

Chapter 316

H.B. No. 5

1 AN ACT
2 relating to the powers and duties of the Department of Family and
3 Protective Services and the transfer of certain powers and duties
4 from the Health and Human Services Commission.

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

6 SECTION 1. Section 58.0051(a)(2), Family Code, is amended
7 to read as follows:

8 (2) "Juvenile service provider" means a governmental
9 entity that provides juvenile justice or prevention, medical,
10 educational, or other support services to a juvenile. The term
11 includes:

12 (A) a state or local juvenile justice agency as
13 defined by Section 58.101;

14 (B) health and human services agencies, as
15 defined by Section 531.001, Government Code, and the Health and
16 Human Services Commission;

17 (C) the Department of Family and Protective
18 Services;

19 (D) the Department of Public Safety;

20 (E) [~~(D)~~] the Texas Education Agency;

21 (F) [~~(E)~~] an independent school district;

22 (G) [~~(F)~~] a juvenile justice alternative
23 education program;

24 (H) [~~(G)~~] a charter school;

1 (I) [~~(H)~~] a local mental health or mental
2 retardation authority;

3 (J) [~~(I)~~] a court with jurisdiction over
4 juveniles;

5 (K) [~~(J)~~] a district attorney's office;

6 (L) [~~(K)~~] a county attorney's office; and

7 (M) [~~(L)~~] a children's advocacy center
8 established under Section 264.402.

9 SECTION 2. Section 58.0072(c), Family Code, is amended to
10 read as follows:

11 (c) The Texas Juvenile Justice Department may grant the
12 following entities access to juvenile justice information for
13 research and statistical purposes or for any other purpose approved
14 by the department:

15 (1) criminal justice agencies as defined by Section
16 411.082, Government Code;

17 (2) the Texas Education Agency, as authorized under
18 Section 37.084, Education Code;

19 (3) any agency under the authority of the Health and
20 Human Services Commission; [~~or~~]

21 (4) the Department of Family and Protective Services;
22 or

23 (5) a public or private university.

24 SECTION 3. Section 107.152(c), Family Code, is amended to
25 read as follows:

26 (c) The pre-placement and post-placement parts of an
27 adoption evaluation conducted by a licensed child-placing agency or

1 the department are governed by rules adopted by the [~~executive~~
2 commissioner of the department [~~Health and Human Services~~
3 ~~Commission~~].

4 SECTION 4. (a) Section 107.154(b), Family Code, is amended
5 to read as follows:

6 (b) To be qualified to conduct an adoption evaluation under
7 this subchapter, a person must:

8 (1) have a degree from an accredited college or
9 university in a human services field of study and a license to
10 practice in this state as a social worker, professional counselor,
11 marriage and family therapist, or psychologist and:

12 (A) have one year of full-time experience working
13 at a child-placing agency conducting child-placing activities; or

14 (B) be practicing under the direct supervision of
15 a person qualified under this section to conduct adoption
16 evaluations;

17 (2) be employed by or under contract with a domestic
18 relations office, provided that the person conducts adoption
19 evaluations relating only to families ordered to participate in
20 adoption evaluations conducted by the domestic relations office; or

21 (3) be qualified as a child custody evaluator under
22 Section 107.104.

23 (b) Section 107.154(b), Family Code, as amended by this
24 section, applies only to an adoption evaluation conducted on or
25 after the effective date of this Act. An adoption evaluation
26 conducted before the effective date of this Act is governed by the
27 law in effect on the date the evaluation was conducted, and the

1 former law is continued in effect for that purpose.

2 SECTION 5. Section 107.159(a), Family Code, is amended to
3 read as follows:

4 (a) Unless otherwise agreed to by the court, the
5 pre-placement part of an adoption evaluation must comply with the
6 minimum requirements for the pre-placement part of an adoption
7 evaluation under rules adopted by the ~~[executive]~~ commissioner of
8 the department ~~[Health and Human Services Commission]~~.

9 SECTION 6. Section 107.160(a), Family Code, is amended to
10 read as follows:

11 (a) Unless otherwise agreed to by the court, the
12 post-placement part of an adoption evaluation must comply with the
13 minimum requirements for the post-placement part of an adoption
14 evaluation under rules adopted by the ~~[executive]~~ commissioner of
15 the department ~~[Health and Human Services Commission]~~.

16 SECTION 7. Subchapter A, Chapter 162, Family Code, is
17 amended by adding Section 162.0086 to read as follows:

18 Sec. 162.0086. INFORMATION REGARDING SIBLING ACCESS. (a)
19 The Department of Family and Protective Services shall provide
20 information to each person seeking to adopt a child placed for
21 adoption by the department regarding the right of a child's sibling
22 to file a suit for access to the child under Sections 102.0045 and
23 153.551.

24 (b) The department may provide the information required
25 under Subsection (a) on any form or application provided to
26 prospective adoptive parents.

