

7/20/02

AN ACT

relating to child protective services; providing penalties.

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

SECTION 1. (a) Subsection (b), Section 29.153, Education Code, is amended to read as follows:

(b) A child is eligible for enrollment in a prekindergarten class under this section if the child is at least three years of age and ~~is~~:

(1) is unable to speak and comprehend the English language;

(2) is educationally disadvantaged;

(3) is a homeless child, as defined by 42 U.S.C. Section 11434a [~~11302~~], regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child;

(4) is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority; ~~or~~

(5) is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or

(6) is or ever has been in the conservatorship of the

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1 Department of Family and Protective Services following an adversary
2 hearing held as provided by Section 262.201, Family Code.

3 (b) The change in law made by this section applies beginning
4 with the 2007-2008 school year.

5 SECTION 2. Subsection (a), Section 102.004, Family Code, is
6 amended to read as follows:

7 (a) In addition to the general standing to file suit
8 provided by Section 102.003, a grandparent, or another relative of
9 the child related within the third degree by consanguinity, may
10 file an original suit requesting managing conservatorship if there
11 is satisfactory proof to the court that:

12 (1) the order requested is necessary because the
13 child's present circumstances would significantly impair the
14 child's physical health or emotional development; or

15 (2) both parents, the surviving parent, or the
16 managing conservator or custodian either filed the petition or
17 consented to the suit.

18 SECTION 3. (a) Section 102.005, Family Code, is amended to
19 read as follows:

20 Sec. 102.005. STANDING TO REQUEST TERMINATION AND ADOPTION.
21 An original suit requesting only an adoption or for termination of
22 the parent-child relationship joined with a petition for adoption
23 may be filed by:

24 (1) a stepparent of the child;

25 (2) an adult who, as the result of a placement for
26 adoption, has had actual possession and control of the child at any
27 time during the 30-day period preceding the filing of the petition;

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1 (3) an adult who has had actual possession and control
2 of the child for not less than two months during the three-month
3 period preceding the filing of the petition; [~~or~~]

4 (4) an adult who has adopted, or is the foster parent
5 of and has petitioned to adopt, a sibling of the child; or

6 (5) another adult whom the court determines to have
7 had substantial past contact with the child sufficient to warrant
8 standing to do so.

9 (b) The change in law made by this section applies only to a
10 suit affecting the parent-child relationship filed on or after the
11 effective date of this Act. A suit affecting the parent-child
12 relationship filed before the effective date of this Act is
13 governed by the law in effect on the date the suit was filed, and the
14 former law is continued in effect for that purpose.

15 SECTION 4. (a) Section 162.304, Family Code, is amended by
16 adding Subsections (g) and (h) to read as follows:

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

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1 this state would have made foster care payments for that care.
2 Factors the department may consider in determining whether a child
3 is eligible for the amount of the subsidy authorized by this
4 subsection include the following:

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

7 (2) the number of prior placement disruptions the
8 child has experienced.

9 (h) In determining the amount that would have been paid to a
10 foster parent for purposes of Subsection (g), the department:

11 (1) shall use the minimum amount required to be paid to
12 a foster parent for a child assigned the same service level as the
13 child who is the subject of the adoption assistance agreement; and

14 (2) may not include any amount that a child-placing
15 agency is entitled to retain under the foster care rate structure in
16 effect on the date the department and the adoptive parent enter into
17 the agreement.

18 (b) Subsections (g) and (h), Section 162.304, Family Code,
19 as added by this section, apply only to an adoption assistance
20 agreement that is entered into on or after the effective date of
21 this Act. An adoption assistance agreement that was entered into
22 before the effective date of this Act is governed by the law in
23 effect on the date the agreement was entered into, and the former
24 law is continued in effect for that purpose.

25 SECTION 5. Subsection (a), Section 201.007, Family Code, is
26 amended to read as follows:

27 (a) Except as limited by an order of referral, an associate

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1 judge may:

2 (1) conduct a hearing;

3 (2) hear evidence;

4 (3) compel production of relevant evidence;

5 (4) rule on the admissibility of evidence;

6 (5) issue a summons for:

7 (A) the appearance of witnesses; and

8 (B) the appearance of a parent who has failed to
9 appear before an agency authorized to conduct an investigation of
10 an allegation of abuse or neglect of a child after receiving proper
11 notice;

12 (6) examine a witness;

13 (7) swear a witness for a hearing;

14 (8) make findings of fact on evidence;

15 (9) formulate conclusions of law;

16 (10) recommend an order to be rendered in a case;

17 (11) regulate all proceedings in a hearing before the
18 associate judge;

19 (12) order the attachment of a witness or party who
20 fails to obey a subpoena;

21 (13) order the detention of a witness or party found
22 guilty of contempt, pending approval by the referring court as
23 provided by Section 201.013;

24 (14) render and sign:

25 (A) a final order agreed to in writing as to both
26 form and substance by all parties;

27 (B) a final default order; or

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1 (C) a temporary order; and

2 (15) take action as necessary and proper for the
3 efficient performance of the associate judge's duties.

4 SECTION 6. Section 261.303, Family Code, is amended by
5 amending Subsection (d) and adding Subsection (e) to read as
6 follows:

7 (d) A person, including a medical facility, that makes a
8 report under Subchapter B shall release to the department or
9 designated agency, as part of the required report under Section
10 261.103, records that directly relate to the suspected abuse or
11 neglect without requiring parental consent or a court order. If a
12 child is transferred from a reporting medical facility to another
13 medical facility to treat the injury or condition that formed the
14 basis for the original report, the transferee medical facility
15 shall, at the department's request, release to the department
16 records relating to the injury or condition without requiring
17 parental consent or a court order.

18 (e) A person, including a utility company, that has
19 confidential locating or identifying information regarding a
20 family that is the subject of an investigation under this chapter
21 shall release that information to the department on request. The
22 release of information to the department as required by this
23 subsection by a person, including a utility company, is not subject
24 to Section 552.352, Government Code, or any other law providing
25 liability for the release of confidential information.

