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Chapter 1238

AN ACT

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relating to treating and reducing child abuse and neglect and improving child welfare, including providing assistance for adoptive parents and foster care providers.

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

SECTION 1. In this Act, "task force" means the task force established under this Act to establish a strategy for reducing child abuse and neglect and improving child welfare.

SECTION 2. (a) The task force consists of nine members appointed as follows:

- (1) five members appointed by the governor;
- (2) two members appointed by the lieutenant governor;
- and
- (3) two members appointed by the speaker of the house of representatives.

(b) Members of the task force must be individuals who are actively involved in the fields of the prevention of child abuse and neglect and child welfare. The appointment of members must reflect the geographic diversity of the state.

(c) A member of the task force is not entitled to compensation for service on the task force but is entitled to reimbursement for travel expenses as provided by Chapter 660, Government Code, and the General Appropriations Act.

(d) The task force shall elect a presiding officer by a

1 majority vote of the membership of the task force.

2 (e) The task force shall meet at the call of the presiding
3 officer.

4 (f) Chapter 2110, Government Code, does not apply to the
5 task force.

6 SECTION 3. (a) The task force shall establish a strategy
7 for reducing child abuse and neglect and for improving child
8 welfare in this state. In establishing that strategy, the task
9 force shall:

10 (1) gather information concerning child safety, child
11 abuse and neglect, and child welfare throughout the state;

12 (2) review the exemptions from criminal liability
13 provided under the Penal Code to a mother who injures her unborn
14 child by using a controlled substance, as defined by Chapter 481,
15 Health and Safety Code, other than a controlled substance legally
16 obtained by prescription, during her pregnancy and examine the
17 effect that repealing the exemptions will have on reducing the
18 number of babies who are born addicted to a controlled substance;

19 (3) receive reports and testimony from individuals,
20 state and local agencies, community-based organizations, and other
21 public and private organizations;

22 (4) create goals for state policy that would improve
23 child safety, prevent child abuse and neglect, and improve child
24 welfare; and

25 (5) submit a strategic plan to accomplish those goals.

26 (b) The strategic plan submitted under Subsection (a) of
27 this section may include proposals for specific statutory changes,

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1 the creation of new programs, and methods to foster cooperation
2 among state agencies and between the state and local government.

3 SECTION 4. (a) The task force shall consult with employees
4 of the Department of Family and Protective Services, the Department
5 of State Health Services, and the Texas Department of Criminal
6 Justice as necessary to accomplish the task force's
7 responsibilities under this Act.

8 (b) The task force may cooperate as necessary with any other
9 appropriate state agency.

10 SECTION 5. (a) The governor, lieutenant governor, and
11 speaker of the house of representatives shall appoint the members
12 of the task force not later than October 1, 2009.

13 (b) Not later than August 1, 2011, the task force shall
14 submit the strategic plan required by Section 3 of this Act to the
15 governor, lieutenant governor, and speaker of the house of
16 representatives.

17 (c) The task force is abolished and this Act expires on
18 September 1, 2011.

19 SECTION 6. (a) Section 162.3041, Family Code, is amended
20 by adding Subsection (a-1) and amending Subsection (d) to read as
21 follows:

22 (a-1) Notwithstanding Subsection (a), if the department
23 first entered into an adoption assistance agreement with a child's
24 adoptive parents after the child's 16th birthday, the department
25 shall, in accordance with rules adopted by the executive
26 commissioner of the Health and Human Services Commission, offer
27 adoption assistance after the child's 18th birthday to the child's

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1 adoptive parents under an existing adoption agreement until the
2 last day of the month of the child's 21st birthday, provided the
3 child is:

4 (1) regularly attending high school or enrolled in a
5 program leading toward a high school diploma or high school
6 equivalency certificate;

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

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

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

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

14 (d) If the legislature does not appropriate sufficient
15 money to provide adoption assistance to the adoptive parents of all
16 children described by Subsection (a), the department shall provide
17 adoption assistance only to the adoptive parents of children
18 described by Subsection (a)(1). The department is not required to
19 provide adoption assistance benefits under Subsection (a-1) unless
20 the department is specifically appropriated funds for purposes of
21 that subsection.

