

Chapter 317

H.B. No. 7

AN ACT

1
2 relating to child protective services suits, motions, and services
3 by the Department of Family and Protective Services and to the
4 licensing of certain facilities, homes, and agencies that provide
5 child-care services.

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

7 SECTION 1. Section 109.331(d), Alcoholic Beverage Code, is
8 amended to read as follows:

9 (d) This section does not apply to a [~~foster group home,~~
10 ~~foster family home,~~] family home, specialized child-care [~~agency~~
11 ~~group~~] home, or agency foster home as those terms are defined by
12 Section 42.002, Human Resources Code.

13 SECTION 2. Section 29.081(d), Education Code, is amended to
14 read as follows:

15 (d) For purposes of this section, "student at risk of
16 dropping out of school" includes each student who is under 26 years
17 of age and who:

18 (1) was not advanced from one grade level to the next
19 for one or more school years;

20 (2) if the student is in grade 7, 8, 9, 10, 11, or 12,
21 did not maintain an average equivalent to 70 on a scale of 100 in two
22 or more subjects in the foundation curriculum during a semester in
23 the preceding or current school year or is not maintaining such an
24 average in two or more subjects in the foundation curriculum in the

1 current semester;

2 (3) did not perform satisfactorily on an assessment
3 instrument administered to the student under Subchapter B, Chapter
4 39, and who has not in the previous or current school year
5 subsequently performed on that instrument or another appropriate
6 instrument at a level equal to at least 110 percent of the level of
7 satisfactory performance on that instrument;

8 (4) if the student is in prekindergarten,
9 kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on
10 a readiness test or assessment instrument administered during the
11 current school year;

12 (5) is pregnant or is a parent;

13 (6) has been placed in an alternative education
14 program in accordance with Section 37.006 during the preceding or
15 current school year;

16 (7) has been expelled in accordance with Section
17 37.007 during the preceding or current school year;

18 (8) is currently on parole, probation, deferred
19 prosecution, or other conditional release;

20 (9) was previously reported through the Public
21 Education Information Management System (PEIMS) to have dropped out
22 of school;

23 (10) is a student of limited English proficiency, as
24 defined by Section 29.052;

25 (11) is in the custody or care of the Department of
26 Family and Protective [~~and Regulatory~~] Services or has, during the
27 current school year, been referred to the department by a school

1 official, officer of the juvenile court, or law enforcement
2 official;

3 (12) is homeless, as defined by 42 U.S.C. Section
4 11302, and its subsequent amendments; or

5 (13) resided in the preceding school year or resides
6 in the current school year in a residential placement facility in
7 the district, including a detention facility, substance abuse
8 treatment facility, emergency shelter, psychiatric hospital,
9 halfway house, cottage home operation, specialized child-care
10 home, or general residential operation [~~foster group home~~].

11 SECTION 3. Section 58.0052, Family Code, is amended by
12 adding Subsection (b-1) to read as follows:

13 (b-1) In addition to the information provided under
14 Subsection (b), the Department of Family and Protective Services
15 and the Texas Juvenile Justice Department shall coordinate and
16 develop protocols for sharing with each other, on request, any
17 other information relating to a multi-system youth necessary to:

18 (1) identify and coordinate the provision of services
19 to the youth and prevent duplication of services;

20 (2) enhance rehabilitation of the youth; and

21 (3) improve and maintain community safety.

22 SECTION 4. Section 101.0133, Family Code, is amended to
23 read as follows:

24 Sec. 101.0133. FOSTER CARE. "Foster care" means the
25 placement of a child who is in the conservatorship of the Department
26 of Family and Protective Services and in care outside the child's
27 home in a residential child-care facility, including an [~~agency~~

1 ~~foster group home,~~ agency foster home, specialized child-care
2 [~~foster group~~] home, cottage [~~foster~~] home operation, general
3 residential operation, or another facility licensed or certified
4 under Chapter 42, Human Resources Code, in which care is provided
5 for 24 hours a day.

6 SECTION 5. Section 101.017, Family Code, is amended to read
7 as follows:

8 Sec. 101.017. LICENSED CHILD PLACING AGENCY. "Licensed
9 child placing agency" means a person, including an organization or
10 corporation, licensed or certified under Chapter 42, Human
11 Resources Code, by the Department of Family and Protective Services
12 to place a child in an adoptive home or a residential child-care
13 facility, including a child-care facility, agency foster home,
14 cottage home operation, or general residential operation [~~agency~~
15 ~~foster group home, or adoptive home~~].

16 SECTION 6. Section 105.002, Family Code, is amended by
17 adding Subsection (d) to read as follows:

18 (d) The Department of Family and Protective Services in
19 collaboration with interested parties, including the Permanent
20 Judicial Commission for Children, Youth and Families, shall review
21 the form of jury submissions in this state and make recommendations
22 to the legislature not later than December 31, 2017, regarding
23 whether broad-form or specific jury questions should be required in
24 suits affecting the parent-child relationship filed by the
25 department. This subsection expires September 1, 2019.

26 SECTION 7. Sections 107.002(b) and (c), Family Code, are
27 amended to read as follows:

1 (b) A guardian ad litem appointed for the child under this
2 chapter shall:

3 (1) within a reasonable time after the appointment,
4 interview:

5 (A) the child in a developmentally appropriate
6 manner, if the child is four years of age or older;

7 (B) each person who has significant knowledge of
8 the child's history and condition, including educators, child
9 welfare service providers, and any foster parent of the child; and

10 (C) the parties to the suit;

11 (2) seek to elicit in a developmentally appropriate
12 manner the child's expressed objectives;

13 (3) consider the child's expressed objectives without
14 being bound by those objectives;

15 (4) encourage settlement and the use of alternative
16 forms of dispute resolution; and

17 (5) perform any specific task directed by the court.

18 (c) A guardian ad litem appointed for the child under this
19 chapter is entitled to:

20 (1) receive a copy of each pleading or other paper
21 filed with the court in the case in which the guardian ad litem is
22 appointed;

23 (2) receive notice of each hearing in the case;

24 (3) participate in case staffings by the Department of
25 Family and Protective Services concerning the child;

26 (4) attend all legal proceedings in the case but may
27 not call or question a witness or otherwise provide legal services

1 unless the guardian ad litem is a licensed attorney who has been
2 appointed in the dual role;

3 (5) review and sign, or decline to sign, an agreed
4 order affecting the child; ~~and~~

5 (6) explain the basis for the guardian ad litem's
6 opposition to the agreed order if the guardian ad litem does not
7 agree to the terms of a proposed order;

8 (7) have access to the child in the child's placement;

9 (8) be consulted and provide comments on decisions
10 regarding placement, including kinship, foster care, and adoptive
11 placements;

12 (9) evaluate whether the child welfare services
13 providers are protecting the child's best interests regarding
14 appropriate care, treatment, services, and all other foster
15 children's rights listed in Section 263.008;

16 (10) receive notification regarding and an invitation
17 to attend meetings related to the child's service plan and a copy of
18 the plan; and

19 (11) attend court-ordered mediation regarding the
20 child's case.

21 SECTION 8. Section 107.004, Family Code, is amended by
22 adding Subsection (d-3) to read as follows:

23 (d-3) An attorney ad litem appointed to represent a child in
24 the managing conservatorship of the Department of Family and
25 Protective Services shall periodically continue to review the
26 child's safety and well-being, including any effects of trauma to
27 the child, and take appropriate action, including requesting a

1 review hearing when necessary to address an issue of concern.

2 SECTION 9. Section 107.016, Family Code, is amended to read
3 as follows:

4 Sec. 107.016. CONTINUED REPRESENTATION; DURATION OF
5 APPOINTMENT. In a suit filed by a governmental entity in which
6 termination of the parent-child relationship or appointment of the
7 entity as conservator of the child is requested:

8 (1) an order appointing the Department of Family and
9 Protective Services as the child's managing conservator may provide
10 for the continuation of the appointment of the guardian ad litem [~~or~~
11 ~~attorney ad litem~~] for the child for any period during the time the
12 child remains in the conservatorship of the department, as set by
13 the court; [~~and~~]

14 (2) an order appointing the Department of Family and
15 Protective Services as the child's managing conservator may provide
16 for the continuation of the appointment of the attorney ad litem for
17 the child as long as the child remains in the conservatorship of the
18 department; and

19 (3) an attorney appointed under this subchapter to
20 serve as an attorney ad litem for a parent or an alleged father
21 continues to serve in that capacity until the earliest of:

22 (A) the date the suit affecting the parent-child
23 relationship is dismissed;

24 (B) the date all appeals in relation to any final
25 order terminating parental rights are exhausted or waived; or

26 (C) the date the attorney is relieved of the
27 attorney's duties or replaced by another attorney after a finding

1 of good cause is rendered by the court on the record.

2 SECTION 10. Section 155.201, Family Code, is amended by
3 adding Subsection (d) to read as follows:

4 (d) On receiving notice that a court exercising
5 jurisdiction under Chapter 262 has ordered the transfer of a suit
6 under Section 262.203(a)(2), the court of continuing, exclusive
7 jurisdiction shall, pursuant to the requirements of Section
8 155.204(i), transfer the proceedings to the court in which the suit
9 under Chapter 262 is pending within the time required by Section
10 155.207(a).

11 SECTION 11. Section 155.204(i), Family Code, is amended to
12 read as follows:

13 (i) If a transfer order has been signed by a court
14 exercising jurisdiction under Chapter 262, the Department of Family
15 and Protective Services shall ~~[a party may]~~ file the transfer order
16 with the clerk of the court of continuing, exclusive jurisdiction.
17 On receipt and without a hearing or further order from the court of
18 continuing, exclusive jurisdiction, the clerk of the court of
19 continuing, exclusive jurisdiction shall transfer the files as
20 provided by this subchapter within the time required by Section
21 155.207(a).

22 SECTION 12. Section 161.001, Family Code, is amended by
23 adding Subsections (c), (d), and (e) to read as follows:

24 (c) A court may not make a finding under Subsection (b) and
25 order termination of the parent-child relationship based on
26 evidence that the parent:

27 (1) homeschooled the child;

1 (2) is economically disadvantaged;

2 (3) has been charged with a nonviolent misdemeanor
3 offense other than:

4 (A) an offense under Title 5, Penal Code;

5 (B) an offense under Title 6, Penal Code; or

6 (C) an offense that involves family violence, as
7 defined by Section 71.004 of this code;

8 (4) provided or administered low-THC cannabis to a
9 child for whom the low-THC cannabis was prescribed under Chapter
10 169, Occupations Code; or

11 (5) declined immunization for the child for reasons of
12 conscience, including a religious belief.

13 (d) A court may not order termination under Subsection
14 (b)(1)(O) based on the failure by the parent to comply with a
15 specific provision of a court order if a parent proves by a
16 preponderance of evidence that:

17 (1) the parent was unable to comply with specific
18 provisions of the court order; and

19 (2) the parent made a good faith effort to comply with
20 the order and the failure to comply with the order is not
21 attributable to any fault of the parent.

22 (e) This section does not prohibit the Department of Family
23 and Protective Services from offering evidence described by
24 Subsection (c) as part of an action to terminate the parent-child
25 relationship under this subchapter.

26 SECTION 13. Section 161.206, Family Code, is amended by
27 adding Subsection (a-1) to read as follows:

1 (a-1) In a suit filed by the Department of Family and
2 Protective Services seeking termination of the parent-child
3 relationship for more than one parent of the child, the court may
4 order termination of the parent-child relationship for the parent
5 only if the court finds by clear and convincing evidence grounds for
6 the termination of the parent-child relationship for that parent.

7 SECTION 14. Chapter 261, Family Code, is amended by adding
8 Subchapter F to read as follows:

9 SUBCHAPTER F. PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT

10 Sec. 261.501. FILING APPLICATION FOR PROTECTIVE ORDER IN
11 CERTAIN CASES OF ABUSE OR NEGLECT. The department may file an
12 application for a protective order for a child's protection under
13 this subchapter on the department's own initiative or jointly with
14 a parent, relative, or caregiver of the child who requests the
15 filing of the application if the department:

16 (1) has temporary managing conservatorship of the
17 child;

18 (2) determines that:

19 (A) the child:

20 (i) is a victim of abuse or neglect; or

21 (ii) has a history of being abused or
22 neglected; and

23 (B) there is a threat of:

24 (i) immediate or continued abuse or neglect
25 to the child;

26 (ii) someone illegally taking the child
27 from the home in which the child is placed;

1 (iii) behavior that poses a threat to the
2 caregiver with whom the child is placed; or

3 (iv) someone committing an act of violence
4 against the child or the child's caregiver; and

5 (3) is not otherwise authorized to apply for a
6 protective order for the child's protection under Chapter 82.

7 Sec. 261.502. CERTIFICATION OF FINDINGS. (a) In making the
8 application under this subchapter, the department must certify
9 that:

10 (1) the department has diligently searched for and:

11 (A) was unable to locate the child's parent,
12 legal guardian, or custodian, other than the respondent to the
13 application; or

14 (B) located and provided notice of the proposed
15 application to the child's parent, legal guardian, or custodian,
16 other than the respondent to the application; and

17 (2) if applicable, the relative or caregiver who is
18 jointly filing the petition, or with whom the child would reside
19 following an entry of the protective order, has not abused or
20 neglected the child and does not have a history of abuse or neglect.

21 (b) An application for a temporary ex parte order under
22 Section 261.503 may be filed without making the findings required
23 by Subsection (a) if the department certifies that the department
24 believes there is an immediate danger of abuse or neglect to the
25 child.

26 Sec. 261.503. TEMPORARY EX PARTE ORDER. If the court finds
27 from the information contained in an application for a protective

1 order that there is an immediate danger of abuse or neglect to the
2 child, the court, without further notice to the respondent and
3 without a hearing, may enter a temporary ex parte order for the
4 protection of the child.

