

1-1 By: Kolkhorst, Hall S.B. No. 1853  
 1-2 (In the Senate - Filed March 8, 2023; March 20, 2023, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 April 28, 2023, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 28, 2023,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1853 By: Kolkhorst

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to certain procedures in a suit affecting the parent-child  
 1-22 relationship for a child placed in the conservatorship of the  
 1-23 Department of Family and Protective Services and the provision of  
 1-24 community-based foster care.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 262.401(3), Family Code, is amended to  
 1-27 read as follows:

1-28 (3) "Family preservation service" means ~~[a]~~  
 1-29 time-limited, family-focused services ~~[service]~~, including:

1-30 (A) ~~services [a service]~~ subject to the Family  
 1-31 First Prevention Services Act (Title VII, Div. E, Pub. L.  
 1-32 No. 115-123), family-based safety services, and services approved  
 1-33 under the Title IV-E state plan, provided to the family of a child  
 1-34 who is:

1-35 (i) ~~[(A)]~~ a candidate for foster care to  
 1-36 prevent or eliminate the need to remove the child and to allow the  
 1-37 child to remain safely with the child's family;

1-38 (ii) ~~or (B)]~~ a pregnant or parenting  
 1-39 foster youth;

1-40 (iii) in joint managing conservatorship  
 1-41 with the Department of Family and Protective Services under Section  
 1-42 262.352 or in the relinquishment avoidance program under Section  
 1-43 262.353; or

1-44 (iv) the subject of an investigation of  
 1-45 abuse or neglect that resulted in a disposition of reason to believe  
 1-46 abuse or neglect occurred and, absent the provision of services, is  
 1-47 a child the department plans to remove from the child's home; and

1-48 (B) enhanced in-home support services and  
 1-49 nonrecurring financial support to promote safe and stable families.

1-50 SECTION 2. Subchapter A, Chapter 263, Family Code, is  
 1-51 amended by adding Section 263.0022 to read as follows:

1-52 Sec. 263.0022. TEMPORARY EMERGENCY SUPERVISION. (a) In  
 1-53 this section, "temporary emergency supervision" means the  
 1-54 supervision and care provided by the department for a child without  
 1-55 placement for whom the department has been appointed as the  
 1-56 temporary or permanent managing conservator.

1-57 (b) The department may not advocate for and a court may not  
 1-58 render an order placing a child in temporary emergency supervision  
 1-59 if a safe and appropriate placement is available.

1-60 SECTION 3. Section 264.1261(b), Family Code, is amended to

2-1 read as follows:

2-2 (b) Appropriate department management personnel from a  
 2-3 child protective services region in which community-based care has  
 2-4 not been implemented, in collaboration with foster care providers,  
 2-5 faith-based organizations [~~entities~~], and child advocates in that  
 2-6 region, shall use data collected by the department on foster care  
 2-7 capacity needs and availability of each type of foster care and  
 2-8 kinship placement in the region to create a plan to address the  
 2-9 substitute care capacity needs in the region. The plan must  
 2-10 identify both short-term and long-term goals and strategies for  
 2-11 addressing those capacity needs.

2-12 SECTION 4. Section 264.152, Family Code, is amended by  
 2-13 amending Subdivision (2) and adding Subdivisions (5) and (6) to  
 2-14 read as follows:

2-15 (2) "Case management" means the provision of case  
 2-16 management services to a child for whom the department has been  
 2-17 appointed temporary or permanent managing conservator or to the  
 2-18 child's family, a young adult in extended foster care, a relative or  
 2-19 kinship caregiver, or a child who has been placed in the catchment  
 2-20 area through the Interstate Compact on the Placement of Children,  
 2-21 and includes:

2-22 (A) caseworker visits with the child;  
 2-23 (B) family and caregiver visits;  
 2-24 (C) convening and conducting permanency planning  
 2-25 meetings;

2-26 (D) the development and revision of child and  
 2-27 family plans of service, including a permanency plan and goals for a  
 2-28 child or young adult in care;

2-29 (E) the coordination and monitoring of services  
 2-30 required by the child and the child's family or caregivers,  
 2-31 including:

2-32 (i) pre-adoption and post-adoption  
 2-33 assistance; and  
 2-34 (ii) services for children in the  
 2-35 conservatorship of the department who must transition to  
 2-36 independent living;

2-37 (F) the assumption of court-related duties  
 2-38 regarding the child, including:

2-39 (i) providing any required notifications or  
 2-40 consultations;  
 2-41 (ii) preparing court reports;  
 2-42 (iii) attending judicial and permanency  
 2-43 hearings, trials, and mediations;  
 2-44 (iv) complying with applicable court  
 2-45 orders; and

2-46 (v) ensuring the child is progressing  
 2-47 toward the goal of permanency within state and federally mandated  
 2-48 guidelines; and

2-49 (G) any other function or service that the  
 2-50 department determines necessary to allow a single source continuum  
 2-51 contractor to assume responsibility for case management.