27 SECTION 8. Sections 162.304(b-2) and (g), Family Code, are

1 amended to read as follows:

2 (b-2) The [~~executive~~] commissioner of the department
3 [~~Health and Human Services Commission~~] shall adopt rules necessary
4 to implement Subsection (b-1), including rules that:

5 (1) limit eligibility for the subsidy under that
6 subsection to a child whose adoptive family income is less than 300
7 percent of the federal poverty level;

8 (2) provide for the manner in which the department
9 shall pay the subsidy under that subsection; and

10 (3) specify any documentation required to be provided
11 by an adoptive parent as proof that the subsidy is used to obtain
12 and maintain health benefits coverage for the adopted child.

13 (g) The [~~executive~~] commissioner of the department [~~Health~~
14 ~~and Human Services Commission~~] by rule shall provide that the
15 maximum amount of the subsidy under Subsection (b) that may be paid
16 to an adoptive parent of a child under an adoption assistance
17 agreement is an amount that is equal to the amount that would have
18 been paid to the foster parent of the child, based on the child's
19 foster care service level on the date the department and the
20 adoptive parent enter into the adoption assistance agreement. This
21 subsection applies only to a child who, based on factors specified
22 in rules of the department, the department determines would
23 otherwise have been expected to remain in foster care until the
24 child's 18th birthday and for whom this state would have made foster
25 care payments for that care. Factors the department may consider in
26 determining whether a child is eligible for the amount of the
27 subsidy authorized by this subsection include the following:

1 (1) the child's mental or physical disability, age,
2 and membership in a sibling group; and

3 (2) the number of prior placement disruptions the
4 child has experienced.

5 SECTION 9. Section 162.3041(a-1), Family Code, is amended
6 to read as follows:

7 (a-1) Notwithstanding Subsection (a), if the department
8 first entered into an adoption assistance agreement with a child's
9 adoptive parents after the child's 16th birthday, the department
10 shall, in accordance with rules adopted by the [~~executive~~
11 commissioner of the department [~~Health and Human Services~~
12 ~~Commission~~], offer adoption assistance after the child's 18th
13 birthday to the child's adoptive parents under an existing adoption
14 agreement until the last day of the month of the child's 21st
15 birthday, provided the child is:

16 (1) regularly attending high school or enrolled in a
17 program leading toward a high school diploma or high school
18 equivalency certificate;

19 (2) regularly attending an institution of higher
20 education or a postsecondary vocational or technical program;

21 (3) participating in a program or activity that
22 promotes, or removes barriers to, employment;

23 (4) employed for at least 80 hours a month; or

24 (5) incapable of doing any of the activities described
25 by Subdivisions (1)-(4) due to a documented medical condition.

26 SECTION 10. Subchapter A, Chapter 261, Family Code, is
27 amended by adding Section 261.004 to read as follows:

1 Sec. 261.004. REFERENCE TO EXECUTIVE COMMISSIONER OR
2 COMMISSION. In this chapter:

3 (1) a reference to the executive commissioner or the
4 executive commissioner of the Health and Human Services Commission
5 means the commissioner of the department; and

6 (2) a reference to the Health and Human Services
7 Commission means the department.

8 SECTION 11. Section 263.009(a), Family Code, is amended to
9 read as follows:

10 (a) The department shall hold a permanency planning meeting
11 for each child for whom the department is appointed temporary
12 managing conservator in accordance with a schedule adopted by the
13 [~~executive~~] commissioner of the department [~~Health and Human~~
14 ~~Services Commission~~] by rule that is designed to allow the child to
15 exit the managing conservatorship of the department safely and as
16 soon as possible and be placed with an appropriate adult caregiver
17 who will permanently assume legal responsibility for the child.

18 SECTION 12. Subchapter A, Chapter 264, Family Code, is
19 amended by adding Section 264.0011 to read as follows:

20 Sec. 264.0011. REFERENCE TO EXECUTIVE COMMISSIONER OR
21 COMMISSION. In this chapter:

22 (1) a reference to the executive commissioner or the
23 executive commissioner of the Health and Human Services Commission
24 means the commissioner of the department; and

25 (2) a reference to the commission or the Health and
26 Human Services Commission means the department.

27 SECTION 13. Chapter 264, Family Code, is amended by adding

1 Subchapter B-1 to read as follows:

2 SUBCHAPTER B-1. COMMUNITY-BASED CARE

3 Sec. 264.170. LIMITED LIABILITY FOR SINGLE SOURCE CONTINUUM

4 CONTRACTOR AND RELATED PERSONNEL. (a) A nonprofit entity that
5 contracts with the department to provide services as a single
6 source continuum contractor under this subchapter is considered to
7 be a charitable organization for the purposes of Chapter 84, Civil
8 Practice and Remedies Code, with respect to the provision of those
9 services, and that chapter applies to the entity and any person who
10 is an employee or volunteer of the entity.

11 (b) The limitations on liability provided by this section
12 apply:

13 (1) only to an act or omission by the entity or person,
14 as applicable, that occurs while the entity or person is acting
15 within the course and scope of the entity's contract with the
16 department and the person's duties for the entity; and

17 (2) only if insurance coverage in the minimum amounts
18 required by Chapter 84, Civil Practice and Remedies Code, is in
19 force and effect at the time a cause of action for personal injury,
20 death, or property damage accrues.

