

By: Kolkhorst

S.B. No. 1896

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of child-care facilities and foster care placements and services and the creation of the Office of Community-Based Care Transition.

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

SECTION 1. Subchapter E, Chapter 263, Family Code, is amended by adding Section 263.409 to read as follows:

Sec. 263.409. FINAL NOTIFICATION OF BENEFITS RELATED TO KINSHIP VERIFICATION. Before a court enters a final order naming a relative or another adult with a longstanding and significant relationship with a foster child as the permanent managing conservator for the child, the court shall verify that:

(1) the individual was offered the opportunity to become verified by a licensed child-placing agency to qualify for permanency care assistance benefits under Subchapter K, Chapter 264, and the individual declined the verification process and the permanency care assistance benefits; and

(2) the child-placing agency conducting the verification for the individual's permanency care assistance benefits has been notified of the individual's decision to decline the permanency care assistance benefits.

SECTION 2. Subchapter B, Chapter 264, Family Code, is amended by adding Sections 264.1071 and 264.1073 to read as follows:

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

3       Sec. 264.1073. TREATMENT FOSTER CARE. The department and  
4 single source continuum contractors shall:

5           (1) lessen employment restrictions to allow single  
6 parents to participate in treatment foster care, when quality care  
7 is assured;

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

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

14          (4) extend the length of time for a treatment foster  
15 care placement.

16       SECTION 3. Subchapter B, Chapter 264, Family Code, is  
17 amended by adding Section 264.117 to read as follows:

18       Sec. 264.117. MENTORS FOR FOSTER CHILDREN. (a) The  
19 department and each single source continuum contractor in this  
20 state, in collaboration with local governmental entities and  
21 faith- and community-based organizations, shall examine the  
22 feasibility of designing a volunteer mentor program for children in  
23 congregate care settings.

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

27       (c) This section expires September 1, 2023.

1 SECTION 4. (a) Section 264.1261, Family Code, is amended by  
2 adding Subsections (b-1), (b-2), and (b-3) to read as follows:

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

14 (b-2) The plan required by Subsection (b-1) must include  
15 information and contingency plans to ensure adequate capacity in  
16 other facilities to meet placement needs when a facility is placed  
17 on probation.

18 (b-3) The department and each single source continuum  
19 contractor shall contract with facilities for reserve beds to  
20 ensure the department may place each child in a facility if capacity  
21 is otherwise unavailable.

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

25 SECTION 5. Subchapter B-1, Chapter 264, Family Code, is  
26 amended by adding Sections 264.171 and 264.172 to read as follows:

27 Sec. 264.171. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON

1 COMMUNITY-BASED CARE TRANSITION. (a) Notwithstanding Section  
2 264.0011, in this section:

3 (1) "Commission" means the Health and Human Services  
4 Commission.

5 (2) "Committee" means the Joint Legislative Oversight  
6 Committee on Community-Based Care Transition.

7 (3) "Department" means the Department of Family and  
8 Protective Services.

9 (b) The Joint Legislative Oversight Committee on  
10 Community-Based Care Transition is composed of six voting members  
11 as follows:

12 (1) three members of the senate, appointed by the  
13 lieutenant governor; and

14 (2) three members of the house of representatives,  
15 appointed by the speaker of the house of representatives.

16 (c) The lieutenant governor and speaker of the house of  
17 representatives shall each appoint a member described by Subsection  
18 (b)(1) or (2), respectively, to serve as joint chairs of the  
19 committee.

20 (d) The committee shall meet at the call of the joint chairs  
21 and may consider public testimony.

22 (e) The committee may employ persons necessary to carry out  
23 this section through funds made available by the legislature.

24 (f) The committee shall monitor and report to the  
25 legislature on the following related to the implementation of  
26 community-based care:

27 (1) the funding of community-based care;

1           (2) the performance and outcomes of community-based  
2 care statewide and by region;

3           (3) statutory or regulatory barriers to the successful  
4 implementation of community-based care; and

5           (4) other challenges to the successful implementation  
6 of community-based care.