26 SECTION 7. Section 261.3031, Family Code, is amended to
27 read as follows:

1 Sec. 261.3031. FAILURE TO COOPERATE WITH INVESTIGATION;
 2 DEPARTMENT RESPONSE. (a) If a parent or other person refuses to
 3 cooperate with the department's investigation of the alleged abuse
 4 or neglect of a child and the refusal poses a risk to the child's
 5 safety, the department shall seek assistance from the appropriate
 6 county attorney or district attorney or criminal district attorney
 7 with responsibility for representing the department as provided by
 8 Section 264.009 to obtain a court order as described by Section
 9 261.303.

10 (b) A person's failure to report to an agency authorized to
 11 investigate abuse or neglect of a child within a reasonable time
 12 after receiving proper notice constitutes a refusal by the person
 13 to cooperate with the department's investigation. A summons may be
 14 issued to locate the person.

15 SECTION 8. Section 263.102, Family Code, is amended by
 16 adding Subsections (f) and (g) to read as follows:

17 (f) The department shall consult with relevant
 18 professionals to determine the skills or knowledge that the parents
 19 of a child under two years of age should learn or acquire to provide
 20 a safe placement for the child. The department shall incorporate
 21 those skills and abilities into the department's service plans, as
 22 appropriate.

23 (g) To the extent that funding is available, the service
 24 plan for a child under two years of age may require therapeutic
 25 visits between the child and the child's parents supervised by a
 26 licensed psychologist or another relevant professional to promote
 27 family reunification and to educate the parents about issues

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1 relating to the removal of the child.

2 SECTION 9. Section 264.012, Family Code, is amended by
3 adding Subsection (a-1) and amending Subsection (b) to read as
4 follows:

5 (a-1) The department shall spend money appropriated for the
6 child protective services program to pay reasonable and necessary
7 burial expenses for a person for whom the department is paying for
8 foster care under Section 264.101(a-1)(2) and who dies while in
9 foster care unless there is money in the person's estate or other
10 money available to pay the person's burial expenses.

11 (b) The department may accept donations, gifts, or in-kind
12 contributions to cover the costs of any burial expenses paid by the
13 department under this section [~~for children for whom the department~~
14 ~~has been appointed managing conservator~~].

15 SECTION 10. Subchapter A, Chapter 264, Family Code, is
16 amended by adding Section 264.014 to read as follows:

17 Sec. 264.014. PROVISION OF COPIES OF CERTAIN RECORDS. If,
18 at the time a child is discharged from foster care, the child is at
19 least 18 years of age or has had the disabilities of minority
20 removed, the department shall provide to the child, not later than
21 the 30th day after the date the child is discharged from foster
22 care, a copy of:

- 23 (1) the child's birth certificate;
24 (2) the child's immunization records; and
25 (3) the information contained in the child's health
26 passport.

27 SECTION 11. The heading to Section 264.106, Family Code, is

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1 amended to read as follows:

2 Sec. 264.106. [~~REQUIRED~~] CONTRACTS FOR SUBSTITUTE CARE AND
3 CASE MANAGEMENT SERVICES.

4 SECTION 12. (a) Subsections (a), (b), (c), (e), and (g),
5 Section 264.106, Family Code, are amended to read as follows:

6 (a) In this section:

7 (1) "Case management services" means the provision of
8 ~~[case management]~~ services, other than conservatorship services,
9 to a child for whom the department has been appointed temporary or
10 permanent managing conservator and the child's family, including:

11 (A) developing and revising ~~[caseworker-child~~
12 ~~visits, family visits, the convening of family group conferences,~~
13 ~~the development and revision of]~~ the child and family case plan,
14 using family group decision-making in appropriate cases;

15 (B) coordinating ~~[the—coordination]~~ and
16 monitoring permanency ~~[of]~~ services needed by the child and family
17 to ensure ~~[, and the assumption of court-related duties, including~~
18 ~~preparing court reports, attending judicial hearings and~~
19 ~~permanency hearings, and ensuring]~~ that the child is progressing
20 toward permanency within state and federal mandates; and

21 (C) assisting the department in a suit affecting
22 the parent-child relationship commenced by the department.

23 (2) "Conservatorship services" means services
24 provided directly by the department that the department considers
25 necessary to ensure federal financial participation and compliance
26 with state law requirements, including:

27 (A) initial placement of a child and approval of

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1 all subsequent placements of a child;

2 (B) approval of the child and family case plan;

3 and

4 (C) any other action the department considers
5 necessary to ensure the safety and well-being of a child

6 [~~"Independent administrator" means an independent agency selected~~
7 ~~through a competitive procurement process to:~~

8 [~~(A) secure, coordinate, and manage substitute~~
9 ~~care services and case management services in a geographically~~
10 ~~designated area of the state; and~~

11 [~~(B) ensure continuity of care for a child~~
12 ~~referred to the administrator by the department and the child's~~
13 ~~family from the day a child enters the child protective services~~
14 ~~system until the child leaves the system].~~

15 (3) "Permanency services" means services [~~, other than~~
16 ~~family-based safety services,~~] provided to secure a child's safety,
17 permanency, and well-being, including:

18 (A) substitute care services;

19 (B) medical, dental, mental health, and
20 educational services;

21 (C) [] family reunification services;

22 (D) [] adoption and postadoption services
23 and [] preparation for adult living services;

24 (E) convening family group conferences;

25 (F) child and family visits;

26 (G) relative placement services; and

27 (H) post-placement supervision [] and case

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1 ~~management]~~ services.

2 (4) "Substitute care provider" means:

3 (A) a child-care institution, a general
4 residential operation, or a child-placing agency, as defined by
5 Section 42.002, Human Resources Code; or

6 (B) a provider of residential child-care that is
7 licensed or certified by another state agency.

8 (5) "Substitute care services" means services
9 provided by a substitute care provider to or for a child in the
10 temporary or permanent managing conservatorship of the department
11 or for the child's placement [~~children in substitute care and their~~
12 ~~families~~], including the recruitment, training, and management of
13 foster and adoptive homes by a child-placing agency [~~foster~~
14 ~~parents, the recruitment of adoptive families, and the facilitation~~
15 ~~of the adoption process, family preservation, independent living,~~
16 ~~emergency shelter, residential group care, foster care,~~
17 ~~therapeutic foster care, and post-placement supervision, including~~
18 ~~relative placement~~]. The term does not include the regulation of
19 facilities under Subchapter C, Chapter 42, Human Resources Code.

