By:  Kolkhorst, Hall S.B. No. 1853

(In the Senate - Filed March 8, 2023; March 20, 2023, read first time and referred to Committee on Health & Human Services; April 28, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 28, 2023, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Blanco            X

Hall              X

Hancock           X

Hughes            X

LaMantia          X

Miles             X

Sparks            X

COMMITTEE SUBSTITUTE FOR S.B. No. 1853 By:  Kolkhorst

A BILL TO BE ENTITLED

AN ACT

relating to certain procedures in a suit affecting the parent-child relationship for a child placed in the conservatorship of the Department of Family and Protective Services and the provision of community-based foster care.

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

SECTION 1.  Section 262.401(3), Family Code, is amended to read as follows:

(3)  "Family preservation service" means [~~a~~] time-limited, family-focused services [~~service~~], including:

(A)  services [~~a service~~] subject to the Family First Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123), family-based safety services, and services approved under the Title IV-E state plan, provided to the family of a child who is:

(i) [~~(A)~~]  a candidate for foster care to prevent or eliminate the need to remove the child and to allow the child to remain safely with the child's family;

(ii) [~~or (B)~~]  a pregnant or parenting foster youth;

(iii)  in joint managing conservatorship with the Department of Family and Protective Services under Section 262.352 or in the relinquishment avoidance program under Section 262.353; or

(iv)  the subject of an investigation of abuse or neglect that resulted in a disposition of reason to believe abuse or neglect occurred and, absent the provision of services, is a child the department plans to remove from the child's home; and

(B)  enhanced in-home support services and nonrecurring financial support to promote safe and stable families.

SECTION 2.  Subchapter A, Chapter 263, Family Code, is amended by adding Section 263.0022 to read as follows:

Sec. 263.0022.  TEMPORARY EMERGENCY SUPERVISION. (a) In this section, "temporary emergency supervision" means the supervision and care provided by the department for a child without placement for whom the department has been appointed as the temporary or permanent managing conservator.

(b)  The department may not advocate for and a court may not render an order placing a child in temporary emergency supervision if a safe and appropriate placement is available.

SECTION 3.  Section 264.1261(b), Family Code, is amended to read as follows:

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

SECTION 4.  Section 264.152, Family Code, is amended by amending Subdivision (2) and adding Subdivisions (5) and (6) to read as follows:

(2)  "Case management" means the provision of case management services to a child for whom the department has been appointed temporary or permanent managing conservator or to the child's family, a young adult in extended foster care, a relative or kinship caregiver, or a child who has been placed in the catchment area through the Interstate Compact on the Placement of Children, and includes:

(A)  caseworker visits with the child;

(B)  family and caregiver visits;

(C)  convening and conducting permanency planning meetings;

(D)  the development and revision of child and family plans of service, including a permanency plan and goals for a child or young adult in care;

(E)  the coordination and monitoring of services required by the child and the child's family or caregivers, including:

(i)  pre-adoption and post-adoption assistance; and

(ii)  services for children in the conservatorship of the department who must transition to independent living;

(F)  the assumption of court-related duties regarding the child, including:

(i)  providing any required notifications or consultations;

(ii)  preparing court reports;

(iii)  attending judicial and permanency hearings, trials, and mediations;

(iv)  complying with applicable court orders; and

(v)  ensuring the child is progressing toward the goal of permanency within state and federally mandated guidelines; and

(G)  any other function or service that the department determines necessary to allow a single source continuum contractor to assume responsibility for case management.

(5)  "Faith-based organization" means a religious or denominational institution or organization, including an organization operated for religious, educational, or charitable purposes and operated, supervised, or controlled, in whole or in part, by or in connection with a religious organization.

(6)  "Family preservation service" means time-limited, family-focused services, including:

(A)  services subject to the Family First Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123), family-based safety services, and services approved under the Title IV-E state plan provided to the family of a child who is:

(i)  a candidate for foster care to prevent or eliminate the need to remove the child and to allow the child to remain safely with the child's family;

(ii)  a pregnant or parenting foster youth;

(iii)  in joint managing conservatorship with the Department of Family and Protective Services under Section 262.352 or in the relinquishment avoidance program under Section 262.353; or

(iv)  the subject of an investigation of abuse or neglect that resulted in a disposition of reason to believe abuse or neglect occurred and, absent the provision of services, is a child the department plans to remove from the child's home; and

(B)  enhanced in-home support services and nonrecurring financial support to promote safe and stable families.

SECTION 5.  The heading to Section 264.155, Family Code, is amended to read as follows:

Sec. 264.155.  [~~REQUIRED~~] CONTRACT PROVISIONS.