7           (g) The committee may request any relevant information from  
8 the commission, the department, or another relevant state agency,  
9 and the commission, the department, or agency shall comply with the  
10 request, unless the provision of the information is prohibited by  
11 state or federal law.

12           (h) Not later than January 1 of each odd-numbered year, the  
13 committee shall submit a written report of the committee's findings  
14 and recommendations to the governor, the lieutenant governor, the  
15 speaker of the house of representatives, and each member of the  
16 standing committees of the senate and house of representatives  
17 having primary jurisdiction over child welfare issues.

18           (i) The committee shall monitor the continued  
19 implementation of community-based care and hold public hearings to  
20 receive comments from the public on the implementation of  
21 community-based care.

22           Sec. 264.172. OFFICE OF COMMUNITY-BASED CARE TRANSITION.

23           (a) In this section:

24           (1) "Department" means the Department of Family and  
25 Protective Services.

26           (2) "Office" means the Office of Community-Based Care  
27 Transition created under this section.

1        (b) The Office of Community-Based Care Transition is a state  
2 agency independent of but administratively attached to the  
3 department.

4        (c) The office shall:

5            (1) assess catchment areas in this state where  
6 community-based care services may be implemented;

7            (2) develop a plan for implementing community-based  
8 care in each catchment area in this state, including the order in  
9 which community-based care will be implemented in each catchment  
10 area and a timeline for implementation;

11            (3) evaluate community-based care providers;

12            (4) contract with community-based care providers to  
13 provide services in each catchment area in this state;

14            (5) measure contract performance of community-based  
15 care providers;

16            (6) provide contract oversight of community-based  
17 care providers; and

18            (7) report outcomes of community-based care  
19 providers.

20        (d) The department shall provide any administrative support  
21 the office needs, and the department and the Health and Human  
22 Services Commission shall provide access to any information and  
23 legal counsel the office requires to implement community-based  
24 care.

25        (e) The governor shall appoint the director of the office to  
26 serve in that capacity at the pleasure of the governor. The  
27 director reports directly to the governor.

1       (f) The office shall report to the legislature at least once  
2 each calendar quarter regarding the implementation of  
3 community-based care in the state.

4       (g) The office is abolished and this section expires January  
5 1, 2027.

6       SECTION 6. (a) Subchapter A, Chapter 533, Government Code,  
7 is amended by adding Sections 533.00521 and 533.00522 to read as  
8 follows:

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

17       (b) In conducting the evaluation required under Subsection  
18 (a), the commission shall collaborate with residential child-care  
19 providers regarding any unmet needs of children in foster care and  
20 the development of capacity for providing quality medical,  
21 behavioral health, and other services for children in foster care.

22       (c) The commission shall report its findings to the  
23 legislature.

24       Sec. 533.00522. STAR HEALTH PROGRAM: MENTAL HEALTH  
25 PROVIDERS. A contract between a Medicaid managed care organization  
26 and the commission for the organization to provide health care  
27 services to recipients under the STAR Health program must require

1 the organization to ensure the organization maintains a network of  
2 mental and behavioral health providers, including child  
3 psychiatrists and other appropriate providers, in all Department of  
4 Family and Protective Services regions in this state, regardless of  
5 whether community-based care has been implemented in any region.

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

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

19 SECTION 7. Subchapter C, Chapter 40, Human Resources Code,  
20 is amended by adding Section 40.05291 to read as follows:

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

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

27 (c) This section expires September 1, 2025.



1 SECTION 8. Subchapter C, Chapter 40, Human Resources Code,  
2 is amended by adding Section 40.0583 to read as follows:

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

8 SECTION 9. Subchapter C, Chapter 40, Human Resources Code,  
9 is amended by adding Section 40.081 to read as follows:

10 Sec. 40.081. IMPLEMENTATION OF FEDERAL LAW. (a) In  
11 furtherance of department duties under Section 40.002(d), the  
12 department shall to the greatest extent possible develop capacity  
13 for placement settings that are eligible for federal financial  
14 participation under 42 U.S.C. Section 672, including settings:

15 (1) specializing in providing prenatal, postpartum,  
16 or parenting support for youth;

17 (2) providing high-quality residential care and  
18 supportive services to children and youth who this state has  
19 reasonable cause to believe are, or who are at risk of being, sex  
20 trafficking victims in accordance with 42 U.S.C. Section  
21 671(a)(9)(C);

22 (3) providing supervised independent living for young  
23 adults;

24 (4) offering residential family-based substance abuse  
25 treatment as described by 42 U.S.C. Section 672(j); and

26 (5) serving as a qualified residential treatment  
27 program.

