

By: Kolkhorst

S.B. No. 1398

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

9 (3) "Family preservation service" means ~~[a]~~
10 time-limited, family-focused services ~~[service]~~, including
11 services ~~[a service]~~ subject to the Family First Prevention
12 Services Act (Title VII, Div. E, Pub. L. No. 115-123), family-based
13 safety services, and services approved under the Title IV-E state
14 plan provided to the family of a child who is:

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

18 (B) a pregnant or parenting foster youth;

19 (C) a member of a household that is subject to an
20 order rendered under Section 264.203; or

21 (D) the subject of a monitored return under
22 Section 263.403.

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

1 Sec. 262.411. SELECTION OF SERVICE PROVIDER;
2 REIMBURSEMENT.

3 SECTION 3. Section 262.411, Family Code, is amended by
4 amending Subsection (c) and adding Subsections (c-1) and (c-2) to
5 read as follows:

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

10 (c-1) The department shall reimburse a service provider
11 selected by the parent under Subsection (a) who is not under
12 contract with the department in an amount equal to the average cost
13 for the specific service, including any virtual services, from
14 department contractors providing the service in the region where
15 the parent resides.

16 (c-2) The department shall:

17 (1) adopt rules relating to the manner in which
18 providers are reimbursed for services provided under this section;

19 (2) implement this section using existing resources;
20 and

21 (3) prioritize payments to providers of in-home
22 support services under Section 264.2011.

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

25 Sec. 263.0022. TEMPORARY EMERGENCY SUPERVISION; MONTHLY
26 REPORT. (a) In this section, "temporary emergency supervision"
27 means the supervision and care provided by the department or a

1 single source continuum contractor for a child without placement
2 for whom the department has been appointed as the temporary or
3 permanent managing conservator.

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

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

- 15 (1) the type of placement;
16 (2) the location of the placement;
17 (3) the date the department or the contractor
18 contacted the placement; and
19 (4) the reason the department or the contractor
20 determined the placement was not safe or appropriate.

21 (d) The department shall prepare and submit a monthly report
22 to the legislature related to children in temporary emergency
23 supervision. The report must include, for the preceding month:

24 (1) the total number of children in temporary
25 emergency supervision;

26 (2) for each child in temporary emergency supervision:

27 (A) the child's:

- 1 (i) age, sex, race, and ethnicity; and
2 (ii) foster care service level;
3 (B) the location of the temporary emergency
4 supervision;
5 (C) the number of consecutive days the child has
6 been in temporary emergency supervision;
7 (D) the number of times the child has been in
8 temporary emergency supervision while under the temporary or
9 permanent managing conservatorship of the department;
10 (E) the reason the child was placed in temporary
11 emergency supervision; and
12 (F) if the child in temporary emergency
13 supervision refused a placement, whether the department or the
14 single source continuum contractor determined that the placement
15 was safe and appropriate; and
16 (3) the total cost of providing temporary emergency
17 supervision, including:
18 (A) direct supervision costs, including staff
19 hours dedicated to supervision calculated at the staff member's
20 hourly rate and overtime hours;
21 (B) administrative costs related to temporary
22 emergency supervision, including time spent coordinating,
23 documenting, and reporting;
24 (C) travel costs, including staff hours and
25 mileage reimbursement;
26 (D) the cost of security personnel, including
27 off-duty law enforcement; and

1 (E) facility or room costs.

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

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

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

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

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

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

11 (A) caseworker visits with the child;
12 (B) family and caregiver visits;
13 (C) convening and conducting permanency planning
14 meetings;

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

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

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

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

26 (iii) services related to family
27 reunification, including services to support a monitored return;

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

3 (i) providing any required notifications or
4 consultations;

5 (ii) preparing court reports;

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

8 (iv) complying with applicable court
9 orders; and

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

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

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

21 (6) "Family preservation service" means time-limited,
22 family-focused services, including services subject to the Family
23 First Prevention Services Act (Title VII, Div. E, Pub. L.
24 No. 115-123), family-based safety services, and services approved
25 under the Title IV-E state plan provided to the family of a child
26 who is:

27 (A) a candidate for foster care to prevent or

1 eliminate the need to remove the child and to allow the child to
2 remain safely with the child's family;

3 (B) a pregnant or parenting foster youth;

4 (C) a member of a household that is subject to an
5 order rendered under Section 264.203; or

6 (D) the subject of a monitored return under
7 Section 263.403.