5 Sec. 261.504. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
6 ORDER. (a) At the close of a hearing on an application for a
7 protective order under this subchapter, the court shall find
8 whether there are reasonable grounds to believe that:

9 (1) the child:

10 (A) is a victim of abuse or neglect; or

11 (B) has a history of being abused or neglected;

12 and

13 (2) there is a threat of:

14 (A) immediate or continued abuse or neglect to
15 the child;

16 (B) someone illegally taking the child from the
17 home in which the child is placed;

18 (C) behavior that poses a threat to the caregiver
19 with whom the child is placed; or

20 (D) someone committing an act of violence against
21 the child or the child's caregiver.

22 (b) If the court makes an affirmative finding under
23 Subsection (a), the court shall issue a protective order that
24 includes a statement of that finding.

25 Sec. 261.505. APPLICATION OF OTHER LAW. To the extent
26 applicable, except as otherwise provided by this subchapter, Title
27 4 applies to a protective order issued under this subchapter.

1 SECTION 15. Subchapter A, Chapter 262, Family Code, is
2 amended by adding Section 262.0022 to read as follows:

3 Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each
4 hearing under this chapter, the court shall review the placement of
5 each child in the temporary or permanent managing conservatorship
6 of the Department of Family and Protective Services who is not
7 placed with a relative caregiver or designated caregiver as defined
8 by Section 264.751. The court shall include in its findings a
9 statement on whether the department has the option of placing the
10 child with a relative or other designated caregiver.

11 SECTION 16. Section 262.011, Family Code, as added by
12 Chapter 338 (H.B. 418), Acts of the 84th Legislature, Regular
13 Session, 2015, is amended to read as follows:

14 Sec. 262.011. PLACEMENT IN SECURE AGENCY FOSTER HOME [~~OR~~
15 ~~SECURE AGENCY FOSTER GROUP HOME~~]. A court in an emergency, initial,
16 or full adversary hearing conducted under this chapter may order
17 that the child who is the subject of the hearing be placed in a
18 secure agency foster home [~~or secure agency foster group home~~]
19 verified in accordance with Section 42.0531, Human Resources Code,
20 if the court finds that:

21 (1) the placement is in the best interest of the child;
22 and

23 (2) the child's physical health or safety is in danger
24 because the child has been recruited, harbored, transported,
25 provided, or obtained for forced labor or commercial sexual
26 activity, including any child subjected to an act specified in
27 Section 20A.02 or 20A.03, Penal Code.

1 SECTION 17. Subchapter A, Chapter 262, Family Code, is
2 amended by adding Sections 262.013 and 262.014 to read as follows:

3 Sec. 262.013. VOLUNTARY TEMPORARY MANAGING
4 CONSERVATORSHIP. In a suit affecting the parent-child relationship
5 filed by the Department of Family and Protective Services, the
6 existence of a parent's voluntary agreement to temporarily place
7 the parent's child in the managing conservatorship of the
8 department is not an admission by the parent that the parent engaged
9 in conduct that endangered the child.

10 Sec. 262.014. DISCLOSURE OF CERTAIN EVIDENCE. On the
11 request of the attorney for a parent who is a party in a suit
12 affecting the parent-child relationship filed under this chapter,
13 or the attorney ad litem for the parent's child, the Department of
14 Family and Protective Services shall, before the full adversary
15 hearing, provide:

16 (1) the name of any person, excluding a department
17 employee, whom the department will call as a witness to any of the
18 allegations contained in the petition filed by the department;

19 (2) a copy of any offense report relating to the
20 allegations contained in the petition filed by the department that
21 will be used in court to refresh a witness's memory; and

22 (3) a copy of any photograph, video, or recording that
23 will be presented as evidence.

24 SECTION 18. Section 262.113, Family Code, is amended to
25 read as follows:

26 Sec. 262.113. FILING SUIT WITHOUT TAKING POSSESSION OF
27 CHILD. An original suit filed by a governmental entity that

1 requests to take possession of a child after notice and a hearing
2 must be supported by an affidavit sworn to by a person with personal
3 knowledge and stating facts sufficient to satisfy a person of
4 ordinary prudence and caution that:

5 (1) there is a continuing danger to the physical
6 health or safety of the child caused by an act or failure to act of
7 the person entitled to possession of the child and that allowing the
8 child to remain in the home would be contrary to the child's
9 welfare; and

10 (2) reasonable efforts, consistent with the
11 circumstances and providing for the safety of the child, have been
12 made to prevent or eliminate the need to remove the child from the
13 child's home [~~and~~

14 ~~[(2) allowing the child to remain in the home would be~~
15 ~~contrary to the child's welfare].~~

16 SECTION 19. Subchapter B, Chapter 262, Family Code, is
17 amended by adding Section 262.116 to read as follows:

18 Sec. 262.116. LIMITS ON REMOVAL. (a) The Department of
19 Family and Protective Services may not take possession of a child
20 under this subchapter based on evidence that the parent:

21 (1) homeschooled the child;

22 (2) is economically disadvantaged;

23 (3) has been charged with a nonviolent misdemeanor
24 offense other than:

25 (A) an offense under Title 5, Penal Code;

26 (B) an offense under Title 6, Penal Code; or

27 (C) an offense that involves family violence, as

1 defined by Section 71.004 of this code;

2 (4) provided or administered low-THC cannabis to a
3 child for whom the low-THC cannabis was prescribed under Chapter
4 169, Occupations Code; or

5 (5) declined immunization for the child for reasons of
6 conscience, including a religious belief.

7 (b) The department shall train child protective services
8 caseworkers regarding the prohibitions on removal provided under
9 Subsection (a).

10 (c) The executive commissioner of the Health and Human
11 Services Commission may adopt rules to implement this section.

12 (d) This section does not prohibit the department from
13 gathering or offering evidence described by Subsection (a) as part
14 of an action to take possession of a child under this subchapter.

15 SECTION 20. Section 262.201, Family Code, is amended by
16 amending Subsection (a) and adding Subsection (a-5) to read as
17 follows:

18 (a) Unless the child has already been returned to the
19 parent, managing conservator, possessory conservator, guardian,
20 caretaker, or custodian entitled to possession and the temporary
21 order, if any, has been dissolved, a full adversary hearing shall be
22 held not later than the 14th day after the date the child was taken
23 into possession by the governmental entity, unless the court grants
24 an extension under Subsection (a-3) or (a-5).

25 (a-5) If a parent who is not indigent appears in opposition
26 to the suit, the court may, for good cause shown, postpone the full
27 adversary hearing for not more than seven days from the date of the

1 parent's appearance to allow the parent to hire an attorney or to
2 provide the parent's attorney time to respond to the petition and
3 prepare for the hearing. A postponement under this subsection is
4 subject to the limits and requirements prescribed by Subsection
5 (a-3) and Section 155.207.

6 SECTION 21. Section 262.203(a), Family Code, is amended to
7 read as follows:

8 (a) On the motion of a party or the court's own motion, if
9 applicable, the court that rendered the temporary order shall in
10 accordance with procedures provided by Chapter 155:

11 (1) transfer the suit to the court of continuing,
12 exclusive jurisdiction, if any, within the time required by Section
13 155.207(a), if the court finds that the transfer is:

14 (A) necessary for the convenience of the parties;
15 and

16 (B) in the best interest of the child;

17 (2) [~~if grounds exist for mandatory transfer from the~~
18 ~~court of continuing, exclusive jurisdiction under Section~~
19 ~~155.201,~~] order transfer of the suit from the [that] court of
20 continuing, exclusive jurisdiction; or

21 (3) if grounds exist for transfer based on improper
22 venue, order transfer of the suit to the court having venue of the
23 suit under Chapter 103.

24 SECTION 22. Subchapter C, Chapter 262, Family Code, is
25 amended by adding Section 262.206 to read as follows:

26 Sec. 262.206. EX PARTE HEARINGS PROHIBITED. Unless
27 otherwise authorized by this chapter or other law, a hearing held by

1 a court in a suit under this chapter may not be ex parte.

2 SECTION 23. Section 263.002, Family Code, is amended to
3 read as follows:

4 Sec. 263.002. REVIEW OF PLACEMENTS BY COURT; FINDINGS. (a)
5 In a suit affecting the parent-child relationship in which the
6 department has been appointed by the court or designated in an
7 affidavit of relinquishment of parental rights as the temporary or
8 permanent managing conservator of a child, the court shall hold a
9 hearing to review:

10 (1) the conservatorship appointment and substitute
11 care; and

12 (2) for a child committed to the Texas Juvenile
13 Justice Department, the child's commitment in the Texas Juvenile
14 Justice Department or release under supervision by the Texas
15 Juvenile Justice Department.

16 (b) At each permanency hearing under this chapter, the court
17 shall review the placement of each child in the temporary managing
18 conservatorship of the department who is not placed with a relative
19 caregiver or designated caregiver as defined by Section 264.751.
20 The court shall include in its findings a statement whether the
21 department placed the child with a relative or other designated
22 caregiver.

23 (c) At each permanency hearing before the final order, the
24 court shall review the placement of each child in the temporary
25 managing conservatorship of the department who has not been
26 returned to the child's home. The court shall make a finding on
27 whether returning the child to the child's home is safe and

1 appropriate, whether the return is in the best interest of the
2 child, and whether it is contrary to the welfare of the child for
3 the child to return home.

4 SECTION 24. Section 263.0021, Family Code, is amended by
5 adding Subsections (e) and (f) to read as follows:

6 (e) Notice of a hearing under this chapter provided to an
7 individual listed under Subsection (b)(2) must state that the
8 individual may, but is not required to, attend the hearing and may
9 request to be heard at the hearing.

10 (f) In a hearing under this chapter, the court shall
11 determine whether the child's caregiver is present at the hearing
12 and allow the caregiver to testify if the caregiver wishes to
13 provide information about the child.

14 SECTION 25. Section 263.008(a)(1), Family Code, is amended
15 to read as follows:

16 (1) "Agency foster [~~group~~] home[~~7~~]" and ["~~agency~~
17 ~~foster home,~~"] "facility[~~7~~]" ["~~foster group home,~~" and "~~foster~~
18 ~~home~~"] have the meanings assigned by Section 42.002, Human
19 Resources Code.

20 SECTION 26. Section 263.008(e), Family Code, is amended to
21 read as follows:

22 (e) An [~~agency foster group home,~~7] agency foster home[~~7~~
23 ~~foster group home,~~ ~~foster home,~~7] or other residential child-care
24 facility in which a child is placed in foster care shall provide a
25 copy of the foster children's bill of rights to a child on the
26 child's request. The foster children's bill of rights must be
27 printed in English and in a second language.

1 SECTION 27. Section 263.401, Family Code, is amended to
2 read as follows:

3 Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS;
4 EXTENSION. (a) Unless the court has commenced the trial on the
5 merits or granted an extension under Subsection (b) or (b-1), on the
6 first Monday after the first anniversary of the date the court
7 rendered a temporary order appointing the department as temporary
8 managing conservator, the court's jurisdiction over [~~court shall~~
9 ~~dismiss~~] the suit affecting the parent-child relationship filed by
10 the department that requests termination of the parent-child
11 relationship or requests that the department be named conservator
12 of the child is terminated and the suit is automatically dismissed
13 without a court order. Not later than the 60th day before the day
14 the suit is automatically dismissed, the court shall notify all
15 parties to the suit of the automatic dismissal date.

16 (b) Unless the court has commenced the trial on the merits,
17 the court may not retain the suit on the court's docket after the
18 time described by Subsection (a) unless the court finds that
19 extraordinary circumstances necessitate the child remaining in the
20 temporary managing conservatorship of the department and that
21 continuing the appointment of the department as temporary managing
22 conservator is in the best interest of the child. If the court
23 makes those findings, the court may retain the suit on the court's
24 docket for a period not to exceed 180 days after the time described
25 by Subsection (a). If the court retains the suit on the court's
26 docket, the court shall render an order in which the court:

27 (1) schedules the new date on which the suit will be

1 automatically dismissed if the trial on the merits has not
2 commenced, which date must be not later than the 180th day after the
3 time described by Subsection (a);

4 (2) makes further temporary orders for the safety and
5 welfare of the child as necessary to avoid further delay in
6 resolving the suit; and

7 (3) sets the trial on the merits on a date not later
8 than the date specified under Subdivision (1).

9 (b-1) If, after commencement of the initial trial on the
10 merits within the time required by Subsection (a) or (b), the court
11 grants a motion for a new trial or mistrial, or the case is remanded
12 to the court by an appellate court following an appeal of the
13 court's final order, the court shall retain the suit on the court's
14 docket and render an order in which the court:

15 (1) schedules a new date on which the suit will be
16 automatically dismissed if the new trial has not commenced, which
17 must be a date not later than the 180th day after the date on which:

18 (A) the motion for a new trial or mistrial is
19 granted; or

20 (B) the appellate court remanded the case;

21 (2) makes further temporary orders for the safety and
22 welfare of the child as necessary to avoid further delay in
23 resolving the suit; and

24 (3) sets the new trial on the merits for a date not
25 later than the date specified under Subdivision (1).

26 (c) If the court grants an extension under Subsection (b) or
27 (b-1) but does not commence the trial on the merits before the

1 dismissal date, the court's jurisdiction over [~~court shall dismiss~~
2 the suit is terminated and the suit is automatically dismissed
3 without a court order. The court may not grant an additional
4 extension that extends the suit beyond the required date for
5 dismissal under Subsection (b) or (b-1), as applicable.

6 SECTION 28. Section 263.402, Family Code, is amended to
7 read as follows:

8 Sec. 263.402. LIMIT ON EXTENSION[~~, WAIVER~~]. [~~(a)~~] The
9 parties to a suit under this chapter may not extend the deadlines
10 set by the court under this subchapter by agreement or otherwise.

