87R12521 MCK-D

By:  Kolkhorst S.B. No. 1896

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of child-care facilities.

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

SECTION 1.  Subchapter B, Chapter 264, Family Code, is amended by adding Sections 264.1071 and 264.1073 to read as follows:

Sec. 264.1071.  OFFICE STAYS PROHIBITED. The department may not allow a child to stay overnight in a department office.

Sec. 264.1073.  THERAPEUTIC FOSTER CARE. The department and single source continuum contractors shall:

(1)  lessen employment restrictions to allow single parents to participate in therapeutic foster care, when quality care can be assured;

(2)  expand the eligible age for therapeutic foster care to include children 10 years of age or older;

(3)  prepare and plan for the subsequent placement not later than the 30th day after a child is placed in therapeutic foster care to assist in the transition to the least restrictive placement; and

(4)  extend the length of time for a therapeutic foster care placement.

SECTION 2.  Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.117 to read as follows:

Sec. 264.117.  MENTORS FOR FOSTER CHILDREN. (a) The department and each single source continuum contractor in this state, in collaboration with faith- and community-based organizations, shall examine the feasibility of designing a volunteer mentor and well-being monitor program for children in congregate care settings.

(b)  Not later than December 31, 2022, the department shall report its findings and recommendations for establishing a mentor program to the legislature.

(c)  This section expires September 1, 2023.

SECTION 3.  (a) Section 264.1261, Family Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1)  Notwithstanding Section 264.0011, the Health and Human Services Commission in collaboration with the department, and each single source continuum contractor in this state, shall develop a plan to increase the placement capacity in each catchment area of the state with the goal of eliminating the need to place a child outside of the child's community. The commission shall consider whether contracting for additional capacity at residential treatment centers, facilities that provide mental inpatient or outpatient beds for children with behavioral health or mental health needs, and other potential temporary placement options provide the best methods for meeting capacity shortages.

(b-2)  The department and each single source continuum contractor shall contract with facilities for reserve beds to ensure that the department may place each child in a facility if capacity is otherwise unavailable.

(b)  Sections 264.1261(a) and (b), Family Code, as added by Chapter 822 (H.B. 1549), Acts of the 85th Legislature, Regular Session, 2017, are repealed.

SECTION 4.  Subchapter B-1, Chapter 264, Family Code, is amended by adding Section 264.1511 to read as follows:

Sec. 264.1511.  COMMISSION RESPONSIBILITIES; REFERENCE IN SUBCHAPTER. (a) Notwithstanding Section 264.0011 or any provision of this subchapter, the Health and Human Services Commission has the powers and shall perform duties assigned to the department under this subchapter.

(b)  In this subchapter, a reference to the department or Department of Family and Protective Services means the Health and Human Services Commission.

SECTION 5.  (a) Subchapter A, Chapter 533, Government Code, is amended by adding Sections 533.00521 and 533.00522 to read as follows:

Sec. 533.00521.  STAR HEALTH PROGRAM: HEALTH CARE FOR FOSTER CHILDREN. (a) The commission shall annually evaluate the use of benefits under the Medicaid program in the STAR Health program offered to children in foster care and provide recommendations to the Department of Family and Protective Services and each single source continuum contractor in this state to better coordinate the provision of health care and use of those benefits for children in foster care.

(b)  The commission shall report its findings to the legislature.

Sec. 533.00522.  STAR HEALTH PROGRAM: MENTAL HEALTH PROVIDERS. A contract between a Medicaid managed care organization and the commission for the organization to provide health care services to recipients under the STAR Health program must require the organization to ensure the organization maintains a network of mental and behavioral health providers, including child psychiatrists and other appropriate providers, in all Department of Family and Protective Services catchment areas in the state.

(b)  The changes in law made by this section apply only to a contract for the provision of health care services under the STAR Health program between the Health and Human Services Commission and a Medicaid managed care organization under Chapter 533, Government Code, that is entered into, renewed, or extended on or after the effective date of this section.

(c)  If before implementing Section 533.00522, Government Code, as added by this section, the Health and Human Services Commission determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the health and human services agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 6.  Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.05291 to read as follows:

Sec. 40.05291.  ELECTRONIC CASE MANAGEMENT SYSTEM. (a) The department shall develop a plan to eliminate the department's use of paper case files and fully transition to an electronic case management system.

(b)  The department shall implement a fully electronic case management system not later than September 1, 2023.

(c)  This section expires September 1, 2025.

SECTION 7.  Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.0583 to read as follows:

Sec. 40.0583.  STATE AUDITOR REVIEW OF CONTRACTS. The state auditor shall annually review each department performance-based contract to determine whether the department is properly enforcing contract provisions with providers and to provide recommendations for improving department oversight and execution of contracts.

