

By: Shaheen

H.B. No. 5364

A BILL TO BE ENTITLED

AN ACT

relating to the receivership of a single-source continuum contractor providing child welfare services.

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

SECTION 1. Section 64.001(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A court of competent jurisdiction may appoint a receiver:

(1) in an action by a vendor to vacate a fraudulent purchase of property;

(2) in an action by a creditor to subject any property or fund to his claim;

(3) in an action between partners or others jointly owning or interested in any property or fund;

(4) in an action by a mortgagee for the foreclosure of the mortgage and sale of the mortgaged property;

(5) for a corporation that is insolvent, is in imminent danger of insolvency, has been dissolved, or has forfeited its corporate rights;

(6) for a single-source continuum contractor as provided by Subchapter B-2, Chapter 264, Family Code; or

(7) [~~6~~] in any other case in which a receiver may be appointed under the rules of equity.

SECTION 2. Chapter 264, Family Code, is amended by adding

Subchapter B-2 to read as follows:

SUBCHAPTER B-2. RECEIVER FOR SINGLE-SOURCE CONTINUUM CONTRACTOR

Sec. 264.191. DEFINITIONS. In this subchapter:

(1) "Catchment area" has the meaning assigned by
Section 264.152.

(2) "Community-based care contract" means a contract
between a single-source continuum contractor and the department or
the Health and Human Services Commission under Subchapter B-1.

(3) "Single-source continuum contractor" means an
entity that has entered into a contract with the department or the
Health and Human Services Commission under Subchapter B-1.

Sec. 264.1915. RECEIVER OF SINGLE-SOURCE CONTINUUM
CONTRACTOR. A court of competent jurisdiction may appoint a
receiver for a single-source continuum contractor or any of its
parts, divisions, components, or companies on the petition of the
department if:

(1) after being subject to a quality improvement plan,
corrective action plan, or other remedial statutory or contract
measures, the contractor continues to fail to satisfactorily
perform under the community-based care contract;

(2) the contractor:

(A) provides the department notice of the
contractor's intent to cease operations not later than the 60th day
before the date the contractor intends to cease operations; and

(B) has not made arrangements for another
single-source continuum contractor or the department to continue
the uninterrupted provision of services under the community-based

1 care contract;

2 (3) conditions exist, as determined by the department,
3 within the contractor that present an imminent danger to the
4 health, safety, or welfare of the children under the
5 conservatorship of the department in the contractor's care;

6 (4) the contractor has failed to provide adequate
7 information to the department regarding a child under the
8 conservatorship of the department in the contractor's care;

9 (5) the contractor has failed to comply with a court
10 order or incurred a sanction against the department due to failure
11 to comply with a court order; or

12 (6) the contractor cannot meet or is unlikely to be
13 able to meet financial obligations related to services provided
14 under the community-based care contract, including financial
15 obligations to employees, contractors, or foster parents.

16 Sec. 264.192. PROCEEDING TO APPOINT RECEIVER. (a) Except
17 as otherwise provided by law, a court shall give precedence to a
18 petition for the appointment of a receiver under this subchapter
19 over other matters.

20 (b) A court shall conduct an evidentiary hearing on a
21 petition for the appointment of a receiver under this subchapter
22 not later than the fifth day after the date the petition is filed.
23 The department shall make reasonable efforts to notify the
24 single-source continuum contractor of the hearing under this
25 subsection.

26 (c) A court shall grant a petition for the appointment of a
27 receiver under this subchapter on finding that:

1 (1) one of the conditions described by Section
2 264.1915 exists; and

3 (2) the continued existence of the condition
4 jeopardizes the health, safety, or welfare of a child under the
5 conservatorship of the department.

6 (d) A court may grant a petition for the appointment of a
7 receiver under this subchapter ex parte.

8 (e) The issuance of a check without sufficient money by the
9 single-source continuum contractor or the existence of delinquent
10 obligations for salaries, utilities, or essential services or
11 commodities for the contractor is prima facie evidence that the
12 contractor cannot meet or is unlikely to be able to meet financial
13 obligations related to services provided under the community-based
14 care contract as provided by Section 264.1915(6).

15 Sec. 264.1925. QUALIFICATIONS. (a) To be appointed as a
16 receiver under this subchapter, a person must be qualified by
17 education, training, or experience to carry out the duties of the
18 receiver under this subchapter. Notwithstanding Section 64.021,
19 Civil Practice and Remedies Code, a receiver appointed under this
20 subchapter may be an employee of the department.

21 (b) A court must appoint a receiver selected from a list of
22 qualified persons developed by the department and filed with the
23 court.

24 Sec. 264.193. LIMITED DURATION; ASSESSMENT. (a) A
25 receivership under this subchapter expires on the 90th day after
26 the date a receiver is appointed, unless the department files a
27 petition for a 60-day extension of the receivership with the

1 appointing court on or before the date the receivership expires.
2 The department may request multiple extensions under this
3 subsection.

4 (b) On or before the 60th day after the date a receiver is
5 appointed under this subchapter and every 60 days thereafter until
6 the expiration or termination of the receivership, the department
7 shall file with the appointing court an assessment of ability of the
8 single-source continuum contractor under receivership to ensure
9 the health, safety, and welfare of the children under the
10 conservatorship of the department in the contractor's care.