SECTION 6.  Section 264.155, Family Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a)  A contract with a single source continuum contractor to provide community-based care services in a catchment area must include provisions that:

(1)  establish a timeline for the implementation of community-based care in the catchment area, including a timeline for implementing:

(A)  family preservation services;

(B)  case management services for children, families, and relative and kinship caregivers receiving services in the catchment area; and

(C) [~~(B)~~]  family reunification support services to be provided after a child receiving services from the contractor is returned to the child's family;

(2)  establish conditions for the single source continuum contractor's access to relevant department data and require the participation of the contractor in the data access and standards governance council created under Section 264.159;

(3)  require the single source continuum contractor to create a single process for the training and use of alternative caregivers for all child-placing agencies in the catchment area to facilitate reciprocity of licenses for alternative caregivers between agencies, including respite and overnight care providers, as those terms are defined by department rule;

(4)  require the single source continuum contractor to maintain a diverse network of service providers that offer a range of foster capacity options and that can accommodate children from diverse cultural backgrounds;

(5)  allow the department to conduct a performance review of the contractor beginning 18 months after the contractor has begun providing case management and family reunification support services to all children and families in the catchment area and determine if the contractor has achieved any performance outcomes specified in the contract;

(6)  following the review under Subdivision (5), allow the department to:

(A)  impose financial penalties on the contractor for failing to meet any specified performance outcomes; or

(B)  award financial incentives to the contractor for exceeding any specified performance outcomes;

(7)  following the review under Subdivision (5), transfer the provision of family preservation services to the contractor;

(8)  require the contractor to give preference for employment to employees of the department:

(A)  whose position at the department is impacted by the implementation of community-based care; and

(B)  who are considered by the department to be employees in good standing;

(9) [~~(8)~~]  require the contractor to provide preliminary and ongoing community engagement plans to ensure communication and collaboration with local stakeholders in the catchment area, including any of the following:

(A)  community faith-based organizations [~~entities~~];

(B)  the judiciary;

(C)  court-appointed special advocates;

(D)  child advocacy centers;

(E)  service providers;

(F)  foster families;

(G)  biological parents;

(H)  foster youth and former foster youth;

(I)  relative or kinship caregivers;

(J)  child welfare boards, if applicable;

(K)  attorneys ad litem;

(L)  attorneys that represent parents involved in suits filed by the department; and

(M)  any other stakeholders, as determined by the contractor; and

(10) [~~(9)~~]  require that the contractor comply with any applicable court order issued by a court of competent jurisdiction in the case of a child for whom the contractor has assumed case management responsibilities or an order imposing a requirement on the department that relates to functions assumed by the contractor.

(a-1)  A contract with a single source continuum contractor to provide community-based care services in a catchment area may include provisions that require the contractor to develop a program to recruit and retain foster parents from faith-based organizations, including requirements for the contractor to:

(1)  collaborate with faith-based organizations to inform prospective foster parents about:

(A)  the need for foster parents in the community;

(B)  the requirements for becoming a foster parent; and

(C)  any other aspect of the foster care program that is necessary to recruit foster parents;

(2)  provide training for prospective foster parents; and

(3)  identify and recommend ways in which faith-based organizations may support persons as they are recruited, are trained, and serve as foster parents.

SECTION 7.  Section 264.156(a), Family Code, is amended to read as follows:

(a)  The department shall develop a formal review process to assess the ability of a single source continuum contractor to satisfy the responsibilities and administrative requirements of delivering foster care services and services for relative and kinship caregivers, including the contractor's ability to provide:

(1)  family preservation services;

(2)  case management services for children and families;

(3) [~~(2)~~]  evidence-based, promising practice, or evidence-informed supports for children and families; and

(4) [~~(3)~~]  sufficient available capacity for inpatient and outpatient services and supports for children at all service levels who have previously been placed in the catchment area.

SECTION 8.  Sections 264.158(a) and (b), Family Code, are amended to read as follows:

(a)  In each initial catchment area where community-based care has been implemented or a contract with a single source continuum contractor has been executed before September 1, 2017, the department shall transfer to the single source continuum contractor providing foster care services in that area:

(1)  family preservation services;

(2)  the case management of children, relative and kinship caregivers, and families receiving services from that contractor; and

(3) [~~(2)~~]  family reunification support services to be provided after a child receiving services from the contractor is returned to the child's family for the period of time ordered by the court.

(b)  The commission shall include a provision in a contract with a single source continuum contractor to provide foster care services and services for relative and kinship caregivers in a catchment area to which community-based care is expanded after September 1, 2017, that requires the transfer to the contractor of the provision of:

(1)  family preservation services;

(2)  the case management services for children, relative and kinship caregivers, and families in the catchment area where the contractor will be operating; and

(3) [~~(2)~~]  family reunification support services to be provided after a child receiving services from the contractor is returned to the child's family.

SECTION 9.  Sections 264.113(a), (b), and (c), Family Code, are repealed.

SECTION 10.  (a) Section 263.0022, Family Code, as added by this Act, applies to a placement review hearing of a child regardless of the date on which the Department of Family and Protective Services is named the child's managing conservator.

(b)  Sections 264.152, 264.155, 264.156(a), and 264.158(a) and (b), Family Code, as amended by this Act, apply only to a contract with a single source continuum contractor entered into on or after the effective date of this Act. A contract with a single source continuum contractor entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 11.  This Act takes effect September 1, 2023.

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