
26 operations and human resources functions of the department.

27 (b) The commissioner may establish additional divisions

1 within the department as the commissioner determines appropriate.

2 (c) The commissioner may assign department functions among  
3 the department's divisions. [~~To the extent a power or duty given to~~  
4 the commissioner by this chapter or another law conflicts with  
5 Section 531.0055, Government Code, Section 531.0055 controls.]

6 SECTION 30. Subchapter C, Chapter 40, Human Resources Code,  
7 is amended by adding Section 40.0512 to read as follows:

8 Sec. 40.0512. CONTINUITY OF SERVICES; INFORMATION SHARING.  
9 The department shall make a good faith effort to share relevant and  
10 appropriate information with health and human services agencies  
11 regarding persons receiving services from the department to ensure  
12 continuity of care and the best possible coordination of  
13 state-funded resources among health and human services agencies.

14 SECTION 31. Section 40.058, Human Resources Code, is  
15 amended by adding Subsections (i) and (j) to read as follows:

16 (i) The department and the commission shall enter into  
17 contracts for the provision of all shared administrative services,  
18 subject to approval by the governor. Shared administrative  
19 services do not include legal, human resources, contracting, or  
20 strategic planning and evaluation services.

21 (j) The department shall collaborate with the commission to  
22 ensure the efficient provision of administrative support services  
23 by the commission.

24 SECTION 32. Subchapter A, Chapter 48, Human Resources Code,  
25 is amended by adding Section 48.0021 to read as follows:

26 Sec. 48.0021. REFERENCE TO COMMISSION OR EXECUTIVE  
27 COMMISSIONER. In this chapter:

1           (1) a reference to the Health and Human Services  
2 Commission means the Department of Family and Protective Services;  
3 and

4           (2) a reference to the executive commissioner means  
5 the commissioner of the Department of Family and Protective  
6 Services.

7           SECTION 33. The following provisions are repealed:

8           (1) Sections 261.001(7) and 264.001(2) and (3), Family  
9 Code; and

10          (2) Sections 40.0506 and 40.0507, Human Resources  
11 Code.

12          SECTION 34. As soon as possible after the effective date of  
13 this Act, the executive commissioner of the Health and Human  
14 Services Commission shall transfer the appropriate divisions,  
15 resources, and personnel to the Department of Family and Protective  
16 Services to allow the department to perform the general functions  
17 of the department under Chapter 40, Human Resources Code, as  
18 amended by this Act, including any staff and associated resources  
19 previously transferred to the commission for the purpose of  
20 providing legal, human resources, contracting, or strategic  
21 planning and evaluation services to the department pursuant to the  
22 requirements of Chapter 837 (S.B. 200), Acts of the 84th  
23 Legislature, Regular Session, 2015.

24          SECTION 35. Except as otherwise provided by this Act, this  
25 Act takes effect September 1, 2017.

ADOPTED

MAY 22 2017

*Leta Spaul*  
Secretary of the Senate

*C. Schwan*

FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

1 Amend C.S.H.B. No. 5 (senate committee printing) in SECTION  
2 21(a) of the bill, in amended Section 531.02013, Government Code  
3 (page 6, lines 17-18), by striking "including [~~other than~~]" and  
4 substituting "other than".

ADOPTED

✓✓  
MAY 22 2017

*Lately Spaw*  
Secretary of the Senate

*[Signature]*

FLOOR AMENDMENT NO. 2

BY: \_\_\_\_\_

1 Amend C.S.H.B. No. 5 (senate committee printing) in SECTION  
2 26 of the bill, in added Section 40.021(b), Human Resources Code  
3 (page 7, line 66), by striking "with the advice and consent of the  
4 senate".

ADOPTED

VV  
MAY 22 2017

FLOOR AMENDMENT NO. 3

BY: 

  
Secretary of the Senate

1 Amend C.S.H.B. No. 5 (senate committee printing) as  
2 follows:

3 (1) In SECTION 29 of the bill, in amended Section  
4 40.0505(a), Human Resources Code (page 10, line 22), strike  
5 "and".

6 (2) In SECTION 29 of the bill, in amended Section  
7 40.0505(a), Human Resources Code (page 10, line 24), strike  
8 "department." and substitute the following:

9 department; and

10 (6) a financial management and accounting services  
11 division.