11 [~~(b) A party to a suit under this chapter who fails to make a~~
12 ~~timely motion to dismiss the suit under this subchapter waives the~~
13 ~~right to object to the court's failure to dismiss the suit. A~~
14 ~~motion to dismiss under this subsection is timely if the motion is~~
15 ~~made before the trial on the merits commences.~~]

16 SECTION 29. Section 263.403, Family Code, is amended by
17 amending Subsections (a) and (c) and adding Subsection (a-1) to
18 read as follows:

19 (a) Notwithstanding Section 263.401, the court may retain
20 jurisdiction and not dismiss the suit or render a final order as
21 required by that section if the court renders a temporary order
22 that:

23 (1) finds that retaining jurisdiction under this
24 section is in the best interest of the child;

25 (2) orders the department to:

26 (A) return the child to the child's parent; or

27 (B) transition the child, according to a schedule

1 determined by the department or court, from substitute care to the
2 parent while the parent completes the remaining requirements
3 imposed under a service plan and specified in the temporary order
4 that are necessary for the child's return;

5 (3) orders the department to continue to serve as
6 temporary managing conservator of the child; and

7 (4) orders the department to monitor the child's
8 placement to ensure that the child is in a safe environment.

9 (a-1) Unless the court has granted an extension under
10 Section 263.401(b), the department or the parent may request the
11 court to retain jurisdiction for an additional six months as
12 necessary for a parent to complete the remaining requirements in a
13 service plan and specified in the temporary order that are
14 mandatory for the child's return.

15 (c) If before the dismissal of the suit or the commencement
16 of the trial on the merits a child placed with a parent under this
17 section must be moved from that home by the department or the court
18 renders a temporary order terminating the transition order issued
19 under Subsection (a)(2)(B) [~~before the dismissal of the suit or the~~
20 commencement of the trial on the merits], the court shall, at the
21 time of the move or order, schedule a new date for dismissal of the
22 suit [~~unless a trial on the merits has commenced~~]. The new
23 dismissal date may not be later than the original dismissal date
24 established under Section 263.401 or the 180th day after the date
25 the child is moved or the order is rendered under this subsection,
26 whichever date is later.

27 SECTION 30. Subchapter E, Chapter 263, Family Code, is

1 amended by adding Section 263.4055 to read as follows:

2 Sec. 263.4055. SUPREME COURT RULES. The supreme court by
3 rule shall establish civil and appellate procedures to address:

4 (1) conflicts between the filing of a motion for new
5 trial and the filing of an appeal of a final order rendered under
6 this chapter; and

7 (2) the period, including an extension of at least 20
8 days, for a court reporter to submit the reporter's record of a
9 trial to an appellate court following a final order rendered under
10 this chapter.

11 SECTION 31. Section 263.5031, Family Code, is amended to
12 read as follows:

13 Sec. 263.5031. PERMANENCY HEARINGS FOLLOWING FINAL ORDER.

14 At each permanency hearing after the court renders a final order,
15 the court shall:

16 (1) identify all persons and parties present at the
17 hearing;

18 (2) review the efforts of the department or other
19 agency in notifying persons entitled to notice under Section
20 263.0021; and

21 (3) review the permanency progress report to
22 determine:

23 (A) the safety and well-being of the child and
24 whether the child's needs, including any medical or special needs,
25 are being adequately addressed;

26 (B) whether the department placed the child with
27 a relative or other designated caregiver and the continuing

1 necessity and appropriateness of the placement of the child,
2 including with respect to a child who has been placed outside of
3 this state, whether the placement continues to be in the best
4 interest of the child;

5 (C) if the child is placed in institutional care,
6 whether efforts have been made to ensure that the child is placed in
7 the least restrictive environment consistent with the child's best
8 interest and special needs;

9 (D) the appropriateness of the primary and
10 alternative permanency goals for the child, whether the department
11 has made reasonable efforts to finalize the permanency plan,
12 including the concurrent permanency goals, in effect for the child,
13 and whether:

14 (i) the department has exercised due
15 diligence in attempting to place the child for adoption if parental
16 rights to the child have been terminated and the child is eligible
17 for adoption; or

18 (ii) another permanent placement,
19 including appointing a relative as permanent managing conservator
20 or returning the child to a parent, is appropriate for the child;

21 (E) for a child whose permanency goal is another
22 planned permanent living arrangement:

23 (i) the desired permanency outcome for the
24 child, by asking the child; and

25 (ii) whether, as of the date of the hearing,
26 another planned permanent living arrangement is the best permanency
27 plan for the child and, if so, provide compelling reasons why it

1 continues to not be in the best interest of the child to:

2 (a) return home;

3 (b) be placed for adoption;

4 (c) be placed with a legal guardian;

5 or

6 (d) be placed with a fit and willing

7 relative;

8 (F) if the child is 14 years of age or older,
9 whether services that are needed to assist the child in
10 transitioning from substitute care to independent living are
11 available in the child's community;

12 (G) whether the child is receiving appropriate
13 medical care and has been provided the opportunity, in a
14 developmentally appropriate manner, to express the child's opinion
15 on any medical care provided;

16 (H) for a child receiving psychotropic
17 medication, whether the child:

18 (i) has been provided appropriate
19 nonpharmacological interventions, therapies, or strategies to meet
20 the child's needs; or

21 (ii) has been seen by the prescribing
22 physician, physician assistant, or advanced practice nurse at least
23 once every 90 days;

24 (I) whether an education decision-maker for the
25 child has been identified, the child's education needs and goals
26 have been identified and addressed, and there are major changes in
27 the child's school performance or there have been serious

1 disciplinary events;

2 (J) for a child for whom the department has been
3 named managing conservator in a final order that does not include
4 termination of parental rights, whether to order the department to
5 provide services to a parent for not more than six months after the
6 date of the permanency hearing if:

7 (i) the child has not been placed with a
8 relative or other individual, including a foster parent, who is
9 seeking permanent managing conservatorship of the child; and

10 (ii) the court determines that further
11 efforts at reunification with a parent are:

12 (a) in the best interest of the child;
13 and

14 (b) likely to result in the child's
15 safe return to the child's parent; and

16 (K) whether the department has identified a
17 family or other caring adult who has made a permanent commitment to
18 the child.

19 SECTION 32. Section 264.0111(a), Family Code, is amended to
20 read as follows:

21 (a) A child for whom the department has been appointed
22 managing conservator and who has been placed by the department in a
23 residential [~~foster home or~~] child-care facility [~~institution~~] as
24 defined by Chapter 42, Human Resources Code, is entitled to keep any
25 money earned by the child during the time of the child's placement.

26 SECTION 33. Section 264.018, Family Code, is amended by
27 adding Subsection (d-1) and amending Subsection (f) to read as

1 follows:

2 (d-1) As soon as possible but not later than 24 hours after a
3 change in placement of a child in the conservatorship of the
4 department, the department shall give notice of the placement
5 change to the managed care organization that contracts with the
6 commission to provide health care services to the child under the
7 STAR Health program. The managed care organization shall give
8 notice of the placement change to the primary care physician listed
9 in the child's health passport before the end of the second business
10 day after the day the organization receives the notification from
11 the department.

12 (f) Except as provided by Subsection (d-1), as [~~As~~] soon as
13 possible but not later than the 10th day after the date the
14 department becomes aware of a significant event affecting a child
15 in the conservatorship of the department, the department shall
16 provide notice of the significant event to:

- 17 (1) the child's parent;
- 18 (2) an attorney ad litem appointed for the child under
19 Chapter 107;
- 20 (3) a guardian ad litem appointed for the child under
21 Chapter 107;
- 22 (4) a volunteer advocate appointed for the child under
23 Chapter 107;
- 24 (5) the licensed administrator of the child-placing
25 agency responsible for placing the child or the licensed
26 administrator's designee;
- 27 (6) a foster parent, prospective adoptive parent,

1 relative of the child providing care to the child, or director of
2 the group home or general residential operation where the child is
3 residing; and

4 (7) any other person determined by a court to have an
5 interest in the child's welfare.

6 SECTION 34. Sections 264.751(1) and (3), Family Code, are
7 amended to read as follows:

8 (1) "Designated caregiver" means an individual who has
9 a longstanding and significant relationship with a child for whom
10 the department has been appointed managing conservator and who:

11 (A) is appointed to provide substitute care for
12 the child, but is not [~~licensed by the department or~~] verified by a
13 licensed child-placing agency [~~or the department~~] to operate an [~~a~~
14 ~~foster home, foster group home,~~] agency foster home[~~, or agency~~
15 ~~foster group home~~] under Chapter 42, Human Resources Code; or

16 (B) is subsequently appointed permanent managing
17 conservator of the child after providing the care described by
18 Paragraph (A).

19 (3) "Relative caregiver" means a relative who:

20 (A) provides substitute care for a child for whom
21 the department has been appointed managing conservator, but who is
22 not [~~licensed by the department or~~] verified by a licensed
23 child-placing agency [~~or the department~~] to operate an [~~a foster~~
24 ~~home, foster group home,~~] agency foster home[~~, or agency foster~~
25 ~~group home~~] under Chapter 42, Human Resources Code; or

26 (B) is subsequently appointed permanent managing
27 conservator of the child after providing the care described by

1 Paragraph (A).

2 SECTION 35. Section 264.760, Family Code, is amended to
3 read as follows:

4 Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND
5 PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of
6 this subchapter, a relative or other designated caregiver who
7 becomes [~~licensed by the department or~~] verified by a licensed
8 child-placing agency [~~or the department~~] to operate an [~~a foster~~
9 ~~home, foster group home,~~] agency foster home[, ~~or agency foster~~
10 ~~group home~~] under Chapter 42, Human Resources Code, may receive
11 foster care payments in lieu of the benefits provided by this
12 subchapter, beginning with the first month in which the relative or
13 other designated caregiver becomes licensed or is verified.

14 SECTION 36. Section 264.8521, Family Code, is amended to
15 read as follows:

16 Sec. 264.8521. NOTICE TO APPLICANTS. At the time a person
17 applies to become [~~licensed by the department or~~] verified by a
18 licensed child-placing agency [~~or the department~~] to provide foster
19 care in order to qualify for the permanency care assistance
20 program, the department or the child-placing agency shall:

21 (1) notify the applicant that a background check,
22 including a criminal history record check, will be conducted on the
23 individual; and

24 (2) inform the applicant about criminal convictions
25 that:

26 (A) preclude an individual from becoming a
27 [~~licensed foster home or~~] verified agency foster home; and

1 (B) may also be considered in evaluating the
2 individual's application.

3 SECTION 37. The heading to Chapter 266, Family Code, is
4 amended to read as follows:

5 CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR CHILDREN IN
6 CONSERVATORSHIP OF DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES
7 [~~FOSTER CARE~~]

8 SECTION 38. Chapter 266, Family Code, is amended by adding
9 Section 266.005 to read as follows:

10 Sec. 266.005. FINDING ON HEALTH CARE CONSULTATION. If a
11 court finds that a health care professional has been consulted
12 regarding a health care service, procedure, or treatment for a
13 child in the conservatorship of the department and the court
14 declines to follow the recommendation of the health care
15 professional, the court shall make findings in the record
16 supporting the court's order.

17 SECTION 39. Section 531.151(3), Government Code, is amended
18 to read as follows:

19 (3) "Institution" means:

20 (A) an ICF-IID, as defined by Section 531.002,
21 Health and Safety Code;

22 (B) a group home operated under the authority of
23 the commission [~~Department of Aging and Disability Services~~],
24 including a residential service provider under a Medicaid waiver
25 program authorized under Section 1915(c) of the federal Social
26 Security Act (42 U.S.C. Section 1396n), as amended, that provides
27 services at a residence other than the child's home or agency foster

1 home;

2 (C) [~~a foster group home or an agency foster~~
3 ~~group home as defined by Section 42.002, Human Resources Code,~~

4 [~~D~~] a nursing facility;

5 (D) [~~E~~] a general residential operation for
6 children with an intellectual disability that is licensed by the
7 commission [~~Department of Family and Protective Services~~]; or

8 (E) [~~F~~] another residential arrangement other
9 than a foster home as defined by Section 42.002, Human Resources
10 Code, that provides care to four or more children who are unrelated
11 to each other.

12 SECTION 40. (a) Subchapter A, Chapter 533, Government
13 Code, is amended by adding Section 533.0056 to read as follows:

14 Sec. 533.0056. STAR HEALTH PROGRAM: NOTIFICATION OF
15 PLACEMENT CHANGE. A contract between a managed care organization
16 and the commission for the organization to provide health care
17 services to recipients under the STAR Health program must require
18 the organization to ensure continuity of care for a child whose
19 placement has changed by:

20 (1) notifying each specialist treating the child of
21 the placement change; and

22 (2) coordinating the transition of care from the
23 child's previous treating primary care physician and treating
24 specialists to the child's new treating primary care physician and
25 treating specialists, if any.

26 (b) The changes in law made by this section apply only to a
27 contract for the provision of health care services under the STAR

1 Health program between the Health and Human Services Commission and
2 a managed care organization under Chapter 533, Government Code,
3 that is entered into, renewed, or extended on or after the effective
4 date of this section.

5 (c) If before implementing Section 533.0056, Government
6 Code, as added by this section, the Health and Human Services
7 Commission determines that a waiver or authorization from a federal
8 agency is necessary for implementation of that provision, the
9 health and human services agency affected by the provision shall
10 request the waiver or authorization and may delay implementing that
11 provision until the waiver or authorization is granted.

12 SECTION 41. Effective September 1, 2018, Section 572.001,
13 Health and Safety Code, is amended by amending Subsection (c) and
14 adding Subsections (c-2), (c-3), and (c-4) to read as follows:

15 (c) A person or agency appointed as the guardian or a
16 managing conservator of a person younger than 18 years of age and
17 acting as an employee or agent of the state or a political
18 subdivision of the state may request admission of the person
19 younger than 18 years of age to an inpatient mental health facility
20 ~~[only with the person's consent. If the person does not consent,~~
21 ~~the person may be admitted for inpatient services]~~ only as provided
22 by Subsection (c-2) or pursuant to an application for court-ordered
23 mental health services or emergency detention or an order for
24 protective custody.

25 (c-2) The Department of Family and Protective Services may
26 request the admission to an inpatient mental health facility of a
27 minor in the managing conservatorship of that department only if a

1 physician states the physician's opinion, and the detailed reasons
2 for that opinion, that the minor is a person:

3 (1) with mental illness or who demonstrates symptoms
4 of a serious emotional disorder; and

5 (2) who presents a risk of serious harm to self or
6 others if not immediately restrained or hospitalized.