21 SECTION 14. Section 265.105, Family Code, as added by
22 Chapter 1257 (H.B. 2630), Acts of the 84th Legislature, Regular
23 Session, 2015, is amended to read as follows:

24 Sec. 265.105. RULES. The [~~executive~~] commissioner of the
25 department [~~Health and Human Services Commission~~] may adopt rules
26 as necessary to implement this subchapter.

27 SECTION 15. Section 265.106, Family Code, is amended to

1 read as follows:

2 Sec. 265.106. PARTNERSHIP PROGRAM STANDARDS. The
3 [~~executive~~] commissioner, with the assistance of the Nurse-Family
4 Partnership National Service Office, shall adopt standards for the
5 partnership programs funded under this subchapter. The standards
6 must adhere to the Nurse-Family Partnership National Service Office
7 program model standards and guidelines that were developed in
8 multiple, randomized clinical trials and have been tested and
9 replicated in multiple communities.

10 SECTION 16. Section 265.109(a), Family Code, is amended to
11 read as follows:

12 (a) The department, with the assistance of the Nurse-Family
13 Partnership National Service Office, shall:

14 (1) adopt performance indicators that are designed to
15 measure a grant recipient's performance with respect to the
16 partnership program standards adopted by the [~~executive~~]
17 commissioner under Section 265.106;

18 (2) use the performance indicators to continuously
19 monitor and formally evaluate on an annual basis the performance of
20 each grant recipient; and

21 (3) prepare and submit an annual report, not later
22 than December 1 of each year, to the Senate Health and Human
23 Services Committee, or its successor, and the House Human Services
24 Committee, or its successor, regarding the performance of each
25 grant recipient during the preceding state fiscal year with respect
26 to providing partnership program services.

27 SECTION 17. Section 266.001, Family Code, is amended by

1 adding Subdivision (1-b) to read as follows:

2 (1-b) "Commissioner" means the commissioner of the
3 Department of Family and Protective Services.

4 SECTION 18. Section 266.003, Family Code, is amended to
5 read as follows:

6 Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT
7 VICTIMS. (a) The department [~~commission~~] shall collaborate with
8 the commission and health care and child welfare professionals to
9 design a comprehensive, cost-effective medical services delivery
10 model, either directly or by contract, to meet the needs of children
11 served by the department. The medical services delivery model must
12 include:

13 (1) the designation of health care facilities with
14 expertise in the forensic assessment, diagnosis, and treatment of
15 child abuse and neglect as pediatric centers of excellence;

16 (2) a statewide telemedicine system to link department
17 investigators and caseworkers with pediatric centers of excellence
18 or other medical experts for consultation;

19 (3) identification of a medical home for each foster
20 child on entering foster care at which the child will receive an
21 initial comprehensive assessment as well as preventive treatments,
22 acute medical services, and therapeutic and rehabilitative care to
23 meet the child's ongoing physical and mental health needs
24 throughout the duration of the child's stay in foster care;

25 (4) the development and implementation of health
26 passports as described in Section 266.006;

27 (5) establishment and use of a management information

1 system that allows monitoring of medical care that is provided to
2 all children in foster care;

3 (6) the use of medical advisory committees and medical
4 review teams, as appropriate, to establish treatment guidelines and
5 criteria by which individual cases of medical care provided to
6 children in foster care will be identified for further, in-depth
7 review;

8 (7) development of the training program described by
9 Section 266.004(h);

10 (8) provision for the summary of medical care
11 described by Section 266.007; and

12 (9) provision for the participation of the person
13 authorized to consent to medical care for a child in foster care in
14 each appointment of the child with the provider of medical care.

15 (b) The department [~~commission~~] shall collaborate with
16 health and human services agencies, community partners, the health
17 care community, and federal health and social services programs to
18 maximize services and benefits available under this section.

19 (c) The [~~executive~~] commissioner shall adopt rules
20 necessary to implement this chapter.

21 (d) The commission is responsible for administering
22 contracts with managed care providers for the provision of medical
23 care to children in foster care. The department shall collaborate
24 with the commission to ensure that medical care services provided
25 by managed care providers match the needs of children in foster
26 care.

27 SECTION 19. Sections 266.006(a), (b), and (e), Family Code,

1 are amended to read as follows:

2 (a) The commission, in conjunction with the department, and
3 with the assistance of physicians and other health care providers
4 experienced in the care of foster children and children with
5 disabilities and with the use of electronic health records, shall
6 develop and provide a health passport for each foster child. The
7 passport must be maintained in an electronic format and use [~~the~~
8 ~~commission's and~~] the department's existing computer resources to
9 the greatest extent possible.