20 (b) The department shall, in accordance with Chapter 45
21 [~~Section 45.004~~], Human Resources Code:

22 (1) assess the need for substitute care [~~and case~~
23 ~~management]~~ services throughout the state;

24 (2) [~~either~~] contract [~~directly~~] with substitute care
25 providers [~~private agencies as part of regional community-centered~~
26 ~~networks~~] for the provision of all necessary substitute care [~~and~~
27 ~~case management]~~ services when the department determines that

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1 entering into a contract will improve services to children and
2 families [~~or use an independent administrator to contract for those~~
3 ~~services~~];

4 (3) [~~contract with an independent administrator, if~~
5 ~~cost beneficial, to coordinate and manage all services needed for~~
6 ~~children in the temporary or permanent managing conservatorship of~~
7 ~~the department in a designated geographic area,~~

8 [(4)] monitor the quality of services for which the
9 department contracts [~~and each independent administrator contract~~]
10 under this section; and

11 (4) [(5)] ensure that the services are provided in
12 accordance with federal law and the laws of this state, including
13 department rules and rules of the Department of State Health
14 Services and the Texas Commission on Environmental Quality.

15 (c) The department shall develop a pilot program for the
16 competitive procurement of case management services in one or more
17 geographic areas of the state. The department shall contract with
18 one or more substitute care providers to provide case management
19 services under the pilot program. The department shall have a goal
20 of privatizing case management services in five percent of the
21 cases in which the department has been appointed temporary or
22 permanent managing conservator of a child [~~An independent~~
23 ~~administrator may not,~~

24 [(1)] ~~directly provide substitute care services, or~~

25 [(2)] ~~be governed by a board that has a member who has a~~
26 ~~financial interest in a substitute care or case management provider~~
27 ~~with whom the independent administrator subcontracts].~~

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1 (e) In addition to the requirements of Section 40.058(b),
2 Human Resources Code, a contract authorized under this section
3 ~~[with an independent administrator]~~ must include provisions that:

4 (1) enable the department to monitor the effectiveness
5 of the services;

6 (2) specify performance outcomes;

7 (3) authorize the department to terminate the contract
8 or impose sanctions for a violation of a provision of the contract
9 that specifies performance criteria;

10 (4) ensure that a private agency that is providing
11 substitute care or case management services for a child shall
12 provide to the child's attorney ad litem and guardian ad litem
13 access to the agency's information and records relating to the
14 child; ~~[an independent administrator may not refuse to accept a~~
15 ~~client who is referred for services or reject a client who is~~
16 ~~receiving services unless the department has reviewed the~~
17 ~~independent administrator's decision and approved the decision in~~
18 ~~writing.]~~

19 (5) authorize the department, an agent of the
20 department, and the state auditor to inspect all books, records,
21 and files maintained by a contractor ~~[an independent administrator]~~
22 relating to the contract; and

23 (6) the department determines are necessary to ensure
24 accountability for the delivery of services and for the expenditure
25 of public funds.

26 (g) In determining whether to contract with a substitute
27 care provider ~~[or an independent administrator]~~, the department

1 shall consider the provider's [~~or administrator's~~] performance
2 under any previous contract between the department and the provider
3 [~~or administrator~~].

4 (b) The Department of Family and Protective Services shall
5 enter into one or more contracts for case management services under
6 the pilot program described by Section 264.106, Family Code, as
7 amended by this section, on or before September 1, 2008, with a goal
8 of contracting for case management services in five percent of the
9 cases in the state in which the department has been appointed
10 temporary or permanent managing conservator of a child.
11 Notwithstanding this deadline, the department must continue to
12 provide case management services in any area covered by the pilot
13 program if:

14 (1) the department is unable to enter into a contract
15 with a person to provide case management services; or

16 (2) after entering into a contract, either the
17 contractor or the department terminates the contract.

18 (c) The executive commissioner of the Health and Human
19 Services Commission shall adopt rules describing the circumstances
20 in which the Department of Family and Protective Services may
21 continue to provide case management services on an emergency basis
22 during the pilot program described in Section 264.106, Family Code,
23 as amended by this section.

24 SECTION 13. Section 264.1063, Family Code, is amended to
25 read as follows:

26 Sec. 264.1063. MONITORING PERFORMANCE OF SUBSTITUTE CARE
27 AND CASE MANAGEMENT PROVIDERS. (a) The department, in

1 consultation with substitute care providers [~~private entities~~]
2 under contract with [~~either an independent administrator or~~] the
3 department to provide substitute care or case management services,
4 shall establish a quality assurance program that uses
5 comprehensive, multitiered assurance and improvement systems
6 [~~based, subject to the availability of funds, on real-time data~~] to
7 evaluate performance.

8 (b) The contract performance outcomes specified in a
9 contract under Section 264.106 must be [~~consistent with the fiscal~~
10 ~~goals of privatizing substitute care and case management services~~
11 ~~and must be~~] within the contractor's authority to deliver. The
12 contract must clearly define the manner in which the substitute
13 care or case management provider's performance will be measured and
14 identify the information sources the department [~~and, if~~
15 ~~applicable, the independent administrator~~] will use to evaluate the
16 performance.

17 SECTION 14. Section 264.107, Family Code, is amended by
18 amending Subsections (c) through (f) and adding Subsection (g) to
19 read as follows:

20 (c) The department shall institute [~~contract between the~~
21 ~~department and an independent administrator or other authorized~~
22 ~~entity must require, not later than September 1, 2009,~~] the use of
23 real-time technology in the department's [~~independent~~
24 ~~administrator's or other authorized entity's~~] placement system to
25 screen possible placement options for a child and match the child's
26 needs with the most qualified providers with vacancies.

27 (d) The department shall [~~institute a quality assurance~~

1 ~~system in monitoring the independent administrators or other~~
2 ~~authorized entities to]~~ ensure that placement decisions are
3 reliable and are made in a consistent manner.