7 (c-3) The admission to an inpatient mental health facility
8 under Subsection (c-2) of a minor in the managing conservatorship
9 of the Department of Family and Protective Services is a
10 significant event for purposes of Section 264.018, Family Code, and
11 the Department of Family and Protective Services shall provide
12 notice of the significant event:

13 (1) in accordance with that section to all parties
14 entitled to notice under that section; and

15 (2) to the court with continuing jurisdiction before
16 the expiration of three business days after the minor's admission.

17 (c-4) The Department of Family and Protective Services
18 periodically shall review the need for continued inpatient
19 treatment of a minor admitted to an inpatient mental health
20 facility under Subsection (c-2). If following the review that
21 department determines there is no longer a need for continued
22 inpatient treatment, that department shall notify the facility
23 administrator designated to detain the minor that the minor may no
24 longer be detained unless an application for court-ordered mental
25 health services is filed.

26 SECTION 42. Section 31.002(b), Human Resources Code, is
27 amended to read as follows:

1 (b) In this chapter, the term "dependent child" also applies
2 to a child:

3 (1) who meets the specifications set forth in
4 Subsections (a)(1)-(4);

5 (2) who has been removed from the home of a relative
6 specified in Subsection (a)(5) as a result of a judicial
7 determination that the child's residence there is contrary to his
8 or her welfare;

9 (3) whose placement and care are the responsibility of
10 the Department of Family and Protective Services or an agency with
11 which the Department of Family and Protective Services has entered
12 into an agreement for the care and supervision of the child;

13 (4) who has been placed in a residential [~~foster home~~
14 ~~or~~] child-care facility [~~institution~~] by the Department of Family
15 and Protective Services; and

16 (5) for whom the state may receive federal funds for
17 the purpose of providing foster care in accordance with rules
18 promulgated by the executive commissioner.

19 SECTION 43. Section 31.008(d), Human Resources Code, is
20 amended to read as follows:

21 (d) The commission may make payments on behalf of a
22 dependent child residing in a residential [~~foster family home or a~~
23 child-care facility [~~institution~~] in accordance with the
24 provisions of this chapter and commission rules.

25 SECTION 44. Section 42.002, Human Resources Code, is
26 amended by amending Subdivisions (4), (5), (6), (10), (11), (12),
27 (13), and (19) and adding Subdivision (24) to read as follows:

1 (4) "General residential operation" means a
2 child-care facility that provides care for seven or more [~~than 12~~]
3 children for 24 hours a day, including facilities known as
4 [~~children's homes, halfway houses,~~] residential treatment centers
5 and[~~7~~] emergency shelters[~~7, and therapeutic camps~~].

6 (5) "Continuum-of-care residential operation" means a
7 group of residential child-care facilities that operate under the
8 same license or certification to provide a continuum of services to
9 children [~~"Foster group home" means a child-care facility that~~
10 ~~provides care for 7 to 12 children for 24 hours a day~~].

11 (6) "Cottage [~~Foster~~] home operation" means cottage
12 family homes that:

13 (A) are identified on the operation's license;

14 (B) share a child-care administrator who is
15 responsible for oversight for all homes within the operation; and

16 (C) are all in or near the same location as
17 defined by department rule [~~a child-care facility that provides~~
18 ~~care for not more than six children for 24 hours a day~~].

19 (10) "Cottage family home" means a family residential
20 setting with one or more homes operating under the license of a
21 cottage home operation and in which:

22 (A) each home has at least one houseparent who
23 lives at the home while children are in care; and

24 (B) based on the size of the home and the
25 children's needs, each home cares for not more than six children

26 [~~"Agency foster group home" means a facility that provides care for~~
27 ~~seven to 12 children for 24 hours a day, is used only by a licensed~~

1 ~~child-placing agency, and meets department standards~~].

2 (11) "Agency foster home" means a facility that
3 provides care for not more than six children for 24 hours a day, is
4 used only by a licensed child-placing agency or continuum-of-care
5 residential operation, and meets department standards.

6 (12) "Child-placing agency" means a person, including
7 an organization, other than the natural parents or guardian of a
8 child who plans for the placement of or places a child in a
9 child-care facility, agency foster home, [~~agency foster group~~
10 ~~home~~] or adoptive home.

11 (13) "Facilities" includes child-care facilities,
12 [~~and~~] child-placing agencies, and continuum-of-care residential
13 operations.

14 (19) "Residential child-care facility" means a
15 facility licensed or certified by the department that operates for
16 all of the 24-hour day. The term includes general residential
17 operations, child-placing agencies, specialized child-care [~~foster~~
18 ~~group~~] homes, cottage home operations [~~foster homes~~],
19 continuum-of-care residential operations [~~agency foster group~~
20 ~~homes~~], and agency foster homes.

21 (24) "Specialized child-care home" means a child-care
22 facility that:

23 (A) based on the size of the home and the
24 children's needs, provides care for not more than six children for
25 24 hours a day; and

26 (B) has a director and has at least one
27 houseparent who lives at the home while children are in care.

1 SECTION 45. Subchapter A, Chapter 42, Human Resources Code,
2 is amended by adding Section 42.0031 to read as follows:

3 Sec. 42.0031. REFERENCE TO PART OF CONTINUUM-OF-CARE
4 OPERATION. With respect to a continuum-of-care operation, a
5 reference in this code or in any other law to a type of residential
6 child-care facility that is a part of a continuum-of-care operation
7 shall be construed as a reference to that portion of the
8 continuum-of-care operation, and the department may take all
9 regulatory action with respect to the continuum-of-care operation
10 that the department could take with respect to the type of
11 residential child-care facility, as further specified in
12 department rule.

13 SECTION 46. Section 42.041(b), Human Resources Code, is
14 amended to read as follows:

15 (b) This section does not apply to:

16 (1) a state-operated facility;

17 (2) an agency foster home [~~or agency foster group~~
18 ~~home~~];

19 (3) a facility that is operated in connection with a
20 shopping center, business, religious organization, or
21 establishment where children are cared for during short periods
22 while parents or persons responsible for the children are attending
23 religious services, shopping, or engaging in other activities,
24 including retreats or classes for religious instruction, on or near
25 the premises, that does not advertise as a child-care facility or
26 day-care center, and that informs parents that it is not licensed by
27 the state;

1 (4) a school or class for religious instruction that
2 does not last longer than two weeks and is conducted by a religious
3 organization during the summer months;

4 (5) a youth camp licensed by the Department of State
5 Health Services;

6 (6) a facility licensed, operated, certified, or
7 registered by another state agency;

8 (7) an educational facility that is accredited by the
9 Texas Education Agency, the Southern Association of Colleges and
10 Schools, or an accreditation body that is a member of the Texas
11 Private School Accreditation Commission and that operates
12 primarily for educational purposes for prekindergarten and above, a
13 before-school or after-school program operated directly by an
14 accredited educational facility, or a before-school or
15 after-school program operated by another entity under contract with
16 the educational facility, if the Texas Education Agency, the
17 Southern Association of Colleges and Schools, or the other
18 accreditation body, as applicable, has approved the curriculum
19 content of the before-school or after-school program operated under
20 the contract;

21 (8) an educational facility that operates solely for
22 educational purposes for prekindergarten through at least grade
23 two, that does not provide custodial care for more than one hour
24 during the hours before or after the customary school day, and that
25 is a member of an organization that promulgates, publishes, and
26 requires compliance with health, safety, fire, and sanitation
27 standards equal to standards required by state, municipal, and

1 county codes;

2 (9) a kindergarten or preschool educational program
3 that is operated as part of a public school or a private school
4 accredited by the Texas Education Agency, that offers educational
5 programs through grade six, and that does not provide custodial
6 care during the hours before or after the customary school day;

7 (10) a family home, whether registered or listed;

8 (11) an educational facility that is integral to and
9 inseparable from its sponsoring religious organization or an
10 educational facility both of which do not provide custodial care
11 for more than two hours maximum per day, and that offers an
12 educational program in one or more of the
13 following: prekindergarten through at least grade three,
14 elementary grades, or secondary grades;

15 (12) an emergency shelter facility, other than a
16 facility that would otherwise require a license as a child-care
17 facility under this section, that provides shelter or care to a
18 minor and the minor's child or children, if any, under Section
19 32.201, Family Code, if the facility:

20 (A) is currently under a contract with a state or
21 federal agency; or

22 (B) meets the requirements listed under Section
23 51.005(b)(3);

24 (13) a juvenile detention facility certified under
25 Section 51.12, Family Code, a juvenile correctional facility
26 certified under Section 51.125, Family Code, a juvenile facility
27 providing services solely for the Texas Juvenile Justice

1 Department, or any other correctional facility for children
2 operated or regulated by another state agency or by a political
3 subdivision of the state;

4 (14) an elementary-age (ages 5-13) recreation program
5 operated by a municipality provided the governing body of the
6 municipality annually adopts standards of care by ordinance after a
7 public hearing for such programs, that such standards are provided
8 to the parents of each program participant, and that the ordinances
9 shall include, at a minimum, staffing ratios, minimum staff
10 qualifications, minimum facility, health, and safety standards,
11 and mechanisms for monitoring and enforcing the adopted local
12 standards; and further provided that parents be informed that the
13 program is not licensed by the state and the program may not be
14 advertised as a child-care facility;

15 (15) an annual youth camp held in a municipality with a
16 population of more than 1.5 million that operates for not more than
17 three months and that has been operated for at least 10 years by a
18 nonprofit organization that provides care for the homeless;

19 (16) a food distribution program that:

20 (A) serves an evening meal to children two years
21 of age or older; and

22 (B) is operated by a nonprofit food bank in a
23 nonprofit, religious, or educational facility for not more than two
24 hours a day on regular business days;

25 (17) a child-care facility that operates for less than
26 three consecutive weeks and less than 40 days in a period of 12
27 months;

- 1 (18) a program:
- 2 (A) in which a child receives direct instruction
- 3 in a single skill, talent, ability, expertise, or proficiency;
- 4 (B) that does not provide services or offerings
- 5 that are not directly related to the single talent, ability,
- 6 expertise, or proficiency;
- 7 (C) that does not advertise or otherwise
- 8 represent that the program is a child-care facility, day-care
- 9 center, or licensed before-school or after-school program or that
- 10 the program offers child-care services;
- 11 (D) that informs the parent or guardian:
- 12 (i) that the program is not licensed by the
- 13 state; and
- 14 (ii) about the physical risks a child may
- 15 face while participating in the program; and
- 16 (E) that conducts background checks for all
- 17 program employees and volunteers who work with children in the
- 18 program using information that is obtained from the Department of
- 19 Public Safety;
- 20 (19) an elementary-age (ages 5-13) recreation program
- 21 that:
- 22 (A) adopts standards of care, including
- 23 standards relating to staff ratios, staff training, health, and
- 24 safety;
- 25 (B) provides a mechanism for monitoring and
- 26 enforcing the standards and receiving complaints from parents of
- 27 enrolled children;

1 (C) does not advertise as or otherwise represent
2 the program as a child-care facility, day-care center, or licensed
3 before-school or after-school program or that the program offers
4 child-care services;

5 (D) informs parents that the program is not
6 licensed by the state;

7 (E) is organized as a nonprofit organization or
8 is located on the premises of a participant's residence;

9 (F) does not accept any remuneration other than a
10 nominal annual membership fee;

11 (G) does not solicit donations as compensation or
12 payment for any good or service provided as part of the program; and

13 (H) conducts background checks for all program
14 employees and volunteers who work with children in the program
15 using information that is obtained from the Department of Public
16 Safety;

17 (20) a living arrangement in a caretaker's home
18 involving one or more children or a sibling group, excluding
19 children who are related to the caretaker, in which the caretaker:

20 (A) had a prior relationship with the child or
21 sibling group or other family members of the child or sibling group;

22 (B) does not care for more than one unrelated
23 child or sibling group;

24 (C) does not receive compensation or solicit
25 donations for the care of the child or sibling group; and

26 (D) has a written agreement with the parent to
27 care for the child or sibling group;

1 (21) a living arrangement in a caretaker's home
2 involving one or more children or a sibling group, excluding
3 children who are related to the caretaker, in which:

4 (A) the department is the managing conservator of
5 the child or sibling group;

6 (B) the department placed the child or sibling
7 group in the caretaker's home; and

8 (C) the caretaker had a long-standing and
9 significant relationship with the child or sibling group before the
10 child or sibling group was placed with the caretaker;

11 (22) a living arrangement in a caretaker's home
12 involving one or more children or a sibling group, excluding
13 children who are related to the caretaker, in which the child is in
14 the United States on a time-limited visa under the sponsorship of
15 the caretaker or of a sponsoring organization; [~~or~~]

16 (23) a facility operated by a nonprofit organization
17 that:

18 (A) does not otherwise operate as a child-care
19 facility that is required to be licensed under this section;

20 (B) provides emergency shelter and care for not
21 more than 15 days to children 13 years of age or older but younger
22 than 18 years of age who are victims of human trafficking alleged
23 under Section 20A.02, Penal Code;

24 (C) is located in a municipality with a
25 population of at least 600,000 that is in a county on an
26 international border; and

27 (D) meets one of the following criteria:

1 (i) is licensed by, or operates under an
2 agreement with, a state or federal agency to provide shelter and
3 care to children; or

4 (ii) meets the eligibility requirements for
5 a contract under Section 51.005(b)(3); or

6 (24) a facility that provides respite care exclusively
7 for a local mental health authority under a contract with the local
8 mental health authority.

9 SECTION 47. Section 42.042, Human Resources Code, is
10 amended by amending Subsections (e-1), (g), and (h-1) and adding
11 Subsection (s) to read as follows:

12 (e-1) The department may not prohibit possession of
13 lawfully permitted firearms and ammunition in [~~a foster home of any~~
14 ~~type, including a foster group home, a foster home, an agency foster~~
15 ~~group home, and~~] an agency foster home. Minimum standards may be
16 adopted under this section relating to safety and proper storage of
17 firearms and ammunition, including standards requiring firearms
18 and ammunition to be stored separately in locked locations.