10 (b) The executive commissioner, in collaboration with the
11 commissioner, shall adopt rules specifying the information
12 required to be included in the passport. The required information
13 may include:

14 (1) the name and address of each of the child's
15 physicians and health care providers;

16 (2) a record of each visit to a physician or other
17 health care provider, including routine checkups conducted in
18 accordance with the Texas Health Steps program;

19 (3) an immunization record that may be exchanged with
20 ImmTrac;

21 (4) a list of the child's known health problems and
22 allergies;

23 (5) information on all medications prescribed to the
24 child in adequate detail to permit refill of prescriptions,
25 including the disease or condition that the medication treats; and

26 (6) any other available health history that physicians
27 and other health care providers who provide care for the child

1 determine is important.

2 (e) The commission, in collaboration with the department,
3 shall provide training or instructional materials to foster
4 parents, physicians, and other health care providers regarding use
5 of the health passport.

6 SECTION 20. Sections 266.008(a) and (d), Family Code, are
7 amended to read as follows:

8 (a) The department [~~commission~~] shall develop an education
9 passport for each foster child. The department [~~commission, in~~
10 ~~conjunction with the department,~~] shall determine the format of the
11 passport. The passport may be maintained in an electronic format.
12 The passport must contain educational records of the child,
13 including the names and addresses of educational providers, the
14 child's grade-level performance, and any other educational
15 information the department [~~commission~~] determines is important.

16 (d) The department [~~and the commission~~] shall collaborate
17 with the Texas Education Agency to develop policies and procedures
18 to ensure that the needs of foster children are met in every school
19 district.

20 SECTION 21. Chapter 266, Family Code, is amended by adding
21 Section 266.013 to read as follows:

22 Sec. 266.013. CONTINUITY OF SERVICES PROVIDED BY
23 COMMISSION. (a) In addition to the requirements of Section
24 266.003(d), the commission shall continue to provide any services
25 to children in the conservatorship of the department that the
26 commission provided to those children before September 1, 2017.

27 (b) Subsection (a) does not apply to any services provided

1 by the commission in relation to a child's education passport
2 created under Section 266.008.

3 SECTION 22. Section 531.001(4), Government Code, is amended
4 to read as follows:

5 (4) "Health and human services agencies" includes the:
6 (A) Department of Aging and Disability Services;
7 (B) Department of State Health Services; and
8 (C) Department of Assistive and Rehabilitative
9 Services[~~, and~~

10 [~~(D) Department of Family and Protective~~
11 ~~Services]~~.

12 SECTION 23. Section 531.00553(b), Government Code, as added
13 by Chapter 837 (S.B. 200), Acts of the 84th Legislature, Regular
14 Session, 2015, is amended to read as follows:

15 (b) Subject to Subsection (c), the executive commissioner
16 shall plan and implement an efficient and effective centralized
17 system of administrative support services for the health and human
18 services system and the Department of Family and Protective
19 Services, as applicable. The performance of administrative
20 support services for the health and human services system is the
21 responsibility of the commission.

22 SECTION 24. (a) Section 531.02013, Government Code, is
23 amended to read as follows:

24 Sec. 531.02013. FUNCTIONS REMAINING WITH CERTAIN AGENCIES.
25 The following functions are not subject to transfer under Sections
26 531.0201 and 531.02011:

27 (1) the functions of the Department of Family and

1 Protective Services, including the statewide intake of reports and
2 other information, related to the following:

3 (A) child protective services, including
4 services that are required by federal law to be provided by this
5 state's child welfare agency;

6 (B) adult protective services, other than
7 investigations of the alleged abuse, neglect, or exploitation of an
8 elderly person or person with a disability:

9 (i) in a facility operated, or in a facility
10 or by a person licensed, certified, or registered, by a state
11 agency; or

12 (ii) by a provider that has contracted to
13 provide home and community-based services; ~~and~~

14 (C) prevention and early intervention services;
15 and

16 (D) investigations of alleged abuse, neglect, or
17 exploitation occurring at a child-care facility, including a
18 residential child-care facility, as those terms are defined by
19 Section 42.002, Human Resources Code; and

20 (2) the public health functions of the Department of
21 State Health Services, including health care data collection and
22 maintenance of the Texas Health Care Information Collection
23 program.

24 (b) Notwithstanding any provision of Subchapter A-1,
25 Chapter 531, Government Code, or any other law, the responsibility
26 for conducting investigations of reports of abuse, neglect, or
27 exploitation occurring at a child-care facility, including a

1 residential child-care facility, as those terms are defined by
2 Section 42.002, Human Resources Code, may not be transferred to the
3 Health and Human Services Commission and remains the responsibility
4 of the Department of Family and Protective Services.

5 (c) As soon as possible after the effective date of this
6 section, the commissioner of the Department of Family and
7 Protective Services shall transfer the responsibility for
8 conducting investigations of reports of abuse, neglect, or
9 exploitation occurring at a child-care facility, including a
10 residential child-care facility, as those terms are defined by
11 Section 42.002, Human Resources Code, to the child protective
12 services division of the department. The commissioner shall
13 transfer appropriate investigators and staff as necessary to
14 implement this section.