22 (b) Section 264.101, Family Code, is amended by amending
23 Subsections (a-1) and (d) and adding Subsection (a-2) to read as
24 follows:

25 (a-1) The department shall continue to pay the cost of
26 foster care for a child for whom the department provides care,
27 including medical care, until the last day of the month in which

1 ~~[later of.~~

2 ~~[(1) the date]~~ the child attains the age of 18. The
3 department shall continue to pay the cost of foster care for a child
4 after the month in which the child attains the age of 18 as long as
5 the child is:

6 (1) regularly attending~~[, or~~
7 ~~[(2) the date the child graduates from]~~ high school or
8 ~~[ceases to be]~~ enrolled in a ~~[secondary school in a]~~ program leading
9 toward a high school diploma or high school equivalency
10 certificate;

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

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

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

16 (5) incapable of performing the activities described
17 by Subdivisions (1)-(4) due to a documented medical condition.

18 (a-2) The department shall continue to pay the cost of
19 foster care under:

20 (1) Subsection (a-1)(1) until the last day of the
21 month in which the child attains the age of 22; and

22 (2) Subsections (a-1)(2)-(5) until the last day of the
23 month the child attains the age of 21.

24 (d) The executive commissioner of the Health and Human
25 Services Commission may adopt rules that establish criteria and
26 guidelines for the payment of foster care, including medical care,
27 for a child and for providing care for a child after the child

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1 becomes 18 years of age if the child meets the requirements for
2 continued foster care under Subsection (a-1) [~~is regularly~~
3 ~~attending an institution of higher education or a vocational or~~
4 ~~technical program~~].

5 (c) Subdivisions (1) and (3), Section 264.751, Family Code,
6 are amended to read as follows:

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

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

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

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

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

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

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1 (d) Subchapter I, Chapter 264, Family Code, is amended by
2 adding Section 264.760 to read as follows:

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

13 (e) Chapter 264, Family Code, is amended by adding
14 Subchapter K to read as follows:

15 SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

16 Sec. 264.851. DEFINITIONS. In this subchapter:

17 (1) "Foster child" means a child who is or was in the
18 temporary or permanent managing conservatorship of the department.

19 (2) "Kinship provider" means a relative of a foster
20 child, or another adult with a longstanding and significant
21 relationship with a foster child before the child was placed with
22 the person by the department, with whom the child resides for at
23 least six consecutive months after the person becomes licensed by
24 the department or verified by a licensed child-placing agency or
25 the department to provide foster care.

26 (3) "Permanency care assistance agreement" means a
27 written agreement between the department and a kinship provider for

1 the payment of permanency care assistance benefits as provided by
2 this subchapter.

3 (4) "Permanency care assistance benefits" means
4 monthly payments paid by the department to a kinship provider under
5 a permanency care assistance agreement.

6 (5) "Relative" means a person related to a foster
7 child by consanguinity or affinity.

8 Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS.

9 (a) The department shall enter into a permanency care assistance
10 agreement with a kinship provider who is eligible to receive
11 permanency care assistance benefits.

12 (b) The department may enter into a permanency care
13 assistance agreement with a kinship provider who is the prospective
14 managing conservator of a foster child only if the kinship provider
15 meets the eligibility criteria under federal and state law and
16 department rule.

17 (c) A court may not order the department to enter into a
18 permanency care assistance agreement with a kinship provider unless
19 the kinship provider meets the eligibility criteria under federal
20 and state law and department rule, including requirements relating
21 to the criminal history background check of a kinship provider.

22 (d) A permanency care assistance agreement may provide for
23 reimbursement of the nonrecurring expenses a kinship provider
24 incurs in obtaining permanent managing conservatorship of a foster
25 child, including attorney's fees and court costs. The
26 reimbursement of the nonrecurring expenses under this subsection
27 may not exceed \$2,000.