19 (g) In promulgating minimum standards the executive
20 commissioner may recognize and treat differently the types of
21 services provided by the following:

- 22 (1) registered family homes;
- 23 (2) child-care facilities, including general
24 residential operations, cottage home operations [~~foster group~~
25 ~~homes~~], specialized child-care [~~foster~~] homes, group day-care
26 homes, and day-care centers;
- 27 (3) child-placing agencies;

- 1 (4) agency foster homes;
- 2 (5) continuum-of-care residential operations [~~agency~~
- 3 ~~foster group homes~~];
- 4 (6) before-school or after-school programs; and
- 5 (7) school-age programs.

6 (h-1) The executive commissioner shall adopt rules

7 governing:

8 (1) the placement and care of children by a

9 child-placing agency, as necessary to ensure the health and safety

10 of those children;

11 (2) the verification and monitoring of agency foster

12 homes[~~, agency foster group homes,~~] and adoptive homes by a

13 child-placing agency; and

14 (3) if appropriate, child-placing agency staffing

15 levels, office locations, and administration.

16 (s) A continuum-of-care residential operation shall ensure

17 that each residential child-care facility operating under the

18 operation's license complies with this chapter and any standards

19 and rules adopted under this chapter that apply to the facility.

20 The executive commissioner by rule may prescribe the actions a

21 continuum-of-care residential operation must take to comply with

22 the minimum standards for each facility type.

23 SECTION 48. Section 42.0421(e), Human Resources Code, is

24 amended to read as follows:

25 (e) In addition to other training required by this section,

26 the executive commissioner by rule shall require an owner,

27 operator, or employee of a day-care center, group day-care home,

1 registered family home, general residential operation, cottage
2 home operation [~~foster group home~~], or specialized child-care
3 [~~agency foster group~~] home who transports a child under the care of
4 the facility whose chronological or developmental age is younger
5 than nine years of age to complete at least two hours of annual
6 training on transportation safety.

7 SECTION 49. Section 42.044(e), Human Resources Code, is
8 amended to read as follows:

9 (e) In addition to the department's responsibility to
10 investigate an agency foster home [~~or agency foster group home~~]
11 under Subsection (c), the department shall:

12 (1) periodically conduct inspections of a random
13 sample of agency foster homes [~~and agency foster group homes~~];

14 (2) investigate any report of a serious incident in an
15 agency foster home [~~or agency foster group home~~] that pertains to a
16 child under the age of six;

17 (3) investigate any alleged violation of a minimum
18 standard by an agency foster home [~~or agency foster group home~~] that
19 poses a high degree of risk to a child in the care of the home who is
20 under the age of six; and

21 (4) conduct at least one annual enforcement team
22 conference for each child-placing agency to thoroughly review the
23 investigations or inspections of the child-placing agency and all
24 of its agency foster homes to monitor and enforce compliance by a
25 child-placing agency with rules and standards established under
26 Section 42.042.

27 SECTION 50. Section 42.0448, Human Resources Code, is

1 amended to read as follows:

2 Sec. 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS. The
3 department shall notify a child-placing agency or a
4 continuum-of-care residential operation that includes a
5 child-placing agency of each family violence report the department
6 receives under Article 5.05, Code of Criminal Procedure, that:

7 (1) occurred at an agency foster home [~~verified by the~~
8 ~~child-placing agency~~]; or

9 (2) involves a person who resides at an agency foster
10 home [~~verified by the child-placing agency~~].

11 SECTION 51. Section 42.0449, Human Resources Code, is
12 amended to read as follows:

13 Sec. 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY
14 VIOLENCE CALL. The executive commissioner shall adopt rules
15 specifying the actions that the department, [~~an independent foster~~
16 ~~home, and~~] a child-placing agency, and a continuum-of-care
17 residential operation that includes a child-placing agency shall
18 take after receiving notice of a family violence report under
19 Article 5.05, Code of Criminal Procedure, or Section 42.0448 to
20 ensure the health, safety, and welfare of each child residing in the
21 [~~licensed foster home or~~] verified agency foster home.

22 SECTION 52. Section 42.045(d), Human Resources Code, is
23 amended to read as follows:

24 (d) A [~~An independent foster home and a~~] child-placing
25 agency shall notify the department of any change of address for an
26 [~~a licensed foster home or a verified~~] agency foster home. The
27 [~~independent foster home and~~] child-placing agency shall notify the

1 department of the address change within the earlier of two business
2 days or 72 hours of the date the agency foster home changes its
3 address.

4 SECTION 53. The heading to Section 42.0451, Human Resources
5 Code, is amended to read as follows:

6 Sec. 42.0451. DATABASE OF AGENCY FOSTER HOMES; INFORMATION
7 PROVIDED TO DEPARTMENT OF PUBLIC SAFETY.

8 SECTION 54. Sections 42.0451(a) and (c), Human Resources
9 Code, are amended to read as follows:

10 (a) The department shall maintain a database of [~~licensed~~
11 ~~foster homes and verified~~] agency foster homes including the
12 current address for each agency foster [~~licensed or verified~~] home
13 as reported to the department. The database must be updated on a
14 regular basis.

15 (c) The Department of Public Safety shall include the
16 information provided under Subsection (b) in the Texas Crime
17 Information Center database and establish a procedure by which a
18 peace officer or employee of a law enforcement agency who provides
19 the department with a street address is automatically provided
20 information as to whether the address is [~~licensed as a foster home~~
21 ~~or~~] verified as an agency foster home under this chapter.

22 SECTION 55. Section 42.0452, Human Resources Code, is
23 amended to read as follows:

24 Sec. 42.0452. FOSTER PARENT RIGHTS AND RESPONSIBILITIES
25 STATEMENT. (a) The department shall develop a statement that lists
26 the rights and responsibilities of a foster parent in [~~a foster home~~
27 ~~or~~] an agency foster home and [~~of the department or~~] a child-placing

1 agency, as applicable.

2 (b) The department shall provide a written copy of the
3 statement developed under Subsection (a) to each foster parent in
4 an agency [~~a~~] foster home and to each child-placing agency licensed
5 by the department. A child-placing agency shall provide a written
6 copy of the statement developed under Subsection (a) to each foster
7 parent in an agency foster home verified by the child-placing
8 agency.

9 SECTION 56. Section 42.046(a), Human Resources Code, is
10 amended to read as follows:

11 (a) An applicant for a license to operate a child-care
12 facility, [~~or~~] child-placing agency, or continuum-of-care
13 residential operation or for a listing or registration to operate a
14 family home shall submit to the department the appropriate fee
15 prescribed by Section 42.054 and a completed application on a form
16 provided by the department.

17 SECTION 57. The heading to Section 42.0461, Human Resources
18 Code, is amended to read as follows:

19 Sec. 42.0461. PUBLIC NOTICE AND HEARING [~~IN CERTAIN~~
20 ~~COUNTIES~~]: RESIDENTIAL CHILD CARE.

21 SECTION 58. Sections 42.0461(a), (d), and (e), Human
22 Resources Code, are amended to read as follows:

23 (a) Before the department may issue a license or certificate
24 for the operation or the expansion of the capacity [~~of a foster~~
25 ~~group home or foster family home that is located in a county with a~~
26 ~~population of less than 300,000 and that provides child care for 24~~
27 ~~hours a day at a location other than the actual residence of a~~

1 ~~child's primary caretaker or]~~ of a general residential operation, a
2 cottage home operation, or a continuum-of-care residential
3 operation that is located in a county with a population of less than
4 300,000, the applicant for the license, certificate, or expansion
5 shall, at the applicant's expense:

6 (1) conduct a public hearing on the application in
7 accordance with department rules after notifying the department of
8 the date, time, and location of the hearing; and

9 (2) publish notice of the application in a newspaper
10 of general circulation in the community in which the child-care
11 services are proposed to be provided.

12 (d) Before issuing a license or certificate described by
13 Subsection (a), the department shall consider written information
14 provided by an interested party directly to the department's
15 representative at the public hearing concerning:

16 (1) the amount of local resources available to support
17 children proposed to be served by the applicant;

18 (2) the impact of the proposed child-care services on
19 the ratio in the local school district of students enrolled in a
20 special education program to students enrolled in a regular
21 education program and the effect, if any, on the children proposed
22 to be served by the applicant; and

23 (3) the impact of the proposed child-care services on
24 the community and the effect on opportunities for social
25 interaction for the children proposed to be served by the
26 applicant.

27 (e) Based on the written information provided to the

1 department's representative at the public hearing, the [The]
2 department may deny the application if the department determines
3 that:

4 (1) the community has insufficient resources to
5 support children proposed to be served by the applicant;

6 (2) granting the application would significantly
7 increase the ratio in the local school district of students
8 enrolled in a special education program to students enrolled in a
9 regular education program and the increase would adversely affect
10 the children proposed to be served by the applicant; or

11 (3) granting the application would have a significant
12 adverse impact on the community and would limit opportunities for
13 social interaction for the children proposed to be served by the
14 applicant.

15 SECTION 59. Subchapter C, Chapter 42, Human Resources Code,
16 is amended by adding Section 42.0463 to read as follows:

17 Sec. 42.0463. EXPANSION OF CAPACITY. (a) Notwithstanding
18 the limitations established by Section 42.002, the department may:

19 (1) develop, by rule, criteria to determine when it
20 may be appropriate to exclude children who are related to a
21 caretaker in determining a residential child-care facility's total
22 capacity; and

23 (2) issue an exception in accordance with department
24 rules allowing an agency foster home, cottage family home, or
25 specialized child-care home to expand its capacity and care for not
26 more than eight children.

27 (b) The department may include children who are related to a

1 caretaker when determining under Subsection (a)(1) whether a
2 residential child-care facility complies with the standards
3 relating to total capacity or child-to-caregiver ratios for the
4 facility.

5 SECTION 60. Section 42.048(e), Human Resources Code, is
6 amended to read as follows:

7 (e) A license issued under this chapter is not transferable
8 and applies only to the operator and facility location stated in the
9 license application. Except as provided by this subsection, a
10 change in location or ownership automatically revokes a license. A
11 change in location of a child-placing agency does not automatically
12 revoke the license to operate the child-placing agency. A
13 residential child-care facility operating under the license of a
14 continuum-of-care residential operation that changes location may
15 not continue to operate under that license unless the department
16 approves the new location after the continuum-of-care residential
17 operation meets all requirements related to the new location.

18 SECTION 61. Section 42.053, Human Resources Code, is
19 amended to read as follows:

20 Sec. 42.053. AGENCY FOSTER HOMES [~~AND AGENCY FOSTER GROUP~~
21 ~~HOMES~~]. (a) An agency foster home [~~or agency foster group home~~] is
22 considered part of the child-placing agency that operates the
23 agency foster home [~~or agency foster group home~~] for purposes of
24 licensing.

25 (b) The operator of a licensed agency shall display a copy
26 of the license in a prominent place in the agency foster home [~~or~~
27 ~~agency foster group home~~] used by the agency.

1 (c) An agency foster home [~~or agency foster group home~~]
2 shall comply with all provisions of this chapter and all department
3 rules and standards that apply to a child-care facility caring for a
4 similar number of children for a similar number of hours each day.

5 (d) The department shall revoke or suspend the license of a
6 child-placing agency if an agency foster home [~~or agency foster~~
7 ~~group home~~] operated by the licensed agency fails to comply with
8 Subsection (c).

9 (e) Before verifying an agency foster home, a child-placing
10 agency may issue a provisional verification to the home. The
11 executive commissioner by rule may establish the criteria for a
12 child-placing agency to issue a provisional verification to a
13 prospective agency foster home.

14 (f) If a child-placing agency under contract with the
15 division to provide services as an integrated care coordinator
16 places children with caregivers described by Subchapter I, Chapter
17 264, Family Code, those caregivers are not considered a part of the
18 child-placing agency for purposes of licensing.

19 SECTION 62. Section 42.0531, Human Resources Code, is
20 amended to read as follows:

21 Sec. 42.0531. SECURE AGENCY FOSTER HOMES [~~AND SECURE AGENCY~~
22 ~~FOSTER GROUP HOMES~~]. (a) The commissioners court of a county or
23 governing body of a municipality may contract with a child-placing
24 agency to verify a secure agency foster home [~~or secure agency~~
25 ~~foster group home~~] to provide a safe and therapeutic environment
26 tailored to the needs of children who are victims of trafficking.

27 (b) A child-placing agency may not verify a secure agency

1 foster home [~~or secure agency foster group home~~] to provide
2 services under this section unless the child-placing agency holds a
3 license issued under this chapter that authorizes the agency to
4 provide services to victims of trafficking in accordance with
5 department standards adopted under this chapter for child-placing
6 agencies.

7 (c) A secure agency foster home [~~or secure agency foster~~
8 ~~group home~~] verified under this section must provide:

9 (1) mental health and other services specifically
10 designed to assist children who are victims of trafficking under
11 Section 20A.02 or 20A.03, Penal Code, including:

- 12 (A) victim and family counseling;
- 13 (B) behavioral health care;
- 14 (C) treatment and intervention for sexual
15 assault;
- 16 (D) education tailored to the child's needs;
- 17 (E) life skills training;
- 18 (F) mentoring; and
- 19 (G) substance abuse screening and treatment as
20 needed;

21 (2) individualized services based on the trauma
22 endured by a child, as determined through comprehensive assessments
23 of the service needs of the child;

24 (3) 24-hour services; and

25 (4) appropriate security through facility design,
26 hardware, technology, and staffing.

27 SECTION 63. Sections 42.0535(a), (b), (d), and (e), Human

1 Resources Code, are amended to read as follows:

2 (a) A child-placing agency that seeks to verify an agency
3 foster home [~~or an agency group home~~] shall request background
4 information about the agency foster home [~~or group home~~] from a
5 child-placing agency that has previously verified the home as an
6 [~~that~~] agency foster home or agency foster group home.

