

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

1 department and each single source continuum contractor in this
2 state, in collaboration with faith- and community-based
3 organizations, shall examine the feasibility of designing a
4 volunteer mentor and well-being monitor program for children in
5 congregate care settings.

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

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

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

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

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

27 (b) Sections [264.1261](#)(a) and (b), Family Code, as added by

1 Chapter 822 (H.B. 1549), Acts of the 85th Legislature, Regular
2 Session, 2017, are repealed.

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

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

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

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

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

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

26 Sec. 533.00522. STAR HEALTH PROGRAM: MENTAL HEALTH
27 PROVIDERS. A contract between a Medicaid managed care organization

1 and the commission for the organization to provide health care
2 services to recipients under the STAR Health program must require
3 the organization to ensure the organization maintains a network of
4 mental and behavioral health providers, including child
5 psychiatrists and other appropriate providers, in all Department of
6 Family and Protective Services catchment areas in the state.

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

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

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

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

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

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

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

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

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

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

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

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

19 Sec. 42.0538. PROVISIONAL LICENSE FOR KINSHIP PROVIDER.
20 The commission shall develop standards for and provide a
21 provisional license for a kinship provider, as defined by Section
22 264.851, Family Code, who meets the basic safety requirements. A
23 kinship provider issued a provisional license under this section
24 shall complete all licensing requirements within the time set by
25 the executive commissioner by rule.

26 Sec. 42.0583. IDENTIFYING AT-RISK PROVIDERS. The
27 department shall use data analytics collected from providers,

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

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

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

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

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

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

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

27 (1) been without an administrator for less than 60

1 days; and

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

4 SECTION 12. Subchapter H, Chapter 42, Human Resources Code,
5 is amended by adding Sections 42.2541, 42.256, 42.257, 42.258,
6 42.259, 42.260, and 42.261 to read as follows:

7 Sec. 42.2541. IMPROVING EDUCATION SERVICES FOR CHILDREN.

8 (a) The commission shall develop a strategic plan for improving the
9 provision of educational services to children placed in a general
10 residential operation.

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

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

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

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

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

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

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

1 SECTION 13. Section [43.0081](#), Human Resources Code, is
2 amended to read as follows:

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

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

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

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

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

21 (2) an applicant who otherwise qualifies for a license
22 but does not meet the experience requirement in Section
23 [43.004](#)(a)(4).

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

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

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

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

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

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

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

27 SECTION 14. (a) The Department of Family and Protective

1 Services shall:

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

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

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

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

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

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

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

24 SECTION 16. The executive commissioner of the Health and
25 Human Services Commission shall adopt minimum standards related to
26 continuum-of-care operations, cottage home operations, and
27 specialized child-care homes as provided by Section [42.042](#), Human

1 Resources Code, as amended by Chapter 317 (H.B. 7), Acts of the 85th
2 Legislature, Regular Session, 2017, as soon as practicable after
3 the effective date of this Act.

4 SECTION 17. The Health and Human Services Commission and
5 the Department of Family and Protective Services shall jointly
6 evaluate the Consolidated Appropriations Act, 2021 (Pub. L.
7 116-260), to determine methods for maximizing this state's receipt
8 of federal funds to provide foster youth transition planning to
9 adulthood and additional services for foster youth and young adults
10 in extended foster care.

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

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

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