4 (e) In making placement decisions, the department [~~an~~
5 ~~independent administrator or other authorized entity]~~ shall:

6 (1) consult with the child's caseworker and the
7 child's attorney ad litem, guardian ad litem, or court-appointed
8 volunteer advocate when possible; and

9 (2) use clinical protocols to match a child to the most
10 appropriate placement resource.

11 (f) The department may create a regional advisory council in
12 a region to assist the department [~~and independent administrator or~~
13 ~~other authorized entity]~~ in:

14 (1) assessing the need for resources in the region;
15 and

16 (2) locating substitute care services in the region
17 for hard-to-place children.

18 (g) If the department is unable to find an appropriate
19 placement for a child, an employee of the department who has on file
20 a background and criminal history check may provide temporary
21 emergency care for the child. An employee may not provide emergency
22 care under this subsection in the employee's residence. The
23 department shall provide notice to the court for a child placed in
24 temporary care under this subsection not later than the next
25 business day after the date the child is placed in temporary care.

26 SECTION 15. Subchapter B, Chapter 264, Family Code, is
27 amended by adding Section 264.1071 to read as follows:

1 Sec. 264.1071. PLACEMENT FOR CHILDREN UNDER AGE TWO. In
2 making a placement decision for a child under two years of age, the
3 department shall:

4 (1) ensure that the child is placed with a person who
5 will provide a safe and emotionally stable environment for the
6 child; and

7 (2) give priority to a person who will be able to
8 provide care for the child without disruption until the child is
9 returned to the child's parents or the department makes a permanent
10 placement for the child.

11 SECTION 16. Section 264.113, Family Code, is amended by
12 adding Subsections (c) and (d) to read as follows:

13 (c) The department shall work with OneStar Foundation to
14 expand the program described by Subsection (b) to increase the
15 number of foster families available for the department and its
16 private providers. In cooperation with the department, OneStar
17 Foundation may provide training and technical assistance to
18 establish networks and services in faith-based organizations based
19 on best practices for supporting prospective and current foster
20 families.

21 (d) The department shall work with the Department of
22 Assistive and Rehabilitative Services to recruit foster parents and
23 adoptive parents who have skills, training, or experience suitable
24 to care for children with hearing impairments.

25 SECTION 17. Section 264.121, Family Code, is amended by
26 adding Subsection (c) to read as follows:

27 (c) At the time a child enters the Preparation for Adult

1 Living Program, the department shall provide an information booklet
2 to the child and the foster parent describing the program and the
3 benefits available to the child, including extended Medicaid
4 coverage until age 21, priority status with the Texas Workforce
5 Commission, and the exemption from the payment of tuition and fees
6 at institutions of higher education as defined by Section 61.003,
7 Education Code. The information booklet provided to the child and
8 the foster parent shall be provided in the primary language spoken
9 by that individual.

10 SECTION 18. Subchapter B, Chapter 264, Family Code, is
11 amended by adding Section 264.122 to read as follows:

12 Sec. 264.122. COURT APPROVAL REQUIRED FOR TRAVEL OUTSIDE
13 UNITED STATES BY CHILD IN FOSTER CARE. (a) A child for whom the
14 department has been appointed managing conservator and who has been
15 placed in foster care may travel outside of the United States only
16 if the person with whom the child has been placed has petitioned the
17 court for, and the court has rendered an order granting, approval
18 for the child to travel outside of the United States.

19 (b) The court shall provide notice to the department and to
20 any other person entitled to notice in the suit if the court renders
21 an order granting approval for the child to travel outside of the
22 United States under this section.

23 SECTION 19. Subchapter C, Chapter 264, Family Code, is
24 amended by adding Section 264.2011 to read as follows:

25 Sec. 264.2011. ENHANCED IN-HOME SUPPORT PROGRAM. (a) To
26 the extent that funding is available, the department shall develop
27 a program to strengthen families through enhanced in-home support.

1 The program shall assist certain low-income families and children
2 in child neglect cases in which poverty is believed to be a
3 significant underlying cause of the neglect and in which the
4 enhancement of in-home support appears likely to prevent removal of
5 the child from the home or to speed reunification of the child with
6 the family.

7 (b) A family that meets eligibility criteria for inclusion
8 in the program is eligible to receive limited funding from a
9 flexible fund account to cover nonrecurring expenses that are
10 designed to help the family accomplish the objectives included in
11 the family's service plan.

12 (c) The executive commissioner shall adopt rules
13 establishing:

14 (1) specific eligibility criteria for the program
15 described in this section;

16 (2) the maximum amount of money that may be made
17 available to a family through the flexible fund account; and

18 (3) the purposes for which money made available under
19 the program may be spent.

20 (d) The department shall evaluate the results of the program
21 to determine whether the program is successful in safely keeping
22 families together. If the department determines that the program
23 is successful, the department shall continue the program to the
24 extent that funding is available.

25 SECTION 20. Subsection (a), Section 264.203, Family Code,
26 is amended to read as follows:

27 (a) Except as provided by Subsection (d), the court on

1 request of the department may order the parent, managing
2 conservator, guardian, or other member of the subject [~~abused or~~
3 ~~neglected~~] child's household to:

4 (1) participate in the services the department
5 provides or purchases for:

6 (A) alleviating the effects of the abuse or
7 neglect that has occurred; or

8 (B) reducing the reasonable likelihood that the
9 child may be abused or neglected in the immediate or foreseeable
10 future; and

11 (2) [~~to~~] permit the child and any siblings of the child
12 to receive the services.

13 SECTION 21. Chapter 266, Family Code, as added by Chapter
14 268, Acts of the 79th Legislature, Regular Session, 2005, is
15 amended by adding Section 266.0031 to read as follows:

16 Sec. 266.0031. COMMITTEE ON PEDIATRIC CENTERS OF EXCELLENCE
17 RELATING TO ABUSE AND NEGLECT. (a) The committee on pediatric
18 centers of excellence relating to abuse and neglect is composed of
19 10 members appointed by the executive commissioner. The members
20 must include:

21 (1) a representative of the attorney general's office;

22 (2) a representative of the Department of State Health
23 Services;

24 (3) a representative of the Department of Family and
25 Protective Services;

26 (4) a representative of the Health and Human Services
27 Commission;

1 (5) a representative of a child advocacy center;

2 (6) three pediatricians who specialize in treating
3 victims of child abuse;

4 (7) a representative from a children's hospital; and

5 (8) a representative of a medical school, as defined
6 by Section 61.501, Education Code, with expertise in forensic
7 consultation.