2-52 (5) "Faith-based organization" means a religious or  
 2-53 denominational institution or organization, including an  
 2-54 organization operated for religious, educational, or charitable  
 2-55 purposes and operated, supervised, or controlled, in whole or in  
 2-56 part, by or in connection with a religious organization.

2-57 (6) "Family preservation service" means time-limited,  
 2-58 family-focused services, including:

2-59 (A) services subject to the Family First  
 2-60 Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123),  
 2-61 family-based safety services, and services approved under the Title  
 2-62 IV-E state plan provided to the family of a child who is:

2-63 (i) a candidate for foster care to prevent  
 2-64 or eliminate the need to remove the child and to allow the child to  
 2-65 remain safely with the child's family;

2-66 (ii) a pregnant or parenting foster youth;

2-67 (iii) in joint managing conservatorship  
 2-68 with the Department of Family and Protective Services under Section  
 2-69 262.352 or in the relinquishment avoidance program under Section

3-1 262.353; or  
3-2 (iv) the subject of an investigation of  
3-3 abuse or neglect that resulted in a disposition of reason to believe  
3-4 abuse or neglect occurred and, absent the provision of services, is  
3-5 a child the department plans to remove from the child's home; and  
3-6 (B) enhanced in-home support services and  
3-7 nonrecurring financial support to promote safe and stable families.

3-8 SECTION 5. The heading to Section 264.155, Family Code, is  
3-9 amended to read as follows:

3-10 Sec. 264.155. [~~REQUIRED~~] CONTRACT PROVISIONS.

3-11 SECTION 6. Section 264.155, Family Code, is amended by  
3-12 amending Subsection (a) and adding Subsection (a-1) to read as  
3-13 follows:

3-14 (a) A contract with a single source continuum contractor to  
3-15 provide community-based care services in a catchment area must  
3-16 include provisions that:

3-17 (1) establish a timeline for the implementation of  
3-18 community-based care in the catchment area, including a timeline  
3-19 for implementing:

3-20 (A) family preservation services;

3-21 (B) case management services for children,  
3-22 families, and relative and kinship caregivers receiving services in  
3-23 the catchment area; and

3-24 (C) [~~(B)~~] family reunification support services  
3-25 to be provided after a child receiving services from the contractor  
3-26 is returned to the child's family;

3-27 (2) establish conditions for the single source  
3-28 continuum contractor's access to relevant department data and  
3-29 require the participation of the contractor in the data access and  
3-30 standards governance council created under Section 264.159;

3-31 (3) require the single source continuum contractor to  
3-32 create a single process for the training and use of alternative  
3-33 caregivers for all child-placing agencies in the catchment area to  
3-34 facilitate reciprocity of licenses for alternative caregivers  
3-35 between agencies, including respite and overnight care providers,  
3-36 as those terms are defined by department rule;

3-37 (4) require the single source continuum contractor to  
3-38 maintain a diverse network of service providers that offer a range  
3-39 of foster capacity options and that can accommodate children from  
3-40 diverse cultural backgrounds;

3-41 (5) allow the department to conduct a performance  
3-42 review of the contractor beginning 18 months after the contractor  
3-43 has begun providing case management and family reunification  
3-44 support services to all children and families in the catchment area  
3-45 and determine if the contractor has achieved any performance  
3-46 outcomes specified in the contract;

3-47 (6) following the review under Subdivision (5), allow  
3-48 the department to:

3-49 (A) impose financial penalties on the contractor  
3-50 for failing to meet any specified performance outcomes; or

3-51 (B) award financial incentives to the contractor  
3-52 for exceeding any specified performance outcomes;

3-53 (7) following the review under Subdivision (5),  
3-54 transfer the provision of family preservation services to the  
3-55 contractor;

3-56 (8) require the contractor to give preference for  
3-57 employment to employees of the department:

3-58 (A) whose position at the department is impacted  
3-59 by the implementation of community-based care; and

3-60 (B) who are considered by the department to be  
3-61 employees in good standing;

3-62 (9) [~~(8)~~] require the contractor to provide  
3-63 preliminary and ongoing community engagement plans to ensure  
3-64 communication and collaboration with local stakeholders in the  
3-65 catchment area, including any of the following:

3-66 (A) community faith-based organizations  
3-67 [~~entities~~];

3-68 (B) the judiciary;

3-69 (C) court-appointed special advocates;