1 Sec. 264.853. RULES. The executive commissioner shall
2 adopt rules necessary to implement the permanency care assistance
3 program. The rules must:

4 (1) establish eligibility requirements to receive
5 permanency care assistance benefits under the program; and

6 (2) ensure that the program conforms to the
7 requirements for federal assistance as required by the Fostering
8 Connections to Success and Increasing Adoptions Act of 2008 (Pub.
9 L. No. 110-351).

10 Sec. 264.854. MAXIMUM PAYMENT AMOUNT. The executive
11 commissioner shall set the maximum monthly amount of assistance
12 payments under a permanency care assistance agreement in an amount
13 that does not exceed the amount of the monthly foster care
14 maintenance payment the department would pay to a foster care
15 provider caring for the child for whom the kinship provider is
16 caring.

17 Sec. 264.855. CONTINUED ELIGIBILITY FOR PERMANENCY CARE
18 ASSISTANCE BENEFITS AFTER AGE 18. If the department first entered
19 into a permanency care assistance agreement with a foster child's
20 kinship provider after the child's 16th birthday, the department
21 may continue to provide permanency care assistance payments until
22 the last day of the month of the child's 21st birthday, provided the
23 child is:

24 (1) regularly attending high school or enrolled in a
25 program leading toward a high school diploma or high school
26 equivalency certificate;

27 (2) regularly attending an institution of higher

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- 1 education or a postsecondary vocational or technical program;
- 2 (3) participating in a program or activity that
- 3 promotes, or removes barriers to, employment;
- 4 (4) employed for at least 80 hours a month; or
- 5 (5) incapable of any of the activities described by
- 6 Subdivisions (1)-(4) due to a documented medical condition.

7 Sec. 264.856. APPROPRIATION REQUIRED. The department is
 8 not required to provide permanency care assistance benefits under
 9 this subchapter unless the department is specifically appropriated
 10 money for purposes of this subchapter.

11 Sec. 264.857. DEADLINE FOR NEW AGREEMENTS. The department
 12 may not enter into a permanency care assistance agreement after
 13 August 31, 2017. The department shall continue to make payments
 14 after that date under a permanency care assistance agreement
 15 entered into on or before August 31, 2017, according to the terms of
 16 the agreement.

17 (f) Not later than April 1, 2010, the executive commissioner
 18 of the Health and Human Services Commission shall adopt rules to
 19 implement and administer the permanency care assistance program
 20 under Subchapter K, Chapter 264, Family Code, as added by this
 21 section.

22 (g) Sections 162.3041 and 264.101, Family Code, as amended
 23 by this section, and Section 264.855, Family Code, as added by this
 24 section, take effect October 1, 2010.

25 SECTION 7. (a) Chapter 1001, Health and Safety Code, is
 26 amended by adding Subchapter F to read as follows:

1 SUBCHAPTER F. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION
2 SYSTEM (MEDCARES)

3 Sec. 1001.151. TEXAS MEDICAL CHILD ABUSE RESOURCES AND
4 EDUCATION SYSTEM GRANT PROGRAM. (a) The department shall establish
5 the Texas Medical Child Abuse Resources and Education System
6 (MEDCARES) grant program to award grants for the purpose of developing
7 and supporting regional programs to improve the assessment,
8 diagnosis, and treatment of child abuse and neglect as described by
9 the report submitted to the 80th Legislature by the committee on
10 pediatric centers of excellence relating to abuse and neglect in
11 accordance with Section 266.0031, Family Code, as added by Chapter
12 1406 (S.B. 758), Acts of the 80th Legislature, Regular Session, 2007.

13 (b) The department may award grants to hospitals or academic
14 health centers with expertise in pediatric health care and a
15 demonstrated commitment to developing basic and advanced programs
16 and centers of excellence for the assessment, diagnosis, and
17 treatment of child abuse and neglect.

18 (c) The department shall encourage collaboration among grant
19 recipients in the development of program services and activities.

