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(Noble)

S.B. No. 1398

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 family preservation services and 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 services ~~[a service]~~ subject to the Family First Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123) and services approved under the Title IV-E state plan ~~[7]~~ provided to the family of a child who is:

(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; ~~[or]~~

(B) a pregnant or parenting foster youth; or

(C) a member of a household that is subject to an order rendered under Section 264.203.

SECTION 2. The heading to Section 262.411, Family Code, is amended to read as follows:

Sec. 262.411. SELECTION OF SERVICE PROVIDER; REIMBURSEMENT.

SECTION 3. Section 262.411(c), Family Code, is amended to read as follows:

(c) A [~~parent,~~] managing conservator, guardian, or other member of a household who is not a parent and who obtains family preservation services from a provider selected by the person is responsible for the cost of those services.

SECTION 4. Subchapter A, Chapter 263, Family Code, is amended by adding Section 263.0022 to read as follows:

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

(b) The department or a single source continuum contractor may not advocate for and a court may not render an order placing a child in temporary emergency supervision if an appropriate placement is available. The department or the contractor and the court may not consider a child's refusal to stay in a placement when determining whether the placement is appropriate.

(c) Before a court may order temporary emergency supervision for a child, the department or the single source continuum contractor shall submit a report to the court that includes information regarding each attempted placement, including:

- (1) the type of placement;
- (2) the location of the placement;

1 (3) the date the department or the contractor
2 contacted the placement; and

3 (4) the reason the department or the contractor
4 determined the placement was not appropriate.

5 SECTION 5. Section 264.107(g), Family Code, is amended to
6 read as follows:

7 (g) If the department or single source continuum contractor
8 is unable to find an appropriate placement for a child, an employee
9 of the department or contractor who has on file with the department
10 or contractor, as applicable, a background and criminal history
11 check may provide temporary emergency supervision ~~[care]~~ for the
12 child. The employee may not provide temporary emergency
13 supervision ~~[care]~~ under this subsection in the employee's
14 residence. The department or contractor shall provide notice to
15 the court for a child placed in temporary emergency supervision
16 ~~[care]~~ under this subsection not later than the next business day
17 after the date the child is placed in temporary emergency
18 supervision ~~[care]~~.

19 SECTION 6. Section 264.1261(b), Family Code, is amended to
20 read as follows:

21 (b) Appropriate department management personnel from a
22 child protective services region in which community-based care has
23 not been implemented, in collaboration with foster care providers,
24 faith-based organizations ~~[entities]~~, and child advocates in that
25 region, shall use data collected by the department on foster care
26 capacity needs and availability of each type of foster care and
27 kinship placement in the region to create a plan to address the

1 substitute care capacity needs in the region. The plan must
2 identify both short-term and long-term goals and strategies for
3 addressing those capacity needs.

4 SECTION 7. Section 264.152, Family Code, is amended by
5 amending Subdivision (2) and adding Subdivisions (5) and (6) to
6 read as follows:

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

14 (A) caseworker visits with the child;
15 (B) family and caregiver visits;
16 (C) convening and conducting permanency planning
17 meetings;

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

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

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

26 (ii) services for children in the
27 conservatorship of the department who must transition to

1 independent living; and

2 (iii) services related to family
3 reunification, including services to support a monitored return;

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

6 (i) providing any required notifications or
7 consultations;

8 (ii) preparing court reports;

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

11 (iv) complying with applicable court
12 orders; and

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

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

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

24 (6) "Family preservation service" means time-limited,
25 family-focused services, including services subject to the Family
26 First Prevention Services Act (Title VII, Div. E, Pub. L.
27 No. 115-123) and services approved under the Title IV-E state plan

provided to the family of a child who is:

(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;

(B) a pregnant or parenting foster youth; or

(C) a member of a household that is subject to an order rendered under Section 264.203.

SECTION 8. Section 264.153, Family Code, is amended to read as follows:

Sec. 264.153. COMMUNITY-BASED CARE IMPLEMENTATION PLAN.

(a) The department shall develop and maintain a plan for implementing community-based care. The plan must:

(1) describe the department's expectations, goals, and approach to implementing community-based care;

(2) include a timeline for implementing community-based care throughout this state, any limitations related to the implementation, and a progressive intervention plan and a contingency plan to provide continuity of the delivery of foster care services and services for relative and kinship caregivers if a contract with a single source continuum contractor ends prematurely;

(3) delineate and define the case management roles and responsibilities of the department and the department's contractors and the duties, employees, and related funding that will be transferred to the contractor by the department;

(4) identify any training needs and include long-range and continuous plans for training and cross-training staff,

1 including plans to train caseworkers using the standardized
2 curriculum created by the human trafficking prevention task force
3 under Section 402.035(d)(6), Government Code, as that section
4 existed on August 31, 2017;

5 (5) include a plan for evaluating the costs and tasks
6 associated with each contract procurement, including the initial
7 and ongoing contract costs for the department and contractor;

8 (6) include the department's contract monitoring
9 approach and a plan for evaluating the continuous performance of
10 each contractor and the community-based care system as a whole that
11 includes an [~~independent~~] evaluation of each contractor's
12 processes and fiscal and qualitative outcomes; and

13 (7) include a report on transition issues resulting
14 from implementation of community-based care.