- 4-1 (D) child advocacy centers;
- 4-2 (E) service providers;
- 4-3 (F) foster families;
- 4-4 (G) biological parents;
- 4-5 (H) foster youth and former foster youth;
- 4-6 (I) relative or kinship caregivers;
- 4-7 (J) child welfare boards, if applicable;
- 4-8 (K) attorneys ad litem;
- 4-9 (L) attorneys that represent parents involved in
- 4-10 suits filed by the department; and
- 4-11 (M) any other stakeholders, as determined by the
- 4-12 contractor; and

4-13 (10) [~~(9)~~ require that the contractor comply with any  
 4-14 applicable court order issued by a court of competent jurisdiction  
 4-15 in the case of a child for whom the contractor has assumed case  
 4-16 management responsibilities or an order imposing a requirement on  
 4-17 the department that relates to functions assumed by the contractor.

4-18 (a-1) A contract with a single source continuum contractor  
 4-19 to provide community-based care services in a catchment area may  
 4-20 include provisions that require the contractor to develop a program  
 4-21 to recruit and retain foster parents from faith-based  
 4-22 organizations, including requirements for the contractor to:

4-23 (1) collaborate with faith-based organizations to  
 4-24 inform prospective foster parents about:

4-25 (A) the need for foster parents in the community;  
 4-26 (B) the requirements for becoming a foster

4-27 parent; and

4-28 (C) any other aspect of the foster care program  
 4-29 that is necessary to recruit foster parents;

4-30 (2) provide training for prospective foster parents;  
 4-31 and

4-32 (3) identify and recommend ways in which faith-based  
 4-33 organizations may support persons as they are recruited, are  
 4-34 trained, and serve as foster parents.

4-35 SECTION 7. Section 264.156(a), Family Code, is amended to  
 4-36 read as follows:

4-37 (a) The department shall develop a formal review process to  
 4-38 assess the ability of a single source continuum contractor to  
 4-39 satisfy the responsibilities and administrative requirements of  
 4-40 delivering foster care services and services for relative and  
 4-41 kinship caregivers, including the contractor's ability to provide:

4-42 (1) family preservation services;

4-43 (2) case management services for children and  
 4-44 families;

4-45 (3) [~~(2)~~] evidence-based, promising practice, or  
 4-46 evidence-informed supports for children and families; and

4-47 (4) [~~(3)~~] sufficient available capacity for inpatient  
 4-48 and outpatient services and supports for children at all service  
 4-49 levels who have previously been placed in the catchment area.

4-50 SECTION 8. Sections 264.158(a) and (b), Family Code, are  
 4-51 amended to read as follows:

4-52 (a) In each initial catchment area where community-based  
 4-53 care has been implemented or a contract with a single source  
 4-54 continuum contractor has been executed before September 1, 2017,  
 4-55 the department shall transfer to the single source continuum  
 4-56 contractor providing foster care services in that area:

4-57 (1) family preservation services;

4-58 (2) the case management of children, relative and  
 4-59 kinship caregivers, and families receiving services from that  
 4-60 contractor; and

4-61 (3) [~~(2)~~] family reunification support services to be  
 4-62 provided after a child receiving services from the contractor is  
 4-63 returned to the child's family for the period of time ordered by the  
 4-64 court.

4-65 (b) The commission shall include a provision in a contract  
 4-66 with a single source continuum contractor to provide foster care  
 4-67 services and services for relative and kinship caregivers in a  
 4-68 catchment area to which community-based care is expanded after  
 4-69 September 1, 2017, that requires the transfer to the contractor of

5-1 the provision of:

5-2 (1) family preservation services;

5-3 (2) the case management services for children,  
5-4 relative and kinship caregivers, and families in the catchment area  
5-5 where the contractor will be operating; and

5-6 (3) [~~2~~] family reunification support services to be  
5-7 provided after a child receiving services from the contractor is  
5-8 returned to the child's family.

5-9 SECTION 9. Sections 264.113(a), (b), and (c), Family Code,  
5-10 are repealed.

5-11 SECTION 10. (a) Section 263.0022, Family Code, as added by  
5-12 this Act, applies to a placement review hearing of a child  
5-13 regardless of the date on which the Department of Family and  
5-14 Protective Services is named the child's managing conservator.

5-15 (b) Sections 264.152, 264.155, 264.156(a), and 264.158(a)  
5-16 and (b), Family Code, as amended by this Act, apply only to a  
5-17 contract with a single source continuum contractor entered into on  
5-18 or after the effective date of this Act. A contract with a single  
5-19 source continuum contractor entered into before the effective date  
5-20 of this Act is governed by the law in effect on the date the contract  
5-21 was entered into, and the former law is continued in effect for that  
5-22 purpose.

5-23 SECTION 11. This Act takes effect September 1, 2023.

5-24

\* \* \* \* \*