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

10 Sec. 264.153. COMMUNITY-BASED CARE IMPLEMENTATION PLAN.

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

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

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

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

26 (4) identify any training needs and include long-range
27 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) any contractor responses to the plans
27 described by Paragraph (B).

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

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

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

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

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

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

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

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

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

18 SECTION 12. Section 264.155, Family Code, is amended by
19 amending Subsection (a) and adding Subsection (a-1) to read as
20 follows:

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

24 (1) establish a timeline for the implementation of
25 community-based care in the catchment area, including a timeline
26 for implementing the following in an order determined by the
27 department based on community needs and contractor capacity:

1 (A) family preservation services;

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

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

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

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

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

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

25 (A) [~~18 months after the contractor has begun~~
26 ~~providing case management and family reunification support~~
27 ~~services to all children and families in the catchment area and]~~

1 determine if the contractor has achieved applicable [~~any~~]
2 performance outcomes specified in the contract as determined by
3 services implemented at the time of the review, including:

4 (i) the percentage of children reunified
5 with their families within 6 months, 12 months, 18 months, and 24
6 months or later, after the date a suit is filed by the department;

7 (ii) the percentage of children who reenter
8 the conservatorship of the department within 6 months, 12 months,
9 or 36 months after the date the child leaves the conservatorship of
10 the department, disaggregated by case outcome and reason for
11 reentry;

12 (iii) the percentage of children who remain
13 in the conservatorship of the department until the age of majority,
14 including the percentage of children receiving extended foster care
15 services;

16 (iv) the number of placement moves per
17 1,000 days a child is in substitute care, disaggregated by
18 placement type and the number of days in each placement type;

19 (v) the percentage of families completing
20 family preservation services within 3 months, 6 months, 9 months,
21 and 12 months, and after 12 months after the date a suit is filed by
22 the department, disaggregated by type of service;

23 (vi) the percentage of children entering
24 the conservatorship of the department within 6 months, 12 months,
25 and 24 months of the date the child's family begins receiving family
26 preservation services, including the reason the department was
27 granted conservatorship;

1 (vii) the percentage of children entering
2 the conservatorship of the department within 6 months, 12 months,
3 24 months, and 48 months of the date the child's family completes
4 family preservation services, including the reason the department
5 was granted conservatorship; and

6 (viii) the percentage of children residing
7 with one parent, with both parents, or in a shared custody
8 arrangement between parents on completion of family preservation
9 services;

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

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

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

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

21 (A) publish the review on the department's
22 Internet website;

23 (B) impose financial penalties on the contractor
24 for failing to meet applicable ~~any specified~~ performance outcomes
25 as determined by services implemented at the time of the review;

26 (C) ~~or~~
27 ~~(B)~~ award financial incentives to the

1 contractor for exceeding applicable [~~any specified~~] performance
2 outcomes as determined by services implemented at the time of the
3 review; and

4 (D) if deficiencies in the provision of services
5 are identified, impose a corrective action plan to address the
6 deficiencies that:

7 (i) includes a timeline for addressing the
8 deficiencies; and

9 (ii) provides for escalating interventions
10 if deficiencies are not addressed;

11 (7) allow the department to implement formal measures
12 to ensure the contractor is delivering high-quality service,
13 including quality improvement plans, financial interventions, and
14 other appropriate interventions or restrictions;

15 (8) except as provided by Subdivision (9), following
16 the review under Subdivision (5), transfer the provision of family
17 preservation services to the contractor only if:

18 (A) the contractor is not subject to a corrective
19 action plan or other contract remedy for failure to meet applicable
20 performance outcomes;

21 (B) the department determines that the
22 contractor has demonstrated sufficient capacity to provide family
23 preservation services; and

24 (C) an external review indicates the contractor
25 has adequate systems and processes in place to effectively provide
26 family preservation services;

27 (9) for a catchment area in which a contractor has not

1 implemented services before September 1, 2023, if family
2 preservation services are included in the initial service
3 implementation, require:

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

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

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

12 (10) [~~7~~] require the contractor to give preference
13 for employment to employees of the department:

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

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

18 (11) [~~8~~] require the contractor to implement
19 [provide] preliminary and ongoing community engagement plans to
20 ensure communication and collaboration with local stakeholders in
21 the catchment area that include the establishment of a community
22 advisory committee that:

23 (A) meets at least quarterly;

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

27 (C) includes representatives from~~[, including]~~

1 any of the following:

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

4 (ii) [~~(B)~~] the judiciary;

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

7 (iv) [~~(D)~~] child advocacy centers;

8 (v) [~~(E)~~] service providers;

9 (vi) [~~(F)~~] foster families;

10 (vii) [~~(G)~~] biological parents;

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

13 (ix) [~~(I)~~] relative or kinship caregivers;

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

16 (xi) [~~(K)~~] attorneys ad litem;

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

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

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

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

26 (B) any corrective action plan under Subdivision
27 (6)(D); and

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

3 (13) [~~9~~] require that the contractor comply with any
4 applicable court order issued by a court of competent jurisdiction
5 in the case of a child for whom the contractor has assumed case
6 management responsibilities or an order imposing a requirement on
7 the department that relates to functions assumed by the contractor.

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

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

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

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

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

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

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

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

27 (a) The department shall develop a formal review process to

1 assess the ability of a single source continuum contractor to
2 satisfy the responsibilities and administrative requirements of
3 delivering foster care services and services for relative and
4 kinship caregivers, including the contractor's ability to provide:

5 (1) family preservation services;

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

8 (3) [~~(2)~~] evidence-based, promising practice, or
9 evidence-informed supports for children and families; and

10 (4) [~~(3)~~] sufficient available capacity for inpatient
11 and outpatient services and supports for children at all service
12 levels who have previously been placed in the catchment area.

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

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

20 (1) family preservation services;

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

24 (3) [~~(2)~~] family reunification support services to be
25 provided after a child receiving services from the contractor is
26 returned to the child's family for the period of time ordered by the
27 court.

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

7 (1) family preservation services;

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

11 (3) [~~(2)~~] family reunification support services to be
12 provided after a child receiving services from the contractor is
13 returned to the child's family.

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

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

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

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

26 SECTION 17. Section 264.2031, Family Code, is amended by
27 amending Subsection (b) and adding Subsections (b-1) and (d) 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 (b-1) The department shall reimburse a service provider
7 selected by the parent under Subsection (a) who is not under
8 contract with the department in an amount equal to the average cost
9 for the specific service, including any virtual services, from
10 department contractors providing the service in the region where
11 the parent resides.

12 (d) The department shall:

13 (1) adopt rules relating to the manner in which
14 providers are reimbursed for services provided under this section;

15 (2) implement this section using existing resources;
16 and

17 (3) prioritize payments to providers of in-home
18 support services under Section 264.2011.

19 SECTION 18. Sections 264.113(a), (b), and (c), Family Code,
20 are repealed.

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

25 (b) Sections 264.152, 264.155, 264.156(a), and 264.158(a)
26 and (b), Family Code, as amended by this Act, apply only to a
27 contract with a single source continuum contractor entered into on

1 or after the effective date of this Act. A contract with a single
2 source continuum contractor entered into before the effective date
3 of this Act is governed by the law in effect on the date the contract
4 was entered into, and the former law is continued in effect for that
5 purpose.

6 SECTION 20. This Act takes effect September 1, 2025.