7 (b) Notwithstanding Section 261.201, Family Code, a
8 child-placing agency that has verified an agency foster home or an
9 agency foster group home is required to release to another
10 child-placing agency background information requested under
11 Subsection (a).

12 (d) For purposes of this section, background information
13 means the home study under which the agency foster home or agency
14 foster group home was verified by the previous child-placing agency
15 and any record of noncompliance with state minimum standards
16 received and the resolution of any such noncompliance by the
17 previous child-placing agency.

18 (e) The executive commissioner by rule shall develop a
19 process by which a child-placing agency shall report to the
20 department:

21 (1) the name of any agency [~~verified~~] foster home [~~or~~
22 ~~foster group home~~] that has been closed for any reason, including a
23 voluntary closure;

24 (2) information regarding the reasons for the closure
25 of the agency foster home [~~or foster group home~~]; and

26 (3) the name and other contact information of a person
27 who may be contacted by another child-placing agency to obtain the

1 records relating to the closed agency foster home [~~or foster group~~
2 ~~home~~] that are required to be maintained and made available under
3 this section.

4 SECTION 64. Sections 42.054(a), (b), (d), and (g), Human
5 Resources Code, are amended to read as follows:

6 (a) The department shall charge an applicant a
7 nonrefundable application fee for an initial license to operate a
8 child-care facility, [~~or~~] a child-placing agency, or a
9 continuum-of-care residential operation.

10 (b) The department shall charge each child-care facility a
11 fee for an initial license. The department shall charge each
12 child-placing agency and continuum-of-care residential operation a
13 fee for an initial license.

14 (d) The department shall charge each licensed child-placing
15 agency and continuum-of-care residential operation an annual
16 license fee. The fee is due on the date on which the department
17 issues the [~~child-placing agency's~~] initial license to the
18 child-placing agency or continuum-of-care residential operation
19 and on the anniversary of that date.

20 (g) The provisions of Subsections (b) through (f) do not
21 apply to:

22 (1) [~~licensed foster homes and licensed foster group~~
23 ~~homes,~~

24 [~~(2)~~] nonprofit facilities regulated under this
25 chapter that provided 24-hour care for children in the managing
26 conservatorship of the department during the 12-month period
27 immediately preceding the anniversary date of the facility's

1 license;

2 (2) [~~3~~] facilities operated by a nonprofit
3 corporation or foundation that provides 24-hour residential care
4 and does not charge for the care provided; or

5 (3) [~~4~~] a family home listed under Section 42.0523
6 in which the relative child-care provider cares for the child in the
7 child's own home.

8 SECTION 65. Section 42.0561, Human Resources Code, is
9 amended to read as follows:

10 Sec. 42.0561. INFORMATION RELATING TO FAMILY VIOLENCE
11 REPORTS. Before [~~the department may issue a license or~~
12 ~~registration for a foster home or~~] a child-placing agency may issue
13 a verification certificate for an agency foster home, the
14 [~~department or~~] child-placing agency must obtain information
15 relating to each family violence report at the applicant's
16 residence to which a law enforcement agency responded during the 12
17 months preceding the date of the application. The applicant shall
18 provide the information on a form prescribed by the department.

19 SECTION 66. Section 42.063(d), Human Resources Code, is
20 amended to read as follows:

21 (d) An employee or volunteer of a general residential
22 operation, child-placing agency, continuum-of-care residential
23 operation, cottage home operation [~~foster home~~], or specialized
24 child-care [~~foster group~~] home shall report any serious incident
25 directly to the department if the incident involves a child under
26 the care of the operation, agency, or home.

27 SECTION 67. Subchapter C, Chapter 42, Human Resources Code,

1 is amended by adding Section 42.066 to read as follows:

2 Sec. 42.066. REQUIRED SUBMISSION OF INFORMATION REQUESTED
3 BY COURT. A general residential operation that provides mental
4 health treatment or services to a child in the managing
5 conservatorship of the department shall timely submit to the court
6 in a suit affecting the parent-child relationship under Subtitle E,
7 Title 5, Family Code, all information requested by that court.

8 SECTION 68. The heading to Section 25.07, Penal Code, is
9 amended to read as follows:

10 Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS
11 OF BOND IN A FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT, SEXUAL ASSAULT
12 OR ABUSE, STALKING, OR TRAFFICKING CASE.

13 SECTION 69. Section 25.07(a), Penal Code, is amended to
14 read as follows:

15 (a) A person commits an offense if, in violation of a
16 condition of bond set in a family violence, sexual assault or abuse,
17 stalking, or trafficking case and related to the safety of a victim
18 or the safety of the community, an order issued under Chapter 7A,
19 Code of Criminal Procedure, an order issued under Article 17.292,
20 Code of Criminal Procedure, an order issued under Section 6.504,
21 Family Code, Chapter 83, Family Code, if the temporary ex parte
22 order has been served on the person, [~~or~~] Chapter 85, Family Code,
23 or Subchapter F, Chapter 261, Family Code, or an order issued by
24 another jurisdiction as provided by Chapter 88, Family Code, the
25 person knowingly or intentionally:

26 (1) commits family violence or an act in furtherance
27 of an offense under Section 20A.02, 22.011, 22.021, or 42.072;

1 (2) communicates:

2 (A) directly with a protected individual or a
3 member of the family or household in a threatening or harassing
4 manner;

5 (B) a threat through any person to a protected
6 individual or a member of the family or household; or

7 (C) in any manner with the protected individual
8 or a member of the family or household except through the person's
9 attorney or a person appointed by the court, if the violation is of
10 an order described by this subsection and the order prohibits any
11 communication with a protected individual or a member of the family
12 or household;

13 (3) goes to or near any of the following places as
14 specifically described in the order or condition of bond:

15 (A) the residence or place of employment or
16 business of a protected individual or a member of the family or
17 household; or

18 (B) any child care facility, residence, or school
19 where a child protected by the order or condition of bond normally
20 resides or attends;

21 (4) possesses a firearm;

22 (5) harms, threatens, or interferes with the care,
23 custody, or control of a pet, companion animal, or assistance
24 animal that is possessed by a person protected by the order or
25 condition of bond; or

26 (6) removes, attempts to remove, or otherwise tampers
27 with the normal functioning of a global positioning monitoring

1 system.

2 SECTION 70. The heading to Section 25.072, Penal Code, is
3 amended to read as follows:

4 Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR
5 CONDITIONS OF BOND IN FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT,
6 SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE.

7 SECTION 71. Sections 42.0461(f) and (g), Human Resources
8 Code, are repealed.

9 SECTION 72. (a) In this section:

10 (1) "Attorney ad litem" has the meaning assigned by
11 Section 107.001, Family Code.

12 (2) "Commission" means the Permanent Judicial
13 Commission for Children, Youth and Families established by the
14 supreme court.

15 (b) The commission shall study the appointment and use of
16 attorneys ad litem in cases involving the Department of Family and
17 Protective Services. The commission shall:

18 (1) examine:

19 (A) the method for appointing attorneys ad litem;

20 (B) the oversight and accountability measures
21 used across the state to monitor attorneys ad litem;

22 (C) the methods by which qualifications for
23 appointment as an attorney ad litem and training requirements for
24 an attorney ad litem are established and enforced;

25 (D) the timing of and duration of appointments;

26 (E) the rate of compensation for appointments and
27 the method for establishing compensation rates across the state;

1 (F) the quality of representation and methods for
2 assessing performance of attorneys ad litem;

3 (G) the pretrial and posttrial client
4 satisfaction with representation by attorneys ad litem
5 representing parents and attorneys ad litem representing children;

6 (H) organizational studies and national
7 standards related to the workload of attorneys ad litem;

8 (I) the best practices for attorneys ad litem;
9 and

10 (J) the estimated and average costs associated
11 with legal representation by an attorney ad litem per child
12 compared with the costs associated with foster care per child;

13 (2) conduct a survey of attorneys ad litem about the
14 attorney's training, including:

15 (A) the attorney's legal education;

16 (B) whether the attorney is certified as a
17 specialist by the Texas Board of Legal Specialization in any area of
18 law; and

19 (C) the professional standards followed by the
20 attorney;

21 (3) perform a statistical analysis of the data and
22 information collected under Subdivisions (1) and (2) of this
23 subsection; and

24 (4) develop policy recommendations for improving the
25 attorney ad litem appointment process.

26 (c) The commission shall prepare a report based on the
27 findings of the study conducted under this section and shall submit

1 the report to each member of the legislature not later than
2 September 1, 2018.

3 SECTION 73. (a) The changes in law made by this Act apply
4 only to a service plan filed for a full adversary hearing held under
5 Section 262.201, Family Code, or a status hearing held under
6 Chapter 263, Family Code, on or after January 1, 2018. A hearing
7 held before that date is governed by the law in effect immediately
8 before the effective date of this Act, and that law is continued in
9 effect for that purpose.

10 (b) The changes made by this Act to Section 263.401, Family
11 Code, apply only to a suit affecting the parent-child relationship
12 pending in a trial court on the effective date of this Act or filed
13 on or after the effective date of this Act. A suit affecting the
14 parent-child relationship in which a final order is rendered before
15 the effective date of this Act is governed by the law in effect on
16 the date the order was rendered, and the former law is continued in
17 effect for that purpose.

18 (c) Except as otherwise provided by this section, the
19 changes in law made by this Act apply only to a suit affecting the
20 parent-child relationship filed on or after the effective date of
21 this Act. A suit affecting the parent-child relationship filed
22 before the effective date of this Act is subject to the law in
23 effect at the time the suit was filed, and the former law is
24 continued in effect for that purpose.

25 SECTION 74. Subchapter F, Chapter 261, Family Code, as
26 added by this Act, Section 262.206, Family Code, as added by this
27 Act, Section 572.001, Health and Safety Code, as amended by this

1 Act, and Section 25.07(a), Penal Code, as amended by this Act, take
2 effect only if a specific appropriation for the implementation of
3 those sections is provided in a general appropriations act of the
4 85th Legislature.

5 SECTION 75. Subject to an appropriation of funds for this
6 purpose, the executive commissioner of the Health and Human
7 Services Commission shall adopt minimum standards related to
8 continuum-of-care operations, cottage home operations, and
9 specialized child-care homes as provided by Section 42.042, Human
10 Resources Code, as amended by this Act, as soon as practicable after
11 the effective date of this Act.

12 SECTION 76. (a) The executive commissioner of the Health
13 and Human Services Commission shall develop and implement a
14 procedure by which a residential child-care facility that holds a
15 license or certification issued under Chapter 42, Human Resources
16 Code, may convert the license or certification to a new type of
17 residential child-care facility license or certification created
18 by this Act.

19 (b) With respect to a residential child-care facility
20 converting a license or certification under Subsection (a) of this
21 section, the Health and Human Services Commission may waive
22 requirements for an initial inspection, an initial background and
23 criminal history check, or a family violence report, or for notice
24 and hearing if the commission determines that previous inspections,
25 background and criminal history checks, family violence reports, or
26 notice and hearing, as applicable, were conducted and are
27 sufficient to ensure the safety of children receiving care at the

1 residential child-care facility converting a license or
2 certification.

3 SECTION 77. (a) The executive commissioner of the Health
4 and Human Services Commission shall develop and implement a
5 procedure that requires a foster home or a foster group home that
6 holds a license issued by the Department of Family and Protective
7 Services under Chapter 42, Human Resources Code, before September
8 1, 2017, to convert the license to another residential child-care
9 facility license issued under Chapter 42, Human Resources Code, or
10 relinquish the license.

11 (b) With respect to a foster home or foster group home
12 converting a license under Subsection (a) of this section, the
13 Health and Human Services Commission may waive requirements for an
14 initial inspection, an initial background and criminal history
15 check, or a family violence report, or for notice and hearing if the
16 commission determines that previous inspections, background and
17 criminal history checks, family violence reports, or notice and
18 hearing, as applicable, were conducted and are sufficient to ensure
19 the safety of children receiving care at the foster home or foster
20 group home converting a license or certification.

21 (c) The Department of Family and Protective Services may not
22 issue a license or certification to a foster home or foster group
23 home after August 31, 2017.

24 (d) A foster home or a foster group home that was licensed by
25 the department before September 1, 2017, may continue to operate
26 under the law as it existed immediately before the effective date of
27 this Act, and that law is continued in effect for that purpose,

1 until each foster home and foster group home has been converted to
2 another residential child-care facility license or the license has
3 been relinquished.

4 SECTION 78. (a) The executive commissioner of the Health
5 and Human Services Commission shall develop and implement a
6 procedure that requires a child-placing agency that verified,
7 before September 1, 2017, an agency foster group home according to
8 the Minimum Standards for Child-Placing Agencies to convert the
9 agency foster group home to an agency foster home or to close the
10 agency foster group home.

11 (b) With respect to a child-placing agency converting an
12 agency foster group home under Subsection (a) of this section, the
13 Health and Human Services Commission may waive requirements for an
14 initial inspection, an initial background and criminal history
15 check, or a family violence report, if the commission determines
16 that previous inspections, background and criminal history checks,
17 or family violence reports, as applicable, were conducted and are
18 sufficient to ensure the safety of children receiving care at the
19 agency foster home.

20 (c) A child-placing agency may not verify an agency foster
21 group home after August 31, 2017.

22 (d) An agency foster group home that was verified by a
23 child-placing agency before September 1, 2017, may continue to
24 operate under the child-placing agency that verified the home and
25 under the law as it existed immediately before the effective date of
26 this Act, and that law is continued in effect for that purpose,
27 until each agency foster group home has been converted to a verified

1 foster home or has been closed.

2 SECTION 79. Except as otherwise provided by this Act, this
3 Act takes effect September 1, 2017.

Jan Pak
President of the Senate

Joe Straus
Speaker of the House

I certify that H.B. No. 7 was passed by the House on May 9, 2017, by the following vote: Yeas 145, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 7 on May 26, 2017, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 7 was passed by the Senate, with amendments, on May 24, 2017, by the following vote: Yeas 31, Nays 0.