8 (b) The executive commissioner shall designate a member
9 representing the Department of State Health Services as the
10 presiding officer of the committee.

11 (c) If there is a medical director for the department, the
12 executive commissioner shall appoint the medical director to be the
13 department's representative on the committee.

14 (d) The committee shall:

15 (1) develop guidelines for designating regional
16 pediatric centers of excellence that:

17 (A) provide medical expertise to children who are
18 suspected victims of abuse and neglect; and

19 (B) assist the department in evaluating and
20 interpreting the medical findings for children who are suspected
21 victims of abuse and neglect;

22 (2) develop recommended procedures and protocols for
23 physicians, nurses, hospitals, and other health care providers to
24 follow in evaluating suspected cases of child abuse and neglect;
25 and

26 (3) recommend methods to finance the centers of
27 excellence and services described by this section.

1 (e) The committee shall report its findings and
2 recommendations to the department and the legislature not later
3 than December 1, 2008.

4 (f) This section expires January 1, 2010.

5 SECTION 22. Subsection (a), Section 2155.1442, Government
6 Code, is amended to read as follows:

7 (a) Subject to Subsection (e), the state auditor shall
8 conduct a management review of the residential contract management
9 employees of the Health and Human Services Commission and the
10 Department of Family and Protective Services and make
11 recommendations regarding the organization of, and skills and
12 educational requirements for, those employees. The state auditor
13 shall also make recommendations regarding the implementation of
14 financial accountability provisions and processes to ensure
15 effective and efficient expenditure of state and other contract
16 funds. [~~The state auditor shall report annually to the governor,~~
17 ~~the lieutenant governor, the speaker of the house of~~
18 ~~representatives, and the comptroller on the auditor's~~
19 ~~recommendations and the commission's and department's~~
20 ~~implementation of each recommendation.]~~

21 SECTION 23. Subchapter A, Chapter 191, Health and Safety
22 Code, is amended by adding Section 191.0047 to read as follows:

23 Sec. 191.0047. BIRTH INFORMATION FOR DEPARTMENT OF FAMILY
24 AND PROTECTIVE SERVICES. (a) The Department of State Health
25 Services shall implement an efficient and effective method to
26 verify birth information or provide a certified copy of a birth
27 record necessary to provide services for the benefit of a minor

1 being served by the Department of Family and Protective Services.

2 (b) The Department of State Health Services shall enter into
3 a memorandum of understanding with the Department of Family and
4 Protective Services to implement this section. The terms of the
5 memorandum of understanding must include methods for reimbursing
6 the Department of State Health Services in an amount that is not
7 more than the actual costs the department incurs in verifying the
8 birth information or providing the birth record to the Department
9 of Family and Protective Services.

10 SECTION 24. Subchapter B, Chapter 40, Human Resources Code,
11 is amended by adding Sections 40.0325 and 40.0326 to read as
12 follows:

13 Sec. 40.0325. STUDY OF CASEWORKER EDUCATION REIMBURSEMENT.

14 (a) The department shall study the effect that providing
15 reimbursement for certain educational expenses would have on
16 recruiting and retaining qualified child protective services
17 caseworkers. The study must include a comparative analysis of the
18 cost of training new caseworkers and the benefits of having an
19 experienced caseworker staff with the cost of providing
20 reimbursement for educational expenses.

21 (b) In determining the cost of reimbursing caseworkers for
22 educational expenses, the department shall consider reimbursing
23 caseworkers for tuition, academic fees, and other academic expenses
24 the caseworker paid to an institution of higher education or a
25 private or independent institution of higher education, as those
26 terms are defined by Section 61.003, Education Code, while the
27 caseworker was enrolled in a bachelor's degree or advanced degree

1 program in an academic program that the department determines
2 provides necessary training for child protective services
3 caseworkers.

4 (c) Not later than December 1, 2008, the department shall
5 report its findings and recommendations to the governor, lieutenant
6 governor, and speaker of the house of representatives.

7 Sec. 40.0326. RECRUITMENT OF CASEWORKERS. When recruiting
8 child protective services caseworkers, the department shall target
9 its recruitment efforts toward individuals who hold a bachelor's
10 degree or advanced degree in at least one of the following academic
11 areas:

12 (1) social work;

13 (2) counseling;

14 (3) early childhood education;

15 (4) psychology;

16 (5) criminal justice;

17 (6) elementary or secondary education;

18 (7) sociology; or

19 (8) human services.

20 SECTION 25. Section 40.0528, Human Resources Code, is
21 amended by adding Subsections (c) and (d) to read as follows:

22 (c) This section does not prevent the department from
23 contracting for special investigator services as needed.

24 (d) In reporting information relating to caseloads of child
25 protective services caseworkers, in addition to reporting caseload
26 by each individual affected by the case, the department shall
27 report the number of cases for each caseworker on the basis of

1 family unit.

2 SECTION 26. Section 40.071, Human Resources Code, is
3 amended to read as follows:

4 Sec. 40.071. DRUG-ENDANGERED CHILD INITIATIVE. The
5 department shall establish a drug-endangered child initiative
6 aimed at protecting children who are exposed to heroin, cocaine or
7 any of its forms, or methamphetamine or to chemicals and other
8 hazardous materials used in the illicit manufacture of
9 methamphetamine.

10 SECTION 27. Section 42.001, Human Resources Code, is
11 amended to read as follows:

12 Sec. 42.001. PURPOSE. The purpose of this chapter is to
13 protect the health, safety, and well-being of the children of the
14 state who reside in child-care facilities by establishing statewide
15 minimum standards for their safety and protection and by regulating
16 the facilities through a licensing program [~~or by requiring~~
17 ~~child-care facilities to be regulated by alternative accreditation~~
18 ~~bodies~~]. It is the policy of the state to ensure the protection of
19 all children under care in child-care facilities and to encourage
20 and assist in the improvement of child-care programs. It is also
21 the intent of the legislature that freedom of religion of all
22 citizens is inviolate. With respect to a school or child-care
23 facility sponsored by a religious organization, nothing in this
24 chapter gives a governmental agency authority to regulate, control,
25 supervise, or in any way be involved in the:

26 (1) form, manner, or content of religious instruction,
27 ministry, teaching, or the curriculum offered by the school or

1 facility;

2 (2) ability of the school or facility to select and
3 supervise qualified personnel, and otherwise control the terms of
4 employment, including the right to employ individuals who share the
5 religious views of the school or facility;

6 (3) internal self-governance and autonomy of the
7 school or facility; or

8 (4) religious environment of the school or facility,
9 such as symbols, art, icons, and scripture.