15 (d) This section takes effect immediately if this Act
16 receives a vote of two-thirds of all the members of each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for this section to take
19 immediate effect, this section takes effect on the 91st day after
20 the last day of the legislative session.

21 SECTION 25. Section 531.0202(a), Government Code, is
22 amended to read as follows:

23 (a) Each of the following state agencies and entities is
24 abolished on a date that is within the period prescribed by Section
25 531.02001(1), that is specified in the transition plan required
26 under Section 531.0204 for the abolition of the agency or entity,
27 and that occurs after all of the agency's or entity's functions have

1 been transferred in accordance with Section 531.0201:

2 (1) the Department of Assistive and Rehabilitative
3 Services;

4 (2) the Health and Human Services Council;

5 (3) the Aging and Disability Services Council;

6 (4) the Assistive and Rehabilitative Services
7 Council;

8 (5) [~~the Family and Protective Services Council,~~

9 [~~6~~] the State Health Services Council; and

10 (6) [~~7~~] the Texas Council on Autism and Pervasive
11 Developmental Disorders.

12 SECTION 26. Section 531.0206(a), Government Code, is
13 amended to read as follows:

14 (a) The Sunset Advisory Commission shall conduct a
15 limited-scope review of the commission during the state fiscal
16 biennium ending August 31, 2023, in the manner provided by Chapter
17 325 (Texas Sunset Act). The review must provide:

18 (1) an update on the commission's progress with
19 respect to the consolidation of the health and human services
20 system mandated by this subchapter, including the commission's
21 compliance with the transition plan required under Section
22 531.0204;

23 (2) an evaluation and recommendations regarding the
24 need to continue [~~the Department of Family and Protective Services~~
25 ~~and~~] the Department of State Health Services as a state agency
26 [~~agencies~~] separate from the commission; and

27 (3) any additional information the Sunset Advisory

1 Commission determines appropriate, including information regarding
2 any additional organizational changes the Sunset Advisory
3 Commission recommends.

4 SECTION 27. Section 531.102(a), Government Code, is amended
5 to read as follows:

6 (a) The commission's office of inspector general is
7 responsible for the prevention, detection, audit, inspection,
8 review, and investigation of fraud, waste, and abuse in the
9 provision and delivery of all health and human services in the
10 state, including services through any state-administered health or
11 human services program that is wholly or partly federally funded or
12 services provided by the Department of Family and Protective
13 Services, and the enforcement of state law relating to the
14 provision of those services. The commission may obtain any
15 information or technology necessary to enable the office to meet
16 its responsibilities under this subchapter or other law.

17 SECTION 28. Sections 40.0026 and 40.0027, Human Resources
18 Code, as effective September 1, 2017, are amended to read as
19 follows:

20 Sec. 40.0026. REFERENCES IN LAW MEANING DEPARTMENT. In
21 this code or any other law, a reference to the department or the
22 commission in relation to a function described by Section
23 40.0025(b) means the department. [~~A reference in law to the~~
24 ~~department in relation to any other function has the meaning~~
25 ~~assigned by Section 531.0011, Government Code.~~]

26 Sec. 40.0027. REFERENCES IN LAW MEANING COMMISSIONER OR
27 DESIGNEE. In this code or in any other law, a reference to the

1 commissioner or the executive commissioner in relation to a
2 function described by Section 40.0025(b) means the commissioner.
3 [~~A reference in law to the commissioner in relation to any other~~
4 ~~function has the meaning assigned by Section 531.0012, Government~~
5 ~~Code.~~]

6 SECTION 29. Subchapter B, Chapter 40, Human Resources Code,
7 is amended by adding Sections 40.021, 40.022, 40.023, 40.024,
8 40.025, and 40.026 to read as follows:

9 Sec. 40.021. FAMILY AND PROTECTIVE SERVICES COUNCIL. (a)
10 The Family and Protective Services Council is created to assist the
11 commissioner in developing rules and policies for the department.

12 (b) The council is composed of nine members of the public
13 appointed by the governor. In making appointments to the council,
14 the governor shall consider persons who have a demonstrated
15 knowledge of the department and the health and human services
16 system in general, including former department employees,
17 court-appointed special advocates, foster care providers, and
18 employees of child advocacy centers.

19 (c) The council shall study and make recommendations to the
20 commissioner regarding the management and operation of the
21 department, including policies and rules governing the delivery of
22 services to persons who are served by the department, the rights and
23 duties of persons who are served or regulated by the department, and
24 the consolidation of the provision of administrative support
25 services as provided by Section 531.00553, Government Code. The
26 council may not develop policies or rules relating to
27 administrative support services provided by the commission for the

1 department.

2 (d) Chapter 551, Government Code, applies to the council.

3 (e) Chapter 2110, Government Code, does not apply to the
4 council.

5 (f) A majority of the members of the council constitute a
6 quorum for the transaction of business.

7 Sec. 40.022. APPOINTMENTS. (a) Appointments to the
8 council shall be made without regard to the race, color,
9 disability, sex, religion, age, or national origin of the
10 appointees.