Patsy Spaw
Secretary of the Senate

APPROVED: 5 - 31 - 2017

Date

Greg Abbott
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:22 O'CLOCK

[Signature]
MAY 31 2017
Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Wu (Relating to child protective services suits, motions, and services by the Department of Family and Protective Services.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Passed 2nd House: a negative impact of (\$4,401,428) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Certain provisions of the bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing those provisions; otherwise, the provisions would not take effect.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$1,805,616)
2019	(\$2,595,812)
2020	(\$2,595,812)
2021	(\$2,595,812)
2022	(\$2,595,812)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from GR Match For Medicaid 758	Probable Savings/(Cost) from Federal Funds 555	Change in Number of State Employees from FY 2017
2018	(\$1,793,887)	(\$11,729)	(\$117,291)	10.2
2019	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2
2020	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2
2021	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2
2022	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2

Fiscal Analysis

The bill would amend the Family Code, Government Code, Health and Safety Code, Human Resources Code, and Penal Code relating to child protective services suits, motions, and services by the Department of Family and Protective Services (DFPS).

The bill would require DFPS, upon request, to provide certain information to a parent's attorney or child's attorney ad litem before the full adversary hearing.

The bill would amend a provision in the Health and Safety Code to limit DFPS's ability to admit a minor to an inpatient mental health facility. With this bill, DFPS would be required to go through an application for court-ordered mental health services, emergency detention, or an order for protective custody or have a physician state the minor is a person with a mental illness or serious emotional disorder and one who presents a risk of serious harm to self or others if not immediately restrained or hospitalized. The bill would require DFPS to periodically review the need for continued inpatient treatment of the minor and, if inpatient treatment is no longer needed, DFPS would be required to place the child in the least restrictive environment, as appropriate.

The bill would amend a provision in the Penal Code to apply violations of certain court orders (created elsewhere in the bill) to child abuse or neglect cases, creating an offense.

The bill would modify the existing Child Care Licensing licensure process to allow for additional license types for certain providers of child-care services. The bill would allow a child-placing agency to issue a provisional verification to a prospective agency foster home.

The bill would require the Executive Commissioner of the Health and Human Services Commission (HHSC) to adopt minimum standards related to certain new license types for certain child-care providers. The bill would also require HHSC to develop and implement a procedure to require a foster home or foster group home to convert a current license to another residential child-care facility license under Chapter 42, Human Resources Code, and to require a child-placing agency to convert certain agency foster group homes to an agency foster home or to close the agency foster group home.

Certain provisions of the bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing those provisions: the provisions affected by this limitation include Subchapter F, Chapter 261, Family Code (Protective Order in Certain Cases of Abuse or Neglect), Section 262.206, Family Code (Ex Parte Hearings Prohibited), Section 572.001, Health and Safety Code (admission to inpatient mental health facility), Section 25.07, Penal Code (violation of certain orders relating to child abuse or neglect), and Section 42.042, Human Resources Code (minimum standards related to continuum-of-care operations, cottage

home operations, and specialized child-care homes). This estimate does not identify costs with all of those provisions.

Except as otherwise provided, the bill would take effect on September 1, 2017. The bill stipulates how and when the provisions of the bill are to be applied and lists under which circumstances former law is continued in effect.

Methodology

The bill is estimated to result in a cost of \$1,172,907, in All Funds, in fiscal year 2018, and a cost of \$1,088,379, in All Funds, in fiscal year 2019.

According to DFPS and HHSC, all of the duties and responsibilities associated with implementing the provisions of the bill related to coordinating with TJJD for services to multi-system youth, developing recommendations related to jury selection methods, permitting guardians ad litem to interview educators and child welfare service providers, filing protective orders jointly with a parent, relative or caregiver of the child, postponing the adversary hearing to allow a parent to work with an attorney, and requiring MCOs in STAR Health ensure continuity of care for a child whose substitute care placement has changed could be accomplished by utilizing existing agency resources.

According to DFPS, the requirement to provide certain information that will be introduced as evidence to the attorney or attorneys representing a parent or a child prior to a full adversary hearing, three additional investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$323,552, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$298,568, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 in All Funds per fiscal year. DFPS estimates each removal has one audio recording at a cost of \$.20 per recording, resulting in a cost of \$3,816 in All Funds per fiscal year.

DFPS assumes about 10 percent of total inpatient mental health admissions, approximately 450 per year. According to the agency, this would require an additional 16 hours of caseworker time to obtain the needed certifications, participate in court hearings, and transport the minor to the additional appointments for examination. To accomplish this requirement, the agency reports an additional 4.5 conservatorship (CVS) workers plus ratio driven staff will be needed. This analysis assumes that an additional 7.15 FTE would be needed to implement this provision. This would result in a cost of approximately \$771,131, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$711,587, in All Funds, in each fiscal year thereafter.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact to the state court system related to the creation of a new criminal offense. OCA also does not anticipate a significant increase in the caseload or duties of the courts.

This analysis assumes that the addition of licensing types will require significant changes to the Child Care Licensing Automated Support System (CLASS). DFPS is currently in the process of initiating several projects related to IMPACT Phase II, and this analysis assumes that enhancements to the current system within the larger set of IMPACT projects would cost an additional estimated \$750,000 in fiscal year 2018.

Based on the LBB's analysis of DFPS, the addition of new license types would not result in children moving into different rate levels.

Provisions of the bill related to provisional verification of foster homes would allow kinship caregivers who are going through the process of becoming verified foster parents to receive foster care payments at an earlier date. According to DFPS, the average kinship foster family takes three months to achieve full licensure. Under current law, no new Permanency Care Assistance agreements may be entered into after the close of fiscal year 2017. It is assumed that this will result in a 50 percent reduction in the number of families entering paid kinship care, as federal and state law requires that a home must be verified for a minimum of six consecutive months to be eligible for Permanency Care Assistance and many families undertake the verification process in order to receive Permanency Care Assistance.

This analysis assumes that provisional licensure will begin on September 1, 2018 to provide time to promulgate program rules. Based on fiscal year 2016 data, it is assumed that approximately 1,200 children would enter paid kinship care annually. The children would be eligible for an extra three months of payments, at an average monthly cost of \$1,214. Total costs would be \$1.6 million in General Revenue and \$4.4 million in All Funds in fiscal year 2019 and each year thereafter. This analysis assumes that IV-E eligibility and method of finance would remain constant.

In the event that the Permanency Care Assistance program is continued, DFPS assumes that any costs associated with provisional verification would be offset by a faster exit from the foster system.

Based on the LBB's analysis of the Health and Human Services Commission, costs related to the adoption of minimum standards and procedures related to the implementation of the new licensing types created by the bill are minimal and could be absorbed by utilizing existing agency resources.

Technology

This analysis assumes that the addition of licensing types will require significant changes to the Child Care Licensing Automated Support System (CLASS). DFPS is currently in the process of initiating several projects related to IMPACT Phase II, and this analysis assumes that enhancements to the current system within the larger set of IMPACT projects would cost an additional estimated \$750,000 in fiscal year 2018.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 302 Office of the Attorney General, 529 Health and Human Services Commission, 696 Department of Criminal Justice

LBB Staff: UP, KCA, JJ, DFR, JLi, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 23, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB7** by Wu (Relating to child protective services suits, motions, and services by the Department of Family and Protective Services.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, Committee Report 2nd House, Substituted: a negative impact of (\$2,035,157) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Certain provisions of the bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing those provisions; otherwise, the provisions would not take effect.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$1,055,616)
2019	(\$979,541)
2020	(\$979,541)
2021	(\$979,541)
2022	(\$979,541)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from GR Match For Medicaid 758	Probable Savings/(Cost) from Federal Funds 555	Change in Number of State Employees from FY 2017
2018	(\$1,043,887)	(\$11,729)	(\$117,291)	10.2
2019	(\$968,657)	(\$10,884)	(\$108,838)	10.2
2020	(\$968,657)	(\$10,884)	(\$108,838)	10.2
2021	(\$968,657)	(\$10,884)	(\$108,838)	10.2
2022	(\$968,657)	(\$10,884)	(\$108,838)	10.2

Fiscal Analysis

The bill would amend the Family Code, Government Code, Health and Safety Code, Human Resources Code, and Penal Code relating to child protective services suits, motions, and services by the Department of Family and Protective Services (DFPS).

The bill would require DFPS, upon request, to provide certain information to a parent's attorney or child's attorney ad litem before the full adversary hearing.

The bill would amend a provision in the Health and Safety Code to limit DFPS's ability to admit a minor to an inpatient mental health facility. With this bill, DFPS would be required to go through an application for court-ordered mental health services, emergency detention, or an order for protective custody or have a physician state the minor is a person with a mental illness or serious emotional disorder and one who presents a risk of serious harm to self or others if not immediately restrained or hospitalized. The bill would require DFPS to periodically review the need for continued inpatient treatment of the minor and, if inpatient treatment is no longer needed, DFPS would be required to place the child in the least restrictive environment, as appropriate.

The bill would amend a provision in the Penal Code to apply violations of certain court orders (created elsewhere in the bill) to child abuse or neglect cases, creating an offense.

Certain provisions of the bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing those provisions: the provisions affected by this limitation include Subchapter F, Chapter 261, Family Code (Protective Order in Certain Cases of Abuse or Neglect), Section 262.206, Family Code (Ex Parte Hearings Prohibited), Section 572.001, Health and Safety Code (admission to inpatient mental health facility), Section 25.07, Penal Code (violation of certain orders relating to child abuse or neglect). This estimate does not identify costs with all of those provisions.

Except as otherwise provided, the bill would take effect on September 1, 2017. The bill stipulates how and when the provisions of the bill are to be applied and lists under which circumstances former law is continued in effect.

Methodology

The bill is estimated to result in a cost of \$1,172,907, in All Funds, in fiscal year 2018, and a cost of \$1,088,379, in All Funds, in fiscal year 2019.

According to DFPS and HHSC, all of the duties and responsibilities associated with implementing the provisions of the bill related to coordinating with TJJD for services to multi-system youth,

developing recommendations related to jury selection methods, permitting guardians ad litem to interview educators and child welfare service providers, filing protective orders jointly with a parent, relative or caregiver of the child, postponing the adversary hearing to allow a parent to work with an attorney, and requiring MCOs in STAR Health ensure continuity of care for a child whose substitute care placement has changed could be accomplished by utilizing existing agency resources.

According to DFPS, the requirement to provide certain information that will be introduced as evidence to the attorney or attorneys representing a parent or a child prior to a full adversary hearing, three additional investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$323,552, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$298,568, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 in All Funds per fiscal year. DFPS estimates each removal has one audio recording at a cost of \$.20 per recording, resulting in a cost of \$3,816 in All Funds per fiscal year.

DFPS assumes about 10 percent of total inpatient mental health admissions, approximately 450 per year. According to the agency, this would require an additional 16 hours of caseworker time to obtain the needed certifications, participate in court hearings, and transport the minor to the additional appointments for examination. To accomplish this requirement, the agency reports an additional 4.5 conservatorship (CVS) workers plus ratio driven staff will be needed. This analysis assumes that an additional 7.15 FTE would be needed to implement this provision. This would result in a cost of approximately \$771,131, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$711,587, in All Funds, in each fiscal year thereafter.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact to the state court system related to the creation of a new criminal offense. OCA also does not anticipate a significant increase in the caseload or duties of the courts.

Technology

No significant technology-related costs reported by DFPS.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 302 Office of the Attorney General, 529 Health and Human Services Commission, 696 Department of Criminal Justice

LBB Staff: UP, KCA, JJ, DFR, JLi, JGA

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Wu (Relating to child protective services suits, motions, and services by the Department of Family and Protective Services.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Engrossed: a negative impact of (\$36,939,594) through the biennium ending August 31, 2019.

In addition, there could be a fiscal impact to the state for provisions of the bill related to grants for family drug courts; however, due to the number of unknown variables, such as the number of potential recipients and the value of the grants, the amount cannot be determined.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$19,095,721)
2019	(\$17,843,873)
2020	(\$17,887,202)
2021	(\$17,926,602)
2022	(\$17,964,475)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>GR Match For Medicaid</i> 758	Probable Savings/(Cost) from <i>Federal Funds</i> 555	Change in Number of State Employees from FY 2017
2018	(\$18,883,546)	(\$212,175)	(\$2,121,747)	153.5
2019	(\$17,645,608)	(\$198,265)	(\$1,982,653)	153.5
2020	(\$17,688,455)	(\$198,747)	(\$1,987,467)	153.5
2021	(\$17,727,418)	(\$199,184)	(\$1,991,845)	153.5
2022	(\$17,764,870)	(\$199,605)	(\$1,996,053)	153.5

Fiscal Analysis

The bill would amend the Family Code, Government Code, Health and Safety Code, Human Resources Code, and Penal Code relating to child protective services suits, motions, and services by the Department of Family and Protective Services (DFPS).

The bill would require DFPS, upon request, to provide certain information to a parent's attorney or child's attorney ad litem before the full adversary hearing.

The bill would require DFPS to conduct an annual independent living skill assessment for children in the conservatorship of the state, beginning at 16 years of age, and allow DFPS to conduct the assessment for youth in permanent managing conservatorship, beginning at age 14, depending on funding. The bill would require DFPS to update the assessment annually. The bill would require DFPS to create a plan to standardize the Preparation for Adult Living Program curriculum and report the plan to the legislature no later than December 1, 2018.

The bill would create the Family Drug Court Fund as a dedicated account in the General Revenue fund, to be administered by HHSC. The fund would be comprised of appropriations of money to the fund by the Legislature, and gifts, grants, and other donations received for the fund. The bill would require that funds from the account only be used to pay counties to establish and administer a family drug court, if funds are available.

The bill would amend a provision in the Health and Safety Code to limit DFPS's ability to admit a minor to an inpatient mental health facility. With this bill, DFPS would be required to go through an application for court-ordered mental health services, emergency detention, or an order for protective custody or have a physician state the minor is a person with a mental illness or serious emotional disorder and one who presents a risk of serious harm to self if not immediately restrained or hospitalized. The bill would require DFPS to periodically review the need for continued inpatient treatment of the minor and, if inpatient treatment is no longer needed, DFPS would be required to place the child in the least restrictive environment, as appropriate.