10 SECTION 28. Subsections (a) and (b), Section 42.021, Human
11 Resources Code, are amended to read as follows:

12 (a) The department may designate a division within the
13 department to carry out responsibilities the department may
14 delegate or assign under this chapter. The department shall ensure
15 the independence of the division from the child protective services
16 division.

17 (b) The commissioner shall appoint as director of a division
18 designated under Subsection (a) a person who meets the
19 qualifications set by the executive commissioner. The commissioner
20 shall ensure the director's independence from the child protective
21 services division and may not terminate the director without the
22 approval of the executive commissioner.

23 SECTION 29. (a) Subchapter B, Chapter 42, Human Resources
24 Code, is amended by adding Section 42.0211 to read as follows:

25 Sec. 42.0211. SAFETY SPECIALISTS, RISK ANALYSTS, AND
26 PERFORMANCE MANAGEMENT. (a) The division shall employ at least
27 one specially trained investigation safety specialist, whose

1 duties include the duty to:

2 (1) review and evaluate the intake of reports that
3 include allegations associated with a higher risk of harm to the
4 child; and

5 (2) consult with the assigned investigator to provide
6 specialized guidance and resources to assist the investigation.

7 (b) The division shall employ at least one risk analyst,
8 whose duties include the duty to:

9 (1) identify facilities, including child-placing
10 agencies, whose compliance histories indicate the potential for a
11 higher risk of harm to children in the care of the facility;

12 (2) review the monitoring and inspection reports for
13 any facilities described by Subdivision (1) to assess the quality
14 of the investigation or monitoring; and

15 (3) identify any additional monitoring or enforcement
16 action that may be appropriate to ensure the safety of a child in
17 the care of the facility.

18 (c) The division must include a performance management unit
19 with duties that include:

20 (1) conducting quality assurance reviews of randomly
21 selected monitoring and investigative reports to ensure compliance
22 with all relevant laws, rules, and agency policies; and

23 (2) making recommendations to improve the quality and
24 consistency of monitoring and investigations.

25 (b) The Department of Family and Protective Services shall
26 implement the change in law made by the enactment of Section
27 42.0211, Human Resources Code, by this Act only to the extent that

1 funding is available.

2 SECTION 30. Subchapter B, Chapter 42, Human Resources Code,
3 is amended by adding Section 42.0221 to read as follows:

4 Sec. 42.0221. COMMITTEE ON LICENSING STANDARDS. (a) The
5 committee on licensing standards is composed of seven members
6 appointed by the governor as follows:

7 (1) one member who operates a residential child-care
8 facility licensed by the department;

9 (2) one member who operates a child-placing agency
10 licensed by the department;

11 (3) one member who operates a licensed child-care
12 facility that provides care for children for less than 24 hours a
13 day;

14 (4) one member who is a parent, guardian, or custodian
15 of a child who uses a facility licensed by the department;

16 (5) one member who is an expert in the field of child
17 care and child development; and

18 (6) two members employed by the department who work
19 with facilities licensed by the department.

20 (b) Members of the committee serve two-year terms, with the
21 terms of three or four members, as appropriate, expiring February 1
22 of each year.

23 (c) The governor shall designate a member of the committee
24 to serve as the presiding officer.

25 (d) The committee shall meet twice a year at the call of the
26 presiding officer.

27 (e) The committee shall review and analyze the information

1 provided by the department and committee members and shall make
2 recommendations for policy and statutory changes relating to
3 licensing standards and facility inspections. The review and
4 analysis by the committee shall include the analysis of:

5 (1) the deaths of children who are in substitute care,
6 including reports and findings of child fatality review teams under
7 Subchapter F, Chapter 264, Family Code;

8 (2) the types of licensing violations for each
9 weighted risk and region;

10 (3) the details of administrative reviews and appeals;
11 and

12 (4) the type of technical assistance provided and the
13 qualifications of those providing technical assistance.

14 (f) The committee shall report its findings and
15 recommendations to the department and the legislature not later
16 than December 1 of each year.

17 SECTION 31. Section 42.042, Human Resources Code, is
18 amended by adding Subsection (r) to read as follows:

19 (r) A residential child-care facility that provides
20 emergency services may temporarily exceed the facility's capacity
21 for not more than 48 hours to provide temporary care for a child in
22 an emergency. The facility shall notify the department within 24
23 hours of the placement that the facility temporarily exceeded the
24 facility's capacity.

25 SECTION 32. (a) Section 42.044, Human Resources Code, is
26 amended by adding Subsections (b-1) and (b-2) and amending
27 Subsection (e) to read as follows:

1 (b-1) At least one of the unannounced, annual inspections of
2 a residential child-care facility must be conducted by a team of at
3 least two residential child-care monitoring staff, and, if
4 feasible, members of the inspection team must be from different
5 residential child-care monitoring units.

6 (b-2) Except as otherwise provided by this subsection,
7 during an unannounced annual inspection of a day-care center, the
8 department shall meet with the director designated by the day-care
9 center as having daily, on-site responsibility for the operation of
10 the day-care center to assess whether the director meets the
11 qualifications of a director specified by this chapter and
12 department rules. If the director is not present during the
13 unannounced annual inspection, the department shall schedule a
14 subsequent meeting with the director for that purpose and shall
15 conduct that meeting at the day-care center.