ADOPTED

Y V

MAY 22 2017

*as amended*  
*Letay Dew*  
Secretary of the Senate

BY: *Brian Birdwell*

FLOOR AMENDMENT NO. 4

<EOH>

1 Amend C.S.H.B. No. 5 (senate committee printing) as  
2 follows:

3 (1) Amend section SECTION 20 of the bill as follows, amending  
4 Section 531.00553, Government Code, (page 5, line 55, through page  
5 5, line 67) by striking subsection (a) and subsection (a-1) and  
6 renumber subsequent SECTIONS of the bill accordingly.

7 (2) In SECTION 25 of the bill, in amended Section 40.0026,  
8 Human Resources Code (page 7, lines 46-47), strike "or a legal,  
9 human resources, contracting, or strategic planning and evaluation  
10 function for the department".

11 (3) In SECTION 25 of the bill, in amended Section 40.0027,  
12 Human Resources Code (page 7, lines 54-56), strike "or a legal,  
13 human resources, contracting, or strategic planning and evaluation  
14 function for the department".

15 (4) In SECTION 29 of the bill, strike added Section  
16 40.0505(a)(2), Human Resources Code (page 10, lines 6-13) and  
17 renumber subsequent subdivisions of Section 40.0505(a)  
18 accordingly.

19 (5) In SECTION 31 of the bill, strike added Section  
20 40.058(i), Human Resources Code (page 10, lines 41-45), and  
21 substitute the following:

22 (i) The department and the commission shall enter into  
23 contracts for the provision of shared administrative services,  
24 subject to approval by the governor, including payroll,  
25 procurement, information resources, rate setting, purchasing,  
26 and contracting.

27

ADOPTED

MAY 22 2017

*Arlene Spaw*  
Secretary of the Senate

*C. [Signature]*

FLOOR AMENDMENT NO. 5

BY: \_\_\_\_\_

1 Amend Amendment No. 4 by Birdwell to C.S.H.B. No. 5 in  
2 ITEM 5 of the amendment, by striking "subject to approval by  
3 the governor,".

ADOPTED

MAY 22 2017

*Latoya Spaul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 6

BY: *L. W. Kell*

1 Amend C.S.H.B. No. 5 (senate committee printing) by adding  
2 the following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. Subchapter A, Chapter 162, Family Code, is  
5 amended by adding Section 162.0086 to read as follows:

6 Sec. 162.0086. INFORMATION REGARDING SIBLING ACCESS. (a)

7 The Department of Family and Protective Services shall provide  
8 information to each person seeking to adopt a child placed for  
9 adoption by the department regarding the right of a child's sibling  
10 to file a suit for access to the child under Sections 102.0045 and  
11 153.551.

12 (b) The department may provide the information required  
13 under Subsection (a) on any form or application provided to  
14 prospective adoptive parents.

ADOPTED

MAY 22 2017

*Letay Spaul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 7

BY: *Charles Perry*

1 Amend C.S.H.B. No. 5 (senate committee printing) by adding  
2 the following appropriately numbered SECTIONS to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. Section 107.154(b), Family Code, is amended  
5 to read as follows:

6 (b) To be qualified to conduct an adoption evaluation under  
7 this subchapter, a person must:

8 (1) have a degree from an accredited college or  
9 university in a human services field of study and a license to  
10 practice in this state as a social worker, professional counselor,  
11 marriage and family therapist, or psychologist and:

12 (A) have one year of full-time experience working  
13 at a child-placing agency conducting child-placing activities; or

14 (B) be practicing under the direct supervision of  
15 a person qualified under this section to conduct adoption  
16 evaluations;

17 (2) be employed by or under contract with a domestic  
18 relations office, provided that the person conducts adoption  
19 evaluations relating only to families ordered to participate in  
20 adoption evaluations conducted by the domestic relations office; or

21 (3) be qualified as a child custody evaluator under  
22 Section 107.104.

23 SECTION \_\_\_\_\_. Section 107.154(b), Family Code, as amended  
24 by this Act, applies only to an adoption evaluation conducted on or  
25 after the effective date of this Act. An adoption evaluation  
26 conducted before the effective date of this Act is governed by the  
27 law in effect on the date the evaluation was conducted, and the  
28 former law is continued in effect for that purpose.

ADOPTED

RV 20-11  
MAY 22 2017

*Antony Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 8

BY: *Joan Huffman*

1 Amend C.S.H.B. No. 5 (senate committee printing) by adding  
2 the following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. Chapter 264, Family Code, is amended by  
5 adding Subchapter B-1 to read as follows:

6 SUBCHAPTER B-1. COMMUNITY-BASED FOSTER CARE

7 Sec. 264.170. LIMITED LIABILITY FOR NONPROFIT SINGLE SOURCE  
8 CONTINUUM CONTRACTOR. (a) Except as otherwise provided by this  
9 section, a nonprofit entity that contracts with the department to  
10 provide foster care services as a single source continuum  
11 contractor under this subchapter is, while acting within the scope  
12 of the contract between the entity and the department, immune from  
13 civil liability for any act or omission of the entity resulting in  
14 property damage, personal injury, or death.