11 Sec. 264.1935. BOND. Notwithstanding Section [64.023](#), Civil
12 Practice and Remedies Code, a receiver appointed under this
13 subchapter who is an employee of the department is not required to
14 execute a bond.

15 Sec. 264.194. POWERS AND DUTIES OF RECEIVER. (a) A
16 receiver appointed under this subchapter shall take all actions:

17 (1) ordered by the appointing court; and
18 (2) necessary to ensure the continued health, safety,
19 and welfare of children under the conservatorship of the department
20 in the care of the single-source continuum contractor under
21 receivership, which may include:

22 (A) taking actions reasonably necessary to
23 protect or conserve the assets or property of the contractor;

24 (B) using of the property of the contractor for
25 the provision of care and services to children under the
26 conservatorship of the department and their families in the
27 applicable catchment area;

1 (C) entering into contracts with or hiring agents
2 or employees to carry out the powers and duties of the receiver;

3 (D) directing, managing, hiring, or discharging
4 employees or agents of the contractor; and

5 (E) honoring leases, mortgages, and contractual
6 obligations of the contractor as those payments become due during
7 the period of the receivership.

8 (b) Notwithstanding any other law and to ensure continuous
9 provision of necessary services to children under the
10 conservatorship of the department and their families, a contract
11 entered into by a receiver acting in accordance with the receiver's
12 duties under this section is not subject to advertising,
13 competitive bidding, or proposal evaluation requirements.

14 (c) A receiver shall compensate an employee hired in
15 accordance with this section at a rate of compensation, including
16 benefits, approved by the appointing court.

17 (d) A receiver may petition the appointing court for
18 temporary relief from obligations under a contract entered into by
19 the single-source continuum contractor under receivership if:

20 (1) the rent, price, or rate of interest substantially
21 exceeds a reasonable rent, price, or rate of interest at the time
22 the contractor entered into the contract; or

23 (2) any material provision of the contract is
24 unreasonable when compared to contracts negotiated under similar
25 conditions.

26 (e) Any relief granted by a court under Subsection (d) is
27 limited to the life of the receivership, unless otherwise

1 determined by the court.

2 (f) A receiver appointed under this subchapter shall
3 deposit all money related to the receivership in a separate account
4 and shall use that account for all disbursements related to the
5 receivership. A payment to a receiver of a sum owed to the
6 single-source continuum contractor under receivership shall be
7 considered a payment to the contractor with respect to the
8 discharge of the obligation.

9 (g) A receiver who is not a department employee shall
10 coordinate with the department to ensure:

11 (1) the continued health, safety, and welfare of the
12 children in the department's conservatorship; and

13 (2) compliance with all state and federal laws
14 relating to child welfare.

15 (h) A receiver shall make a reasonable effort to facilitate
16 the continued operation of the community-based care program under
17 Subchapter B-1 in the applicable catchment area.

18 Sec. 264.1945. COMPENSATION OF RECEIVER. The appointing
19 court shall order compensation for a receiver appointed under this
20 subchapter to be paid by the single-source continuum contractor
21 under receivership. If the receiver is a department employee, the
22 department shall pay the receiver the compensation ordered under
23 this section and the single-source continuum contractor shall
24 reimburse the department.

25 Sec. 264.195. LIABILITY OF RECEIVER. (a) A person does not
26 have a cause of action against a receiver appointed under this
27 subchapter for an action taken within the scope of the receivership

1 unless the cause of action arises from a breach of fiduciary duty or
2 the gross negligence or intentional acts of the receiver.

3 (b) Notwithstanding Subsection (a), this section does not
4 waive the sovereign immunity to suit and from liability of the
5 department or a department employee acting in an official capacity.

6 Sec. 264.1955. OBLIGATIONS AND LIABILITY OF SINGLE-SOURCE
7 CONTINUUM CONTRACTOR; SALE OR LEASE OF PROPERTY BY SINGLE-SOURCE
8 CONTINUUM CONTRACTOR. (a) The appointment of a receiver under this
9 subchapter does not relieve the single-source continuum contractor
10 under receivership or any employee or agent of the contractor of:

11 (1) civil or criminal liability arising out of an act
12 or omission that occurred before the appointment of the receiver;

13 (2) an obligation for the payment of taxes,
14 operational or maintenance expenses, mortgages, leases,
15 contractual obligations, or liens; or

16 (3) a duty imposed by law.

17 (b) A single-source continuum contractor under receivership
18 may sell or lease a facility under receivership, subject to the
19 approval of the appointing court.

20 Sec. 264.196. TERMINATION OF RECEIVERSHIP. (a) The
21 appointing court may terminate a receivership if:

22 (1) the court determines that the receivership is no
23 longer necessary because the conditions that gave rise to the
24 receivership no longer exist;

25 (2) the department has entered into a new contract
26 with a single-source continuum contractor and that contractor is
27 ready and able to assume the duties of the single-source continuum

1 contractor under receivership; or

2 (3) the department is ready and able to assume the
3 duties of the single-source continuum contractor under
4 receivership.

5 (b) Not later than the 60th day after the date a
6 receivership is terminated or expires under this subchapter, unless
7 such time is extended by order of the appointing court, the receiver
8 shall file with the clerk of the appointing court a full and final
9 and sworn account of:

10 (1) all property received by the receiver;

11 (2) all money collected and disbursed; and

12 (3) the expenses of the receivership.

13 SECTION 3. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2025.