16 (e) In addition to the department's responsibility to
17 investigate an agency foster home or agency foster group home under
18 Subsection (c), the [The] department shall:

19 (1) periodically conduct inspections of a random
20 sample of agency foster homes and agency foster group homes;

21 (2) investigate any report of a serious incident in an
22 agency foster home or agency foster group home that pertains to a
23 child under the age of six;

24 (3) investigate any alleged violation of a minimum
25 standard by an agency foster home or agency foster group home that
26 poses a high degree of risk to a child in the care of the home who is
27 under the age of six; and

1 (4) conduct at least one annual enforcement team
2 conference for each child-placing agency to thoroughly review the
3 investigations or inspections of the child-placing agency and all
4 of its agency homes~~[. The department shall use the inspections]~~ to
5 monitor and enforce compliance by a child-placing agency with rules
6 and standards established under Section 42.042.

7 (b) The executive commissioner of the Health and Human
8 Services Commission shall adopt rules specifying the types of
9 alleged minimum standards violations that are considered to pose a
10 high degree of risk to a child in the care of an agency foster home
11 or agency foster group home under the age of six and must be
12 investigated by the Department of Family and Protective Services
13 under Subdivision (3), Subsection (e), Section 42.044, Human
14 Resources Code, as added by this Act.

15 (c) The Department of Family and Protective Services shall
16 implement the change in law made by this Act to Section 42.044,
17 Human Resources Code, only to the extent that funding is available.
18 If funding is not available, the executive commissioner of the
19 Health and Human Services Commission is not required to adopt rules
20 as directed by Subsection (b) of this section.

21 SECTION 33. Subsection (a), Section 42.0445, Human
22 Resources Code, is amended to read as follows:

23 (a) Before the department issues ~~[or renews]~~ a license,
24 listing, registration, or certification under this subchapter, the
25 department shall search the central registry of reported cases of
26 child abuse or neglect established under Section 261.002, Family
27 Code, to determine whether the applicant or the owner or an employee

1 of the facility or family home is listed in the registry as a person
2 who abused or neglected a child.

3 SECTION 34. Subsection (a), Section 42.0461, Human
4 Resources Code, is amended to read as follows:

5 (a) Before the department may issue a license [~~other than a~~
6 ~~renewal license,~~] or certificate to operate under Subchapter E for
7 the operation or the expansion of the capacity of a foster group
8 home or foster family home that is located in a county with a
9 population of less than 300,000 and that provides child care for 24
10 hours a day at a location other than the actual residence of a
11 child's primary caretaker or of a child care institution, the
12 applicant for the license, certificate, or expansion shall, at the
13 applicant's expense:

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

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

20 SECTION 35. Subsection (e), Section 42.048, Human Resources
21 Code, is amended to read as follows:

22 (e) A license issued under this chapter is not transferable
23 and applies only to the operator and facility location stated in the
24 license application. Except as provided by this subsection, a [A]
25 change in location or ownership automatically revokes a license. A
26 change in location of a child-placing agency does not automatically
27 revoke the license to operate the child-placing agency.

1 SECTION 36. Section 42.0535, Human Resources Code, is
2 amended by adding Subsections (e) and (f) to read as follows:

3 (e) The department, by rule, shall develop a process by
4 which a child-placing agency shall report to the department:

5 (1) the name of any verified foster home or foster
6 group home that has been closed for any reason, including a
7 voluntary closure;

8 (2) information regarding the reasons for the closure
9 of the foster home or foster group home; and

10 (3) the name and other contact information of a person
11 who may be contacted by another child-placing agency to obtain the
12 records relating to the closed foster home or foster group home that
13 are required to be maintained and made available under this
14 section.

15 (f) Information gathered under Subsection (e) must be made
16 available to child-placing agencies through a searchable database
17 maintained by the department.

18 SECTION 37. Subchapter C, Chapter 42, Human Resources Code,
19 is amended by adding Section 42.0536 to read as follows:

20 Sec. 42.0536. TRANSFER OF AGENCY FOSTER HOME. (a) An
21 agency foster home that is verified by a child-placing agency may
22 transfer to another child-placing agency only if, before the date
23 of the transfer, the agency foster home notifies the child-placing
24 agency to which the agency foster home is transferring of each
25 licensing violation for which the agency foster home has been cited
26 by the department during the preceding three years.

27 (b) The child-placing agency to which the agency foster home

1 is transferring shall submit a written request for transfer to the
2 child-placing agency that verified the agency foster home.

3 (c) Not later than the 10th day after the date the
4 child-placing agency receives a request for transfer under
5 Subsection (b), the child-placing agency shall provide the
6 child-placing agency that submitted the request a copy of any of the
7 following documents regarding the agency foster home:

8 (1) a corrective action plan;

9 (2) an annual development plan; or

10 (3) a description of any imposed or potential service
11 limitation.

12 (d) The department caseworker for each child placed in the
13 agency foster home may conduct a review meeting to determine
14 whether the transfer of the agency foster home is in the best
15 interest of each child in the home on the request of:

16 (1) the child-placing agency to which the agency
17 foster home is transferring;

18 (2) the child-placing agency that verified the agency
19 foster home;

20 (3) the agency foster home; or

21 (4) the caseworker.

22 (e) After a review meeting, the caseworker shall determine
23 whether each child placed in the agency foster home shall:

24 (1) stay in the agency foster home after the agency
25 foster home is transferred to the new child-placing agency; or

26 (2) be removed from the agency foster home before the
27 agency foster home is transferred to the new child-placing agency.

1 SECTION 38. The heading to Section 42.056, Human Resources
2 Code, is amended to read as follows:

3 Sec. 42.056. REQUIRED BACKGROUND AND CRIMINAL HISTORY
4 CHECKS; CRIMINAL PENALTIES.

5 SECTION 39. Section 42.056, Human Resources Code, is
6 amended by adding Subsections (a-2), (b-1), (g), (h), (i), (j), and
7 (k) to read as follows:

8 (a-2) In accordance with rules adopted by the executive
9 commissioner, the director, owner, or operator of a day-care center
10 shall submit a complete set of fingerprints of each person whose
11 name is submitted by the director, owner, or operator under
12 Subsection (a). The rules adopted by the executive commissioner:

13 (1) must require that the fingerprints be submitted in
14 a form and of a quality acceptable to the Department of Public
15 Safety and the Federal Bureau of Investigation for conducting a
16 criminal history check; and

17 (2) may require that the fingerprints be submitted
18 electronically through an applicant fingerprinting service center.