The bill would amend a provision in the Penal Code to apply violations of certain court orders (created elsewhere in the bill) to child abuse or neglect cases, creating an offense.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

This bill would take effect on September 1, 2017. The bill stipulates how and when the provisions of the bill are to be applied and lists under which circumstances former law is continued in effect.

Methodology

The bill is estimated to result in a cost of \$21,217,468, in All Funds, in fiscal year 2018, and a cost of \$19,826,526, in All Funds, in fiscal year 2019.

According to DFPS and HHSC, all of the duties and responsibilities associated with implementing the provisions of the bill related to coordinating with TJJD for services to multi-system youth, developing recommendations related to jury selection methods, permitting guardians ad litem to interview educators and child welfare service providers, filing protective orders jointly with a parent, relative or caregiver of the child, postponing the adversary hearing to allow a parent to

work with an attorney, requiring all necessary referrals to service providers for parents are done within five days of the adversary hearing, and requiring MCOs in STAR Health ensure continuity of care for a child whose substitute care placement has changed could be accomplished by utilizing existing agency resources.

According to DFPS, the requirement to provide certain information that will be introduced as evidence to the attorney or attorneys representing a parent or a child prior to a full adversary hearing, three additional investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$336,673, in All Funds, in fiscal year 2018 for salary and benefits and \$314,769, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 in All Funds per fiscal year. DFPS estimates each removal has one audio recording at a cost of \$.20 per recording, resulting in a cost of \$3,816 in All Funds per fiscal year.

According to DFPS, conducting the annual life skills assessment for youth age 16 or older and some youth age 14 or older can be accomplished within existing agency resources.

This analysis assumes that administrative costs related to the establishment and operation of a grant program for family drug courts can be absorbed within HHSC's existing resources. However, there could be an indeterminate fiscal impact to the state depending upon the number and value of grants.

DFPS assumes about 10 percent of total inpatient mental health admissions, approximately 450 per year, will use the probate court process and that about half of those children will be admitted to an inpatient mental health facility through the process. According to the agency, this would require an additional 16 hours of caseworker time to obtain the needed certifications, participate in court hearings, and transport the minor to the additional appointments for examination. To accomplish this requirement, the agency reports an additional 4.5 conservatorship (CVS) workers plus ratio driven staff (3 FTE) will be needed. According to DFPS, the agency would require an additional 2 FTEs to manage the increased use of child specific contracts. This analysis assumes that each additional FTE would cost approximately \$100,905 per fiscal year for salary, benefits, and other related expenses.

According to DFPS, the bill's requirement that a child be a risk of harm to self to be admitted to an inpatient facility eliminates admissions for children who may be a risk of harm to others but not themselves. DFPS reports these children may have underlying psychiatric or psychotic issues but cannot meet the criteria as set out in this bill. DFPS assumes that 80 percent of the children currently being admitted would meet the criteria as established in the bill.

The children that do not meet that criteria would be more difficult to place due to residential treatment centers and child placing agencies being less willing to accept placement of a child that may pose a risk of harming other children in the home or facility. This analysis assumes about 10 percent of the current admissions (plus half the minors that are unsuccessful in attempting admission through the probate process) will not meet the requirements as established by this bill and will instead experience seven days of child without placement (CWOP) and then be placed in a child specific contract. According to DFPS, this would affect approximately 650 children per fiscal year and result in a cost of approximately \$4,197,640 in All Funds in fiscal year 2018 and \$4,247,264 in All Funds in fiscal year 2019. According to DFPS, this will also require an additional 94 CVS workers plus ratio related staff (47 FTE). This analysis assumes that each additional FTE would cost approximately \$100,905 per fiscal year for salary, benefits, and other related expenses.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact to the state court system related to the creation of a new criminal offense. OCA also does not anticipate a significant increase in the caseload or duties of the courts.

Technology

No significant technology-related costs reported by DFPS.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 302 Office of the Attorney General, 529 Health and Human Services Commission, 696 Department of Criminal Justice

LBB Staff: UP, KCA, JJ, DFR, JLi, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 29, 2017

TO: Honorable Richard Peña Raymond, Chair, House Committee on Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Wu (Relating to child protective services suits, motions, and services by the Department of Family and Protective Services.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, Committee Report 1st House, Substituted: a negative impact of (\$10,486,171) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$5,336,246)
2019	(\$5,149,925)
2020	(\$5,149,925)
2021	(\$5,149,925)
2022	(\$5,149,925)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from GR Match For Medicaid 758	Probable Revenue (Loss) from Chld Support Retained Col 787	Probable Savings/(Cost) from Federal Funds 555
2018	(\$4,465,656)	(\$70,590)	(\$800,000)	(\$136,339)
2019	(\$4,318,038)	(\$31,887)	(\$800,000)	(\$122,878)
2020	(\$4,318,038)	(\$31,887)	(\$800,000)	(\$122,878)
2021	(\$4,318,038)	(\$31,887)	(\$800,000)	(\$122,878)
2022	(\$4,318,038)	(\$31,887)	(\$800,000)	(\$122,878)

Fiscal Year	Change in Number of State Employees from FY 2017
2018	14.1
2019	14.1
2020	14.1
2021	14.1
2022	14.1

Fiscal Analysis

The bill would amend the Family Code, Government Code, Human Resources Code, and Penal Code relating to child protective services suits, motions, and services by the Department of Family and Protective Services (DFPS).

The bill would amend the Family Code to require DFPS and the Texas Juvenile Justice Department (TJJD) to coordinate for the provision of services to multi-system youth.

The bill would direct DFPS, with the Permanent Judicial Commission for Children, Youth and Families and other interested parties, to review and make recommendations to the legislature related to jury selection methods in suits affecting the parent-child relationship filed by DFPS.

The bill would prohibit a court from ordering a parent to make child support payments in a pending DFPS case.

The bill would require DFPS, upon request, to provide certain information to a parent's attorney or child's attorney ad litem before the full adversary hearing.

The bill would require DFPS to conduct an annual independent living skill assessment for children in the conservatorship of the state, beginning at 14 years of age. The bill would require DFPS to create a plan to standardize the Preparation for Adult Living Program curriculum and report the plan to the legislature no later than December 1, 2018.

The bill would amend a provision in the Penal Code to apply violations of certain court orders (created elsewhere in the bill) to child abuse or neglect cases, creating an offense.

This bill would take effect on September 1, 2017. The bill stipulates how and when the provisions of the bill are to be applied and lists under which circumstances former law is continued in effect.

Methodology

The bill is estimated to result in a cost of \$5,472,585, in All Funds, in fiscal year 2018, and a cost of \$5,272,803, in All Funds, in fiscal year 2019.

According to DFPS and HHSC, all of the duties and responsibilities associated with implementing the provisions of the bill related to coordinating with TJJD for services to multi-system youth, developing recommendations related to jury selection methods, filing protective orders jointly with a parent, relative or caregiver of the child, postponing the adversary hearing to allow a parent to work with an attorney, requiring all necessary referrals to service providers for parents are done within five days of the adversary hearing, and requiring MCOs in STAR Health ensure continuity of care for a child whose substitute care placement has changed could be accomplished by utilizing existing agency resources.

Depending on the type of substitute care provided to the child, child support payments made on behalf of children in substitute care are either distributed to relative caregivers or split amongst DFPS, the Office of the Attorney General (OAG), and the federal government. According to DFPS, in fiscal year 2016, \$1.8 million of child support collections were passed on to relatives for kinship placements and \$0.8 million was used to offset foster care costs. It is estimated the changes to section 154.001, Family Code, would result in \$1.6 million in lost child support collections revenue in the 2018-19 biennium, a savings of a like amount in DFPS Appropriated Receipts - Child Support Collections, and a cost of a like amount to the General Revenue Fund to replace funding for foster care payments. This analysis assumes the OAG would see an equal loss of \$1.6 million in lost child support collections revenue to the Child Support Retained Collections Account in the 2018-19 biennium because the agency receives an equal share of collections as DFPS.

According to DFPS, the requirement to provide certain information that will be introduced as evidence to the attorney or attorneys representing a parent or a child prior to a full adversary hearing, three additional investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$336,673, in All Funds, in fiscal year 2018 for salary and benefits and \$314,769, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 in All Funds per fiscal year. DFPS estimates each removal has one audio recording at a cost of \$.20 per recording, resulting in a cost of \$3,816 in All Funds per fiscal year.

According to the agency, to provide annually a life skills assessment for children in conservatorship of the state beginning at age 14 would approximately double the amount of assessments currently provided, and would cost approximately \$2.3 million each fiscal year. In addition, the analysis assumes that in order to coordinate services and track compliance, DFPS would require an additional 11.1 full-time equivalent (FTE) positions and \$111,406 for IMPACT database modifications. The analysis assumes that each additional FTE would cost approximately \$88,700 per fiscal year for related benefits and expenses, and approximately \$6,000 in fiscal year 2018 for one-time set up costs.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact to the state court system related to the creation of a new criminal offense. OCA also does not anticipate a significant increase in the caseload or duties of the courts.

Technology

The total technology cost is estimated to be \$111,406 in fiscal year 2018 for system changes, computer equipment, software licenses, and basic data storage under the contract for data center services.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 696 Department of Criminal Justice

LBB Staff: UP, KCA, JJ, DFR, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 19, 2017

TO: Honorable Richard Peña Raymond, Chair, House Committee on Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB7 by Wu (Relating to child protective services suits by the Department of Family and Protective Services.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Introduced: a negative impact of (\$1,999,411) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$1,113,377)
2019	(\$886,034)
2020	(\$886,034)
2021	(\$886,034)
2022	(\$886,034)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>GR Match For</i> <i>Medicaid</i> 758	Probable (Cost) from <i>Federal Funds</i> 555	Change in Number of State Employees from FY 2017
2018	(\$1,102,867)	(\$10,510)	(\$272,591)	9.5
2019	(\$876,189)	(\$9,845)	(\$98,448)	9.5
2020	(\$876,189)	(\$9,845)	(\$98,448)	9.5
2021	(\$876,189)	(\$9,845)	(\$98,448)	9.5
2022	(\$876,189)	(\$9,845)	(\$98,448)	9.5

Fiscal Analysis

The bill would amend and add various provisions to the Family Code relating to child protection suits regarding placement and findings by the Department of Family and Protective Services (DFPS).

The bill would provide that a person's voluntary agreement to temporarily place the person's child in the managing conservatorship of DFPS is inadmissible in a court hearing of a suit affecting the parent-child relationship as evidence that the person abused or neglected the child. The bill would require DFPS to, before the full adversary hearing, provide certain information to a parent's attorney or child's attorney ad litem.

The bill would establish a new statewide uniform basic family service plan for removals at the time of removal and expedite the timeframe in which DFPS provides services to the parents. The bill would require the court to incorporate the basic service plan into the order of the court at the full adversary hearing, with certain exceptions.

The bill would require DFPS to develop a statewide uniform basic family service plan to be filed with the court at each full adversary hearing. The bill stipulates what would need to be included in the basic family service plan, and requires DFPS to make all necessary referrals to service providers for parents to comply with the requirements of the service plan within five days of the full adversary hearing, and to provide certain information to the parents. The bill would require DFPS to develop the statewide uniform basic family service plan not later than December 1, 2017.

The effective date of the bill would be September 1, 2017.

Methodology

The bill is estimated to result in a cost of \$1,385,968, in All Funds, in fiscal year 2018, and a cost of \$984,482, in All Funds, in fiscal year 2019 and in each fiscal year thereafter.

The analysis assumes that the addition of Section 262.013 does not establish explicit authority that would be the basis for a person to enter into a voluntary temporary managing conservatorship agreement with DFPS and therefore assumes no cost associated with this provision. If this provision were interpreted to establish such authority, it could result in additional costs associated with an increase in the number of children entering foster care and an increase in the number of children remaining in foster care without parental rights terminated. However, the number of parents that would enter into a voluntary temporary managing conservatorship under such a scenario is uncertain and an estimate of the fiscal implications cannot be determined, but could be significant.

The requirement to provide certain information to the attorney or attorneys representing a parent or a child prior to a full adversary hearing is assumed to require a DFPS attorney to review the evidence. This estimate assumes 30 minutes review for each set of evidence. Based on 19,079 removals with full adversary hearings that occurred in fiscal year 2016, an additional 6.25 attorneys would be required to conduct the review of evidence prior to hearings. This would result in a cost of \$536,309, in All Funds, in fiscal year 2018 for salary and benefits and \$502,559, in All Funds, in each fiscal year thereafter. Additionally, according to DFPS two investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$220,646, in All Funds, in fiscal year 2018 for salary and benefits and \$209,846, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 per fiscal year. According to DFPS, an additional 1.25 investigative caseworkers would be necessary due to a portion of cases resulting in an extension and an additional hearing so that a parent's attorney can attend the meeting for the basic service plan. That would result in a cost of \$137,904, in All Funds, in fiscal year 2018 for salary and benefits and \$131,154, in All Funds, in each fiscal year thereafter.

DFPS assumes establishment of a new statewide uniform basic service plan would result in a cost in several areas. A one-time cost of \$334,986, in All Funds, for modifications to IMPACT to accommodate the new service plan and an ongoing annual cost of \$66,516 for FTE related technology costs are estimated.

This analysis assumes that the removing worker, which is either the investigation worker or the Family Based Safety Services worker, would review the new basic service plan with the family. This analysis assumes that the statewide uniform basic service plan required by the bill would not require actual service planning skills as it would not change from one family to another. Therefore, this analysis assumes this provision of the bill can be implemented using existing agency resources.

The Office of Court Administration anticipates no significant fiscal impact to the court system resulting from this bill.

Technology

The total technology cost is estimated to be \$483,218 in fiscal year 2018 and \$66,516 in each following year through fiscal year 2022 for system changes, computer equipment, software licenses, and basic data storage under the contract for data center services. This includes a one-time systems upgrade to IMPACT estimated to be \$334,986 in fiscal year 2018.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of

LBB Staff: UP, KCA, JJ, DFR