1       (b) In developing capacity for settings described by  
2 Subsection (a)(2), the department shall promote the use of  
3 nationally recognized tools such as the Commercial Sexual  
4 Exploitation-Identification Tool and any other indicated treatment  
5 models or best practices for the treatment and prevention of sex  
6 trafficking victimization.

7       SECTION 10. Subchapter B, Chapter 42, Human Resources Code,  
8 is amended by adding Section 42.026 to read as follows:

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

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

14       SECTION 11. Subchapter C, Chapter 42, Human Resources Code,  
15 is amended by adding Sections 42.0538 and 42.0583 to read as  
16 follows:

17       Sec. 42.0538. PROVISIONAL LICENSE FOR KINSHIP PROVIDER.  
18 (a) The executive commissioner by rule shall allow a child-placing  
19 agency to issue a provisional license for a kinship provider, as  
20 defined by Section 264.851, Family Code, who meets the basic safety  
21 requirements provided by commission rule. A kinship provider  
22 issued a provisional license under this section shall complete all  
23 licensing requirements within the time provided by rule.

24       (b) The executive commissioner shall ensure that the  
25 implementation of this section does not reduce the amount of  
26 federal money available to this state.

27       Sec. 42.0583. IDENTIFYING AT-RISK PROVIDERS. The

1 department shall use data analytics collected regarding  
2 residential child-care providers, including general residential  
3 operations providing treatment services to young adults with  
4 emotional disorders, to develop an early warning system to identify  
5 at-risk providers most in need of technical support and to promote  
6 corrective actions and minimize standard violations.

7 SECTION 12. Subchapter D, Chapter 42, Human Resources Code,  
8 is amended by adding Section 42.0711 to read as follows:

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

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

16 SECTION 13. Subchapter D, Chapter 42, Human Resources Code,  
17 is amended by adding Section 42.080 to read as follows:

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

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

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

1 SECTION 14. Subchapter H, Chapter 42, Human Resources Code,  
2 is amended by adding Sections 42.2541, 42.256, 42.257, 42.258,  
3 42.259, and 42.260 to read as follows:

4 Sec. 42.2541. IMPROVING EDUCATION SERVICES FOR CHILDREN.

5 (a) The department shall develop a strategic plan for improving the  
6 provision of educational services to children placed in a general  
7 residential operation.

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

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

15 Sec. 42.256. TREATMENT MODEL. (a) Each general  
16 residential operation providing treatment services shall, on  
17 issuance of an initial or renewal license under this chapter,  
18 submit to the commission information on the operation's treatment  
19 model. A general residential operation that contracts with the  
20 department to provide residential care for children in foster care  
21 shall submit information on the operation's treatment model to the  
22 department on execution and renewal of a contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

1        (b) A general residential operation shall ensure that the  
2 evaluation under Subsection (a) does not delay the timely placement  
3 of a child.

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

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

16        Sec. 42.260. TELEHEALTH PILOT PROGRAM. The commission in  
17 coordination with the department and single source continuum  
18 contractors shall establish guidelines in the STAR Health program  
19 to improve the use of telehealth services to provide and enhance  
20 mental health and behavioral health care for children placed in the  
21 managing conservatorship of the state.

22        SECTION 15. Section [43.0081](#), Human Resources Code, is  
23 amended to read as follows:

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

27        (1) an applicant licensed in another state who applies

1 for a license in this state if the applicant [~~. An applicant for a~~  
2 ~~provisional license under this section must~~]:

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

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

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

15 (2) an applicant who:

16 (A) otherwise qualifies for a license but does  
17 not meet the experience requirement in Section 43.004(a)(4); and

18 (B) complies with any additional requirement  
19 established by rule under Subsection (e).