15 (b) Except as otherwise provided by this section, a person  
16 who is a director, officer, employee, or volunteer of a nonprofit  
17 entity described by Subsection (a) is, while acting in the course  
18 and scope of the person's duties for the entity, immune from civil  
19 liability for any act or omission resulting in property damage,  
20 personal injury, or death.

21 (c) This section does not limit the liability of a nonprofit  
22 entity described by Subsection (a) for:

23 (1) property damage, personal injury, or death that is  
24 caused by gross negligence or intentional acts or omissions by the  
25 entity; or

26 (2) property damage, personal injury, or death caused  
27 by a condition or use of tangible personal or real property if the  
28 nonprofit entity would be liable to the claimant under state law.

29 (d) This section does not limit the liability of a person

1 described by Subsection (b) for:

2 (1) property damage, personal injury, or death that is  
3 caused by gross negligence or intentional acts or omissions by the  
4 person; or

5 (2) property damage, personal injury, or death  
6 proximately caused by the wrongful act or omission or the  
7 negligence of the person acting within the course and scope of the  
8 person's duties with the nonprofit entity if:

9 (A) the property damage, personal injury, or  
10 death arises from the operation or use of a motor-driven vehicle or  
11 motor-driven equipment; and

12 (B) the person would be personally liable to the  
13 claimant under state law.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 24, 2017**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB5** by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties from the Health and Human Services Commission.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Family Code, Government Code, and Human Resources Code to establish the Family and Protective Services Council, separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System, direct DFPS to enter into a contract with the Health and Human Services Commission (HHSC) to provide certain administrative support services, direct DFPS to provide certain information related to sibling rights to persons seeking to adopt a child, allow individuals under contract with a domestic relations office to conduct adoption evaluations, and provide limited liability for nonprofit single source continuum contractors providing community-based foster care. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with establishing the Family and Protective Services Council and separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support services for DFPS that the bill would continue this arrangement on a contractual basis with certain exemptions. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

Additionally, based on LBB analysis, the duties and responsibilities associated with implementing the other provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

**LBB Staff:** UP, TBo, KCA, EP, JLi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 11, 2017**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB5** by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties from the Health and Human Services Commission.), **Committee Report 2nd House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Family Code, Government Code, and Human Resources Code to establish the Family and Protective Services Council, separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System, and direct DFPS to enter into a contract with the Health and Human Services Commission (HHSC) to provide certain administrative support services. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with establishing the Family and Protective Services Council and separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support services for DFPS that the bill would continue this arrangement on a contractual basis with certain exemptions. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

**LBB Staff:** UP, TBo, KCA, EP, JLi

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 17, 2017**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB5** by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties from the Health and Human Services Commission.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Family Code, Government Code, and Human Resources Code to establish the Family and Protective Services Council, separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System, and direct DFPS to enter into a contract with the Health and Human Services Commission (HHSC) to provide administrative support services. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with establishing the Family and Protective Services Council and separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support services for DFPS that the bill would continue this arrangement on a contractual basis. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

**LBB Staff:** UP, TBo, KCA, EP, JLi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**February 21, 2017**

**TO:** Honorable Richard Peña Raymond, Chair, House Committee on Human Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB5** by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties from the Health and Human Services Commission.), **Committee Report 1st House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Family Code, Government Code, and Human Resources Code to establish the Family and Protective Services Council, separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System, and direct DFPS to enter into a contract with the Health and Human Services Commission (HHSC) to provide administrative support services. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with establishing the Family and Protective Services Council and separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support services for DFPS that the bill would continue this arrangement on a contractual basis. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

**LBB Staff:** UP, TBo, KCA, EP, JLi

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**February 19, 2017**

**TO:** Honorable Richard Peña Raymond, Chair, House Committee on Human Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB5** by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties to the Health and Human Services Commission.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Family Code, Government Code, and Human Resources Code to separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System and direct DFPS to establish administrative support functions or enter into a contract with the Health and Human Services Commission (HHSC) or another state agency to provide these functions. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support functions for DFPS and the analysis assumes this arrangement would continue on a contractual basis. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

**LBB Staff:** UP, KCA, EP, TBo, JLi