20 Sec. 1001.152. USE OF GRANT. A grant awarded under this
21 subchapter may be used to support:

22 (1) comprehensive medical evaluations, psychosocial
23 assessments, treatment services, and written and photographic
24 documentation of abuse;

25 (2) education and training for health professionals,
26 including physicians, medical students, resident physicians, child
27 abuse fellows, and nurses, relating to the assessment, diagnosis,

1 and treatment of child abuse and neglect;

2 (3) education and training for community agencies
3 involved with child abuse and neglect, law enforcement officials,
4 child protective services staff, and children's advocacy centers
5 involved with child abuse and neglect;

6 (4) medical case reviews and consultations and
7 testimony regarding those reviews and consultations;

8 (5) research, data collection, and quality assurance
9 activities, including the development of evidence-based guidelines
10 and protocols for the prevention, evaluation, and treatment of
11 child abuse and neglect;

12 (6) the use of telemedicine and other means to extend
13 services from regional programs into underserved areas; and

14 (7) other necessary activities, services, supplies,
15 facilities, and equipment as determined by the department.

16 Sec. 1001.153. MEDCARES ADVISORY COMMITTEE. The executive
17 commissioner shall establish an advisory committee to advise the
18 department and the executive commissioner in establishing rules and
19 priorities for the use of grant funds awarded through the program.
20 The advisory committee is composed of the following nine members:

21 (1) the state Medicaid director or the state Medicaid
22 director's designee;

23 (2) the medical director for the Department of Family
24 and Protective Services or the medical director's designee; and

25 (3) as appointed by the executive commissioner:

26 (A) two pediatricians with expertise in child
27 abuse or neglect;

1 (B) a nurse with expertise in child abuse or
2 neglect;

3 (C) a representative of a pediatric residency
4 training program;

5 (D) a representative of a children's hospital;

6 (E) a representative of a children's advocacy
7 center; and

8 (F) a member of the Governor's EMS and Trauma
9 Advisory Council.

10 Sec. 1001.154. GIFTS AND GRANTS. The department may
11 solicit and accept gifts, grants, and donations from any public or
12 private source for the purposes of this subchapter.

13 Sec. 1001.155. REQUIRED REPORT. Not later than December 1
14 of each even-numbered year, the department, with the assistance of
15 the advisory committee established under this subchapter, shall
16 submit a report to the governor and the legislature regarding the
17 grant activities of the program and grant recipients, including the
18 results and outcomes of grants provided under this subchapter.

19 Sec. 1001.156. RULES. The executive commissioner may adopt
20 rules as necessary to implement this subchapter.

21 Sec. 1001.157. APPROPRIATION REQUIRED. The department is
22 not required to award a grant under this subchapter unless the
23 department is specifically appropriated money for purposes of this
24 subchapter.

25 (b) Not later than November 1, 2009, the executive
26 commissioner of the Health and Human Services Commission shall
27 appoint the members of the advisory committee as required by

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1 Section 1001.153, Health and Safety Code, as added by this section.

2 (c) Not later than January 1, 2010, the Department of State
3 Health Services shall establish and implement a grant program as
4 described by Subchapter F, Chapter 1001, Health and Safety Code, as
5 added by this section.

6 (d) Not later than December 1, 2010, the Department of State
7 Health Services shall provide the initial report to the governor
8 and the legislature as required by Section 1001.155, Health and
9 Safety Code, as added by this section.

10 (e) If before implementing any provision of this section a
11 state agency determines that a waiver or authorization from a
12 federal agency is necessary for implementation of that provision,
13 the agency affected by the provision shall request the waiver or
14 authorization and may delay implementing that provision until the
15 waiver or authorization is granted.

16 (f) This section does not make an appropriation. This
17 section takes effect only if a specific appropriation for the
18 implementation of the section is provided in a general
19 appropriations act of the 81st Legislature.

20 SECTION 8. This Act takes effect September 1, 2009.

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David Newkum
President of the Senate

Jim Strawn
Speaker of the House

I hereby certify that S.B. No. 2080 passed the Senate on May 8, 2009, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendments on June 1, 2009, by the following vote: Yeas 31, Nays 0.

Patery Spaw
Secretary of the Senate

I hereby certify that S.B. No. 2080 passed the House, with amendments, on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

Robert Honey
Chief Clerk of the House

Approved:

19 JUN '09
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2PM O'CLOCK
JUN 19 2009

Colby Hunter III