15 (b) The department shall annually:

16 (1) update the implementation plan developed under
17 this section and post the updated plan on the department's Internet
18 website; and

19 (2) post on the department's Internet website the
20 progress the department has made toward its goals for implementing
21 community-based care, including:

22 (A) performance measure data from each single
23 source continuum contractor;

24 (B) quality improvement plans and corrective
25 action plans for each contractor; and

26 (C) a summary of contractor actions to be taken
27 to address the plans described by Paragraph (B).

SECTION 9. The heading to Section 264.154, Family Code, is amended to read as follows:

Sec. 264.154. QUALIFICATIONS OF SINGLE SOURCE CONTINUUM CONTRACTOR; SELECTION; PUBLICATION.

SECTION 10. Section 264.154, Family Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The department shall annually post on the department's Internet website:

(1) the list of single source continuum contractors providing services under this subchapter; and

(2) a description of each contractor's full corporate structure, including divisions and subsidiaries.

(e) A single source continuum contractor shall provide information described by Subsection (d)(2) to the department.

SECTION 11. The heading to Section 264.155, Family Code, is amended to read as follows:

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

SECTION 12. 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 sequential plan [~~timeline~~] for the implementation of community-based care in the catchment area, including a sequential plan [~~timeline~~] for implementing the following in an order determined by the department based on

1 community needs and readiness and contractor capacity:

2 (A) family preservation services;

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

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

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

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

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

23 (5) require ~~allow~~ the department to conduct annual
24 ~~a~~ performance reviews ~~review~~ of the contractor beginning on the
25 first anniversary of the contract to:

26 (A) ~~[18 months after the contractor has begun~~
27 ~~providing case management and family reunification support~~

~~services to all children and families in the catchment area and~~
determine if the contractor has achieved applicable ~~[any]~~
performance outcomes and other requirements specified in the
contract as determined by services implemented at the time of the
review, including data related to:

(i) the percentage of children reunified
with their families after a suit is filed by the department;

(ii) the percentage of children who reenter
the conservatorship of the department;

(iii) the percentage of children who remain
in the conservatorship of the department until the age of majority;

(iv) the percentage of children who
experience multiple placement moves while in substitute care; and

(v) the percentage of families completing
family preservation services to mitigate findings of abuse or
neglect;

(B) ensure service authorizations are based on
documented criteria and are not being used to negatively impact a
child's access to care by conducting utilization reviews on a
sample of cases at least biennially;

(C) review the contractor's compliance with
requirements related to conflicts of interest and financial
disclosures; and

(D) assess the adequacy of the contractor's
provider network and service delivery system;

(6) following the review under Subdivision (5),
require ~~[allow]~~ the department to:

1 (A) publish the review on the department's
2 Internet website;

3 (B) impose financial remedies [~~penalties~~] on the
4 contractor for failing to:

5 (i) meet applicable [~~any—specified~~]
6 performance outcomes, contract requirements, or deliverables, as
7 determined by services implemented at the time of the review; or

8 (ii) follow applicable court orders
9 relating to child welfare;

10 (C) [~~(B)~~] award financial incentives to the
11 contractor for exceeding applicable [~~any—specified~~] performance
12 outcomes as determined by services implemented at the time of the
13 review; and

14 (D) if deficiencies in the provision of services
15 are identified, impose a corrective action plan to address the
16 deficiencies that:

17 (i) includes a timeline for addressing the
18 deficiencies; and

19 (ii) provides for escalating interventions
20 if deficiencies are not addressed;

21 (7) allow the department to implement formal measures
22 to ensure the contractor is delivering high-quality service,
23 including quality improvement plans, financial interventions, and
24 other appropriate interventions or restrictions;

25 (8) require the adoption of a capitated funding
26 methodology for the provision of all services not later than the
27 third anniversary of the date the contract is executed;

1 (9) for a catchment area in which a contractor has not
2 implemented services before September 1, 2023, if family
3 preservation services are included in the initial service
4 implementation, require:

5 (A) an external review to ensure the contractor
6 has adequate systems and processes in place to effectively provide
7 family preservation services;

8 (B) the establishment of performance outcomes
9 specific to family preservation services; and

10 (C) the achievement of the performance outcomes
11 as a condition of continued provision or expansion of family
12 preservation services;

13 (10) [~~(7)~~] require the contractor to give preference
14 for employment to employees of the department:

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

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

19 (11) [~~(8)~~] require the contractor to implement
20 [~~provide~~] preliminary and ongoing community engagement plans to
21 ensure communication and collaboration with local stakeholders in
22 the catchment area that include the establishment of a community
23 advisory committee that:

24 (A) meets at least quarterly;

25 (B) maintains, as the majority of the committee's
26 membership, members not employed by or contracted with the
27 contractor; and

1 (C) includes representatives from~~[, including]~~
2 any of the following:

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

5 (ii) [(B)] the judiciary;

6 (iii) [(C)] court-appointed special
7 advocates;

8 (iv) [(D)] child advocacy centers;

9 (v) [(E)] service providers;

10 (vi) [(F)] foster families;

11 (vii) [(G)] biological parents;

12 (viii) [(H)] foster youth and former foster
13 youth;

14 (ix) [(I)] relative or kinship caregivers;

15 (x) [(J)] child welfare boards, if
16 applicable;

17 (xi) [(K)] attorneys ad litem;

18 (xii) [(L)] attorneys that represent
19 parents involved in suits filed by the department; and

20 (xiii) [(M)] any other stakeholders, as
21 determined by the contractor;

22 (12) require the department to include findings and
23 recommendations from the advisory committee established under
24 Subdivision (11) in:

25 (A) the annual performance review under
26 Subdivision (5);

27 (B) any corrective action plan under Subdivision

1 (6)(D); and

2 (C) any other applicable quality improvement
3 measures; and

4 (13) [(9)] require that the contractor comply with any
5 applicable court order issued by a court of competent jurisdiction
6 in the case of a child for whom the contractor has assumed case
7 management responsibilities or an order imposing a requirement on
8 the department that relates to functions assumed by the contractor.

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

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

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

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

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

21 (2) provide training for prospective foster parents;
22 and

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

26 SECTION 13. Section 264.156(a), Family Code, is amended to
27 read as follows:

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

6 (1) family preservation services;

7 (2) case management services for children and
8 families;

9 (3) [~~(2)~~] evidence-based, promising practice, or
10 evidence-informed supports for children and families; and

11 (4) [~~(3)~~] sufficient available capacity for inpatient
12 and outpatient services and supports for children at all service
13 levels who have previously been placed in the catchment area.

14 SECTION 14. Sections [264.158](#)(a) and (b), Family Code, are
15 amended to read as follows:

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

21 (1) family preservation services;

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

25 (3) [~~(2)~~] family reunification support services to be
26 provided after a child receiving services from the contractor is
27 returned to the child's family for the period of time ordered by the

1 court.

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

8 (1) family preservation services;

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

12 (3) [~~(2)~~] family reunification support services to be
13 provided after a child receiving services from the contractor is
14 returned to the child's family.

15 SECTION 15. Section 264.162, Family Code, is amended to
16 read as follows:

17 Sec. 264.162. REVIEW OF CONTRACTOR PERFORMANCE. The
18 department shall develop a formal review process that includes a
19 monitoring schedule to evaluate a single source continuum
20 contractor's implementation of placement services and case
21 management services in a catchment area. The department shall post
22 the monitoring schedule on the department's Internet website.

23 SECTION 16. The heading to Section 264.2031, Family Code,
24 is amended to read as follows:

25 Sec. 264.2031. SELECTION OF SERVICE PROVIDER;
26 REIMBURSEMENT.

27 SECTION 17. Section 264.2031(b), Family Code, is amended to

1 read as follows:

2 (b) A [~~parent,~~] managing conservator, guardian, or other
3 member of a household who is not a parent and who obtains services
4 from a provider selected by the person is responsible for the cost
5 of those services.

6 SECTION 18. Section 40.0583, Human Resources Code, is
7 amended to read as follows:

8 Sec. 40.0583. STATE AUDITOR REVIEW OF CONTRACTS. The state
9 auditor shall biennially [~~annually~~] review the department's
10 performance-based contracts to determine whether the department is
11 properly enforcing contract provisions with providers and to
12 provide recommendations for improving department oversight and
13 execution of contracts.

14 SECTION 19. Sections 264.113(a), (b), and (c), Family Code,
15 are repealed.

16 SECTION 20. (a) Section 263.0022, Family Code, as added by
17 this Act, applies to a placement review hearing of a child
18 regardless of the date on which the Department of Family and
19 Protective Services is named the child's managing conservator.

20 (b) Sections 264.152, 264.155, 264.156(a), and 264.158(a)
21 and (b), Family Code, as amended by this Act, apply only to a
22 contract with a single source continuum contractor entered into or
23 amended on or after the effective date of this Act. A contract with
24 a single source continuum contractor entered into before the
25 effective date of this Act and not amended after that date is
26 governed by the law in effect on the date the contract was entered
27 into or amended, and the former law is continued in effect for that

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1 purpose.

2 SECTION 21. This Act takes effect September 1, 2025.