11 (b) Appointments to the council shall be made so that each
12 geographic area of the state is represented on the council.
13 Notwithstanding Subsection (a), appointments to the council must
14 reflect the ethnic diversity of this state.

15 Sec. 40.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A
16 person who is appointed as a member of the council may not vote,
17 deliberate, or be counted as a member in attendance at a meeting of
18 the council until the person completes a training program that
19 complies with this section.

20 (b) The training program must provide information to the
21 member regarding:

22 (1) the legislation that created the department and
23 the council;

24 (2) the programs operated by the department;

25 (3) the role and functions of the department and the
26 council, including detailed information regarding the advisory
27 responsibilities of the council;

1 (4) the role of the commission and the
2 responsibilities of the commission in relation to the department;

3 (5) the rules of the department, with an emphasis on
4 rules that relate to disciplinary and investigatory authority;

5 (6) the current budget for the department;

6 (7) the results of the most recent formal audit of the
7 department;

8 (8) the requirements of the:

9 (A) open meetings law, Chapter 551, Government
10 Code;

11 (B) public information law, Chapter 552,
12 Government Code; and

13 (C) administrative procedure law, Chapter 2001,
14 Government Code;

15 (9) the requirements of the conflict-of-interest laws
16 and other laws relating to public officials; and

17 (10) any applicable ethics policies adopted by the
18 commissioner or the Texas Ethics Commission.

19 Sec. 40.024. TERMS; VACANCY. (a) Members of the council
20 serve for staggered six-year terms, with the terms of three members
21 expiring February 1 of each odd-numbered year.

22 (b) A member of the council may not serve more than two
23 consecutive full terms as a council member.

24 (c) A vacancy on the council shall be filled in the same
25 manner as the original appointment.

26 Sec. 40.025. REIMBURSEMENT FOR EXPENSES. A council member
27 may not receive compensation for service as a member of the council

1 but is entitled to reimbursement for travel expenses incurred by
2 the member while conducting the business of the council as provided
3 by the General Appropriations Act.

4 Sec. 40.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS.

5 (a) The governor shall designate a member of the council as the
6 presiding officer to serve in that capacity at the pleasure of the
7 governor.

8 (b) The members of the council shall elect any other
9 necessary officers.

10 (c) The council shall meet quarterly and at other times at
11 the call of the presiding officer. The council may hold meetings in
12 different areas of the state.

13 SECTION 30. Section 40.027, Human Resources Code, is
14 amended to read as follows:

15 Sec. 40.027. COMMISSIONER. (a) The governor, with the
16 advice and consent of the senate, [executive commissioner] shall
17 appoint a commissioner [~~in accordance with Section 531.0056,~~
18 ~~Government Code~~]. The commissioner is to be selected according to
19 education, training, experience, and demonstrated ability.

20 (b) The commissioner serves a term of two years [~~at the~~
21 ~~pleasure of the executive commissioner~~].

22 (c) The [~~Subject to the control of the executive~~
23 ~~commissioner, the~~] commissioner shall:

24 (1) act as the department's chief administrative
25 officer;

26 (2) oversee [~~in accordance with the procedures~~
27 ~~prescribed by Section 531.00551, Government Code, assist the~~

1 ~~executive commissioner in~~] the development and implementation of
2 policies and guidelines needed for the administration of the
3 department's functions;

4 (3) oversee [~~in accordance with the procedures adopted~~
5 ~~by the executive commissioner under Section 531.00551, Government~~
6 ~~Code, assist the executive commissioner in~~] the development of
7 rules relating to the matters within the department's jurisdiction,
8 including the delivery of services to persons and the rights and
9 duties of persons who are served or regulated by the department; and

10 (4) serve as a liaison between the department and
11 commission.

12 (d) The commissioner shall administer this chapter and
13 other laws relating to the department [~~under operational policies~~
14 ~~established by the executive commissioner and in accordance with~~
15 ~~the memorandum of understanding under Section 531.0055(k),~~
16 ~~Government Code, between the commissioner and the executive~~
17 ~~commissioner, as adopted by rule].~~

18 (e) Notwithstanding any other law, the commissioner shall
19 adopt rules and policies for the operation of and the provision of
20 services by the department.

21 SECTION 31. Section 40.030, Human Resources Code, is
22 amended to read as follows:

23 Sec. 40.030. ADVISORY COMMITTEES. (a) The [~~executive~~]
24 commissioner or the [~~executive~~] commissioner's designee may
25 appoint advisory committees in accordance with Chapter 2110,
26 Government Code.

27 (b) The [~~executive~~] commissioner shall adopt rules, in

1 compliance with Chapter 2110, Government Code, regarding the
2 purpose, structure, and use of advisory committees by the
3 department. The rules may include provisions governing:

4 (1) an advisory committee's size and quorum
5 requirements;

6 (2) qualifications for membership of an advisory
7 committee, including:

8 (A) requirements relating to experience and
9 geographic representation; and

10 (B) requirements for the department to include as
11 members of advisory committees youth who have aged out of foster
12 care and parents who have successfully completed family service
13 plans and whose children were returned to the parents, as
14 applicable;

15 (3) appointment procedures for an advisory committee;

16 (4) terms for advisory committee members; and

17 (5) compliance with Chapter 551, Government Code.