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

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

1 the provisional license holder described by Subsection (a)(1) if:

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

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

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

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

17 (e) The executive commissioner by rule may establish  
18 additional requirements for the issuance of a provisional  
19 child-care administrator's license under Subsection (a)(2)(A) as  
20 the executive commissioner determines appropriate.

21 SECTION 16. Section 264.169, Family Code, and Section  
22 40.0581(f), Human Resources Code, are repealed.

23 SECTION 17. (a) The Health and Human Services Commission,  
24 in collaboration with the Department of Family and Protective  
25 Services, shall review the Centers for Medicare and Medicaid  
26 Services' Integrated Care for Kids (InCK) Model to determine  
27 whether implementing the model could benefit children in this



1 state, including children enrolled in the STAR Health Medicaid  
2 managed care program.

3 (b) Not later than December 1, 2022, the Health and Human  
4 Services Commission shall report its findings to the governor and  
5 legislature.

6 (c) This section expires September 1, 2023.

7 SECTION 18. Not later than December 1, 2022, the Department  
8 of Family and Protective Services shall provide the legislature  
9 with options for conducting:

10 (1) independent administrative reviews of department  
11 investigations of licensed residential child-care facilities; and

12 (2) independent appeals of determinations from those  
13 investigations.

14 SECTION 19. (a) The Department of Family and Protective  
15 Services shall:

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

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

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

1 the study and assessment.

2 (c) This section expires September 1, 2023.

3 SECTION 20. Not later than January 1, 2025, the Department  
4 of Family and Protective Services shall:

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

8 (2) develop an implementation plan for the transition  
9 of services; and

10 (3) develop community referrals to existing  
11 prevention and early intervention programs.

12 SECTION 21. The executive commissioner of the Health and  
13 Human Services Commission shall adopt minimum standards related to  
14 continuum-of-care operations, cottage home operations, and  
15 specialized child-care homes as provided by Section [42.042](#), Human  
16 Resources Code, as amended by Chapter 317 (H.B. 7), Acts of the 85th  
17 Legislature, Regular Session, 2017, as soon as practicable after  
18 the effective date of this Act but not later than January 1, 2024.

19 SECTION 22. (a) The Health and Human Services Commission  
20 and the Department of Family and Protective Services shall jointly  
21 evaluate the Consolidated Appropriations Act, 2021 (Pub. L.  
22 116-260), to determine methods for maximizing this state's receipt  
23 of federal funds to provide foster youth transition planning to  
24 adulthood and additional services for foster youth and young adults  
25 in extended foster care.

26 (b) This section takes effect immediately if this Act  
27 receives a vote of two-thirds of all the members elected to each

1 house, as provided by Section 39, Article III, Texas Constitution.  
2 If this Act does not receive the vote necessary for immediate  
3 effect, this section takes effect September 1, 2021.

4 SECTION 23. (a) As soon as practicable after the effective  
5 date of this Act but not later than October 15, 2021, the governor  
6 shall appoint the director of the Office of Community-Based Care  
7 Transition as required by Section 264.172, Family Code, as added by  
8 this Act.

9 (b) As soon as practicable after the effective date of this  
10 Act, the Department of Family and Protective Services shall  
11 transfer all money, contracts, leases, property, and obligations  
12 related to the powers and duties of the Office of Community-Based  
13 Care Transition to that office.

14 SECTION 24. The Office of Community-Based Care Transition,  
15 the Department of Family and Protective Services, and the Health  
16 and Human Services Commission are required to implement this Act  
17 only if the legislature appropriates money specifically for that  
18 purpose. If the legislature does not appropriate money  
19 specifically for that purpose, the Office of Community-Based Care  
20 Transition, the Department of Family and Protective Services, and  
21 the Health and Human Services Commission may, but are not required  
22 to, implement this Act using other appropriations available for the  
23 purpose.

24 SECTION 25. Except as otherwise provided by this Act, this  
25 Act takes effect September 1, 2021.