SECTION 8.  Subchapter B, Chapter 42, Human Resources Code, is amended by adding Section 42.026 to read as follows:

Sec. 42.026.  ACCESS TO DATABASE. (a) The commission shall make the child-care licensing division's searchable database accessible to commission and department investigators.

(b)  The department shall make the department's searchable database accessible to commission and department investigators.

SECTION 9.  Subchapter C, Chapter 42, Human Resources Code, is amended by adding Sections 42.0538 and 42.0583 to read as follows:

Sec. 42.0538.  PROVISIONAL LICENSE FOR KINSHIP PROVIDER. The commission shall develop standards for and provide a provisional license for a kinship provider, as defined by Section 264.851, Family Code, who meets the basic safety requirements. A kinship provider issued a provisional license under this section shall complete all licensing requirements within the time set by the executive commissioner by rule.

Sec. 42.0583.  IDENTIFYING AT-RISK PROVIDERS. The department shall use data analytics collected from providers, including general residential operations providing treatment services to young adults with emotional disorders, to develop an early warning system to identify at-risk providers most in need of technical support and to promote corrective actions and minimize standard violations.

SECTION 10.  Subchapter D, Chapter 42, Human Resources Code, is amended by adding Section 42.0711 to read as follows:

Sec. 42.0711.  INSPECTION OF FACILITY ON PROBATION; PLACEMENT LIMITS. (a) The commission shall inspect each week a general residential operation that is placed on probation for continued violations of this chapter.

(b)  The department or a single source continuum contractor may not place a child in a facility whose license the commission has placed on probation.

(c)  The department and each single source continuum contractor shall develop a contingency plan to ensure adequate capacity in other facilities to meet the placement needs of the department in the event a facility is placed on probation.

SECTION 11.  Subchapter D, Chapter 42, Human Resources Code, is amended by adding Section 42.080 to read as follows:

Sec. 42.080.  DISCIPLINARY ACTION PROHIBITED. The commission may not issue a citation to or take any other disciplinary action against a general residential operation or a child-placing agency for failing to employ a licensed child-care administrator or licensed child-placing administrator, as appropriate, if the operation or agency has:

(1)  been without an administrator for less than 60 days; and

(2)  made substantial efforts to hire a qualified administrator.

SECTION 12.  Subchapter H, Chapter 42, Human Resources Code, is amended by adding Sections 42.2541, 42.256, 42.257, 42.258, 42.259, 42.260, and 42.261 to read as follows:

Sec. 42.2541.  IMPROVING EDUCATION SERVICES FOR CHILDREN. (a) The commission shall develop a strategic plan for improving the provision of educational services to children placed in a general residential operation.

(b)  The department shall report to the Texas Education Agency the educational outcomes for children placed in a general residential operation.

(c)  The department and the Texas Education Agency shall annually evaluate the educational outcomes for children placed in a general residential operation and adopt strategies and policies to improve the outcomes and standards.

Sec. 42.256.  TREATMENT MODEL. (a) Each general residential operation providing treatment services shall adopt a treatment model that is an evidence-based model or a recognized promising practice with continuous quality improvement model. The operation shall submit the model to the commission.

(b)  The operation shall annually evaluate the overall effectiveness of the model adopted under this section.

(c)  The treatment model must address all aspects related to children's care, including children's therapeutic needs. The model shall include:

(1)  the manner in which treatment goals will be individualized and identified for each child;

(2)  the method the operation will use to measure the effectiveness of each treatment goal for the child;

(3)  the actions the operation will take if the treatment goals are not met; and

(4)  the method the operation will use to monitor and evaluate the effectiveness of the treatment model.

(d)  A general residential operation may change a treatment model adopted under this section after notifying the commission of the change and submitting the new treatment model to the commission.

(e)  The executive commissioner may adopt rules to implement this section.

(f)  The general residential operation shall adopt policies and procedures to implement the treatment model.

Sec. 42.257.  EVALUATION OF PLACEMENTS. A general residential operation that considers accepting a child's placement with the operation shall evaluate the proposed placement on the following criteria:

(1)  whether the child meets the operation's admission criteria;

(2)  whether the child would benefit from the treatment model implemented at the operation; and

(3)  whether the operation has the staff and resources to meet the child's needs considering the other children at the operation and the other children's needs.

Sec. 42.258.  LIMIT ON PLACEMENTS FOR NEW FACILITY. If the department or a single source continuum contractor contracts with a general residential operation providing treatment services to place children with the operation before the operation is licensed, the contract must limit the number of children that may be placed at the operation each month and limit the number of children with a service level of specialized, intense, or intense plus until the operation exhibits sustained compliance with the licensing standards.