18 SECTION 32. Section 40.0505, Human Resources Code, is
19 amended to read as follows:

20 Sec. 40.0505. DIVISIONS OF DEPARTMENT [~~POWERS AND DUTIES OF~~
21 ~~COMMISSIONER, EFFECT OF CONFLICT WITH OTHER LAW~~]. (a) The
22 commissioner shall establish the following divisions and offices
23 within the department:

24 (1) an investigations division;

25 (2) a consolidated data division;

26 (3) a legal division that oversees the following:

27 (A) legal matters relating to human resources, as

1 necessary to manage the department's workforce and establish the
2 department's hiring and termination policies;

3 (B) open records;

4 (C) privacy and confidentiality;

5 (D) litigation; and

6 (E) contract compliance;

7 (4) an operations division that oversees department
8 operations and human resources functions of the department; and

9 (5) a financial management and accounting services
10 division.

11 (b) The commissioner may establish additional divisions
12 within the department as the commissioner determines appropriate.

13 (c) The commissioner may assign department functions among
14 the department's divisions. [~~To the extent a power or duty given to~~
15 ~~the commissioner by this chapter or another law conflicts with~~
16 ~~Section 531.0055, Government Code, Section 531.0055 controls.]~~

17 SECTION 33. Subchapter C, Chapter 40, Human Resources Code,
18 is amended by adding Section 40.0512 to read as follows:

19 Sec. 40.0512. CONTINUITY OF SERVICES; INFORMATION SHARING.
20 The department shall make a good faith effort to share relevant and
21 appropriate information with health and human services agencies
22 regarding persons receiving services from the department to ensure
23 continuity of care and the best possible coordination of
24 state-funded resources among health and human services agencies.

25 SECTION 34. Section 40.058, Human Resources Code, is
26 amended by adding Subsections (i) and (j) to read as follows:

27 (i) The department and the commission shall enter into

1 contracts for the provision of shared administrative services,
2 including payroll, procurement, information resources, rate
3 setting, purchasing, and contracting.

4 (j) The department shall collaborate with the commission to
5 ensure the efficient provision of administrative support services
6 by the commission.

7 SECTION 35. Subchapter A, Chapter 48, Human Resources Code,
8 is amended by adding Section 48.0021 to read as follows:

9 Sec. 48.0021. REFERENCE TO COMMISSION OR EXECUTIVE
10 COMMISSIONER. In this chapter:

11 (1) a reference to the Health and Human Services
12 Commission means the Department of Family and Protective Services;
13 and

14 (2) a reference to the executive commissioner means
15 the commissioner of the Department of Family and Protective
16 Services.

17 SECTION 36. The following provisions are repealed:

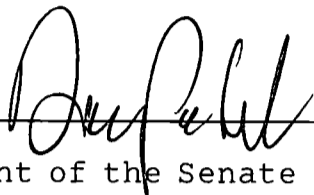
18 (1) Sections 261.001(7) and 264.001(2) and (3), Family
19 Code; and

20 (2) Sections 40.0506 and 40.0507, Human Resources
21 Code.

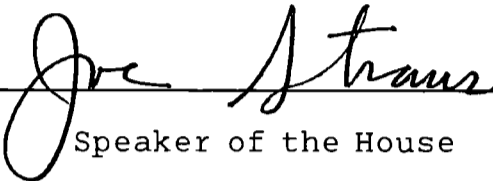
22 SECTION 37. As soon as possible after the effective date of
23 this Act, the executive commissioner of the Health and Human
24 Services Commission shall transfer the appropriate divisions,
25 resources, and personnel to the Department of Family and Protective
26 Services to allow the department to perform the general functions
27 of the department under Chapter 40, Human Resources Code, as

1 amended by this Act, including any staff and associated resources
2 previously transferred to the commission pursuant to the
3 requirements of Chapter 837 (S.B. 200), Acts of the 84th
4 Legislature, Regular Session, 2015.

5 SECTION 38. Except as otherwise provided by this Act, this
6 Act takes effect September 1, 2017.

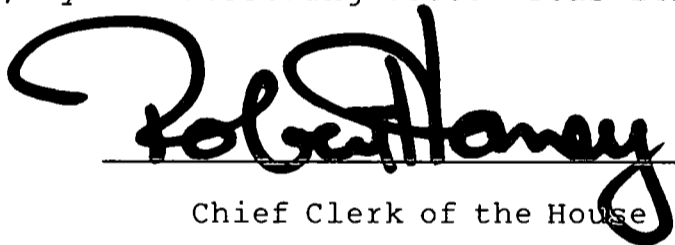


President of the Senate




Speaker of the House

I certify that H.B. No. 5 was passed by the House on March 2, 2017, by the following vote: Yeas 143, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 5 on May 25, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 5 on May 28, 2017, by the following vote: Yeas 145, Nays 1, 2 present, not voting.



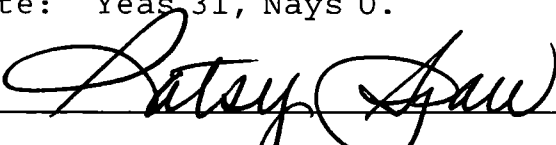
Chief Clerk of the House

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
IAN O'CLOCK
MAY 31 2017


Secretary of State

H.B. No. 5

I certify that H.B. No. 5 was passed by the Senate, with amendments, on May 22, 2017, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 5 on May 28, 2017, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

APPROVED: 5-31-2017

Date


Governor

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 27, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB5** by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties from the Health and Human Services Commission.), **Conference Committee Report**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Family Code, Government Code, and Human Resources Code to establish the Family and Protective Services Council, separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System, direct DFPS to enter into a contract with the Health and Human Services Commission (HHSC) to provide certain administrative support services, direct DFPS to provide certain information related to sibling rights to persons seeking to adopt a child, allow individuals under contract with a domestic relations office to conduct adoption evaluations, and provide limited liability for nonprofit single source continuum contractors and related personnel providing community-based foster care. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with establishing the Family and Protective Services Council and separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support services for DFPS that the bill would continue this arrangement on a contractual basis with certain exemptions. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

Additionally, based on LBB analysis, the duties and responsibilities associated with implementing the other provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 530 Family and Protective

Services, Department of

LBB Staff: UP, TBo, KCA, EP, JLi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 24, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB5 by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties from the Health and Human Services Commission.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code, Government Code, and Human Resources Code to establish the Family and Protective Services Council, separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System, direct DFPS to enter into a contract with the Health and Human Services Commission (HHSC) to provide certain administrative support services, direct DFPS to provide certain information related to sibling rights to persons seeking to adopt a child, allow individuals under contract with a domestic relations office to conduct adoption evaluations, and provide limited liability for nonprofit single source continuum contractors providing community-based foster care. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with establishing the Family and Protective Services Council and separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support services for DFPS that the bill would continue this arrangement on a contractual basis with certain exemptions. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

Additionally, based on LBB analysis, the duties and responsibilities associated with implementing the other provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

LBB Staff: UP, TBo, KCA, EP, JLi

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 11, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB5 by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties from the Health and Human Services Commission.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code, Government Code, and Human Resources Code to establish the Family and Protective Services Council, separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System, and direct DFPS to enter into a contract with the Health and Human Services Commission (HHSC) to provide certain administrative support services. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with establishing the Family and Protective Services Council and separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support services for DFPS that the bill would continue this arrangement on a contractual basis with certain exemptions. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

LBB Staff: UP, TBo, KCA, EP, JLi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 17, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB5 by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties from the Health and Human Services Commission.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code, Government Code, and Human Resources Code to establish the Family and Protective Services Council, separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System, and direct DFPS to enter into a contract with the Health and Human Services Commission (HHSC) to provide administrative support services. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with establishing the Family and Protective Services Council and separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support services for DFPS that the bill would continue this arrangement on a contractual basis. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

LBB Staff: UP, TBo, KCA, EP, JLi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

February 21, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB5** by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties from the Health and Human Services Commission.), **Committee Report 1st House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Family Code, Government Code, and Human Resources Code to establish the Family and Protective Services Council, separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System, and direct DFPS to enter into a contract with the Health and Human Services Commission (HHSC) to provide administrative support services. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with establishing the Family and Protective Services Council and separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support services for DFPS that the bill would continue this arrangement on a contractual basis. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

LBB Staff: UP, TBo, KCA, EP, JLi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

February 19, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB5 by Frank (Relating to the powers and duties of the Department of Family and Protective Services and the transfer of certain powers and duties to the Health and Human Services Commission.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Family Code, Government Code, and Human Resources Code to separate the Department of Family and Protective Services (DFPS) from the leadership structure of the Health and Human Services (HHS) System and direct DFPS to establish administrative support functions or enter into a contract with the Health and Human Services Commission (HHSC) or another state agency to provide these functions. The bill would also require DFPS to establish certain divisions and offices within the agency; all required functions currently exist at either DFPS or HHSC. The bill would take effect September 1, 2017.

Based on the LBB's analysis of DFPS and the HHS System, duties and responsibilities associated with separating DFPS from the leadership structure of the HHS System could be accomplished by utilizing existing resources. Currently, HHSC provides administrative support functions for DFPS and the analysis assumes this arrangement would continue on a contractual basis. To the extent functions currently performed at HHSC would under the provisions of the bill be performed at DFPS, this analysis assumes the resources would transfer as well and therefore any associated increased cost at DFPS would be offset by a reduction at HHSC.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

LBB Staff: UP, KCA, EP, TBo, JLi