Sec. 42.259.  TRANSITION PLANS. A general residential operation shall develop a transition plan for each child who has been placed at the operation for longer than six months.

Sec. 42.260.  TELEHEALTH PILOT PROGRAM. The department in coordination with the single source continuum contractors shall establish a pilot program to use telehealth services to provide mental health and behavioral health care for children placed in a residential treatment center.

Sec. 42.261.  HUMAN TRAFFICKING VICTIMS. A general residential operation that provides treatment services to children who are victims of human trafficking shall use the Commercial Sexual Exploitation-Identification Tool, an evidence-based screening tool, as part of the operation's screening of children placed in the operation to systematically recognize the indicators of child sex trafficking. The general residential operation shall develop protocols to provide clear guidance to operation staff on the conduct of screenings and response to youth who have indicators of sex trafficking.

SECTION 13.  Section 43.0081, Human Resources Code, is amended to read as follows:

Sec. 43.0081.  PROVISIONAL LICENSE. (a) The commission [~~department~~] may issue a provisional child-care administrator's license to:

(1)  an applicant licensed in another state who applies for a license in this state if the applicant[~~. An applicant for a provisional license under this section must~~]:

(A)  is [~~(1) be~~] licensed in good standing as a child-care administrator for at least two years in another state, the District of Columbia, a foreign country, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(B)  has [~~(2) have~~] passed a national or other examination recognized by the commission [~~department~~] that demonstrates competence in the field of child-care administration; and

(C)  is [~~(3) be~~] sponsored by a person licensed by the commission [~~department~~] under this chapter with whom the provisional license holder may practice under this section; and

(2)  an applicant who otherwise qualifies for a license but does not meet the experience requirement in Section 43.004(a)(4).

(b)  The commission [~~department~~] may waive the requirement of Subsection (a)(1)(C) [~~(a)(3)~~] for an applicant if the commission [~~department~~] determines that compliance with that paragraph [~~subsection~~] constitutes a hardship to the applicant.

(c)  A provisional license under Subsection (a)(1) is valid until the date the commission [~~department~~] approves or denies the provisional license holder's application for a license. The commission [~~department~~] shall issue a license under this chapter to the provisional license holder described by Subsection (a)(1) if:

(1)  the provisional license holder passes the examination required by Section 43.004;

(2)  the commission [~~department~~] verifies that the provisional license holder has the academic and experience requirements for a license under this chapter; and

(3)  the provisional license holder satisfies any other license requirements under this chapter.

(d)  For a provisional license holder described by Subsection (a)(1), the commission shall [~~The department must~~] complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The commission [~~department~~] may extend the 180-day limit if the results of the license holder's examination have not been received by the commission [~~department~~].

(e)  A person issued a provisional license under Subsection (a)(2) must sign an agreement with the commission agreeing to obtain the experience required by Section 43.004(a)(4) as soon as possible after the license is issued. The person may not be issued a child-care administrator license until the person obtains the required experience.

SECTION 14.  (a) The Department of Family and Protective Services shall:

(1)  study extending permanency care assistance benefits to individuals who are not relatives of a foster child and who do not have a longstanding and significant relationship with the foster child; and

(2)  assess the potential impact and favorable permanency outcomes for children who might otherwise remain in foster care for long periods or have managing conservatorship of the child transferred without any benefits to the caregiver.

(b)  Not later than December 31, 2022, the Department of Family and Protective Services shall submit a report to the legislature on the results of the study and assessment conducted under this section and recommendations for further action based on the study and assessment.

(c)  This section expires September 1, 2023.

SECTION 15.  Not later than January 1, 2023, the Department of Family and Protective Services shall:

(1)  transition the family-based safety services program to evidenced-based programs under the Family First Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123); and

(2)  develop community referrals to existing prevention and early intervention programs.

SECTION 16.  The executive commissioner of the Health and Human Services Commission shall adopt minimum standards related to continuum-of-care operations, cottage home operations, and specialized child-care homes as provided by Section 42.042, Human Resources Code, as amended by Chapter 317 (H.B. 7), Acts of the 85th Legislature, Regular Session, 2017, as soon as practicable after the effective date of this Act.

SECTION 17.  The Health and Human Services Commission and the Department of Family and Protective Services shall jointly evaluate the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), to determine methods for maximizing this state's receipt of federal funds to provide foster youth transition planning to adulthood and additional services for foster youth and young adults in extended foster care.

SECTION 18.  (a) On the effective date of this Act, the Department of Family and Protective Services shall abolish the prevention and early intervention division of the department.

(b)  The Department of Family and Protective Services shall transfer any department funds and resources, including department employees, allocated to the prevention and early intervention division to the Health and Human Services Commission.

SECTION 19.  This Act takes effect September 1, 2021.