19 (b-1) In addition to any other background or criminal
20 history check conducted under Subsection (b), for each person whose
21 name is submitted by the director, owner, or operator of a day-care
22 center under Subsection (a), the department shall conduct a state
23 and Federal Bureau of Investigation criminal history check by:

24 (1) submitting the person's fingerprints provided
25 under Subsection (a-2), or causing the fingerprints to be submitted
26 electronically as authorized by that subsection, to the Department
27 of Public Safety for the purpose of conducting a state and federal

1 criminal history check; and

2 (2) using the resulting information made available by
3 that department under Section 411.114, Government Code, and by the
4 Federal Bureau of Investigation and any other criminal justice
5 agency under Section 411.087, Government Code.

6 (g) Except as otherwise provided by this subsection, a
7 person whose name is submitted by the director, owner, or operator
8 of a day-care center under Subsection (a) may not provide direct
9 care or have direct access to a child in a day-care center before
10 the person's background and criminal history checks under
11 Subsections (b) and (b-1) are completed. A person may be employed
12 at a day-care center and may provide direct care or have direct
13 access to a child in the day-care center before the person's
14 criminal history check under Subsection (b-1) is completed if:

15 (1) the state criminal history check and the
16 background check using the department's records of reported abuse
17 and neglect have been completed under Subsection (b), and the
18 resulting information does not preclude the person from being
19 present at the day-care center; and

20 (2) the day-care center is experiencing a staffing
21 shortage that, if the day-care center were not allowed to employ the
22 person until completion of the federal criminal history check,
23 would result in a staff-to-child ratio that violates the
24 department's minimum standards.

25 (h) If the results of a criminal history check under
26 Subsection (b-1) for a person employed by a day-care center during a
27 staffing shortage as authorized by Subsection (g) preclude the

1 person from being present at the day-care center, the director,
2 owner, or operator of the day-care center shall immediately
3 terminate the person's employment.

4 (i) A director, owner, or operator of a day-care center
5 commits an offense if the director, owner, or operator knowingly:

6 (1) fails to submit to the department information
7 about a person as required by this section and department rules for
8 use in conducting background and criminal history checks with
9 respect to the person; and

10 (2) employs the person at the day-care center or
11 otherwise allows the person to regularly or frequently stay or work
12 at the day-care center while children are being provided care.

13 (j) A director, owner, or operator of a day-care center
14 commits an offense if, after the date the director, owner, or
15 operator receives notice from the department that, based on the
16 results of a person's background or criminal history check, the
17 person is precluded from being present at the day-care center, the
18 director, owner, or operator knowingly:

19 (1) employs the person at the day-care center; or

20 (2) otherwise allows the person to regularly or
21 frequently stay or work at the day-care center while children are
22 being provided care.

23 (k) An offense under Subsection (i) or (j) is a Class B
24 misdemeanor.

25 SECTION 40. Section 42.0705, Human Resources Code, is
26 amended to read as follows:

27 Sec. 42.0705. RANGE OF PENALTIES. The department shall

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1 revoke or[7] suspend[~~7~~ ~~or~~ ~~refuse~~ ~~to~~ ~~renew~~] a license or
2 registration, place on probation a person whose license or
3 registration has been suspended, or reprimand a license holder or
4 registration holder for a violation of this chapter or a rule of the
5 board. If a license or registration suspension is probated, the
6 department may require the license holder or registration holder
7 to:

8 (1) report regularly to the department on matters that
9 are the basis of the probation;

10 (2) limit services to the areas prescribed by the
11 department;

12 (3) continue or review professional education until
13 the license holder or registration holder attains a degree of skill
14 satisfactory to the department in those areas that are the basis of
15 the probation; or

16 (4) take corrective action relating to the violation
17 on which the probation is based.

18 SECTION 41. Subchapter D, Chapter 42, Human Resources Code,
19 is amended by adding Section 42.0761 to read as follows:

20 Sec. 42.0761. CRIMINAL PENALTY FOR OPERATING DAY-CARE
21 CENTER WITHOUT QUALIFIED DIRECTOR. (a) An owner or operator of a
22 day-care center commits an offense if the owner or operator
23 knowingly operates the day-care center:

24 (1) without a director who meets the qualifications of
25 a director prescribed by department rules; or

26 (2) without the routine presence during the day-care
27 center's hours of operation of a director described by Subdivision

1 (1).

2 (b) An offense under this section is a Class B misdemeanor.

3 SECTION 42. Subsection (a), Section 42.078, Human Resources
4 Code, is amended to read as follows:

5 (a) The department may impose an administrative penalty
6 against a facility or family home licensed or registered under this
7 chapter that violates this chapter or a rule or order adopted under
8 this chapter. In addition, the department may impose an
9 administrative penalty against a residential child-care facility
10 or a controlling person of a residential child-care facility if the
11 facility or controlling person:

12 (1) violates a term of a license or registration
13 issued under this chapter;

14 (2) makes a statement about a material fact that the
15 facility or person knows or should know is false:

16 (A) on an application for the issuance [~~or~~
17 ~~renewal~~] of a license or registration or an attachment to the
18 application; or

19 (B) in response to a matter under investigation;

20 (3) refuses to allow a representative of the
21 department to inspect:

22 (A) a book, record, or file required to be
23 maintained by the facility; or

24 (B) any part of the premises of the facility;

25 (4) purposefully interferes with the work of a
26 representative of the department or the enforcement of this
27 chapter; or

1 ~~the recruitment, training, and management of foster parents, the~~
2 ~~recruitment of adoptive families, and the facilitation of the~~
3 ~~adoption process, family reunification, independent living,~~
4 ~~emergency shelter, residential group care, foster care,~~
5 ~~therapeutic foster care, and post-placement supervision, including~~
6 ~~relative placement. The term does not include the regulation of~~
7 ~~facilities under Subchapter C, Chapter 42].~~

8 SECTION 45. The heading to Section 45.002, Human Resources
9 Code, is amended to read as follows:

10 Sec. 45.002. CONTRACTS FOR [~~PRIVATIZING SUBSTITUTE CARE~~
11 ~~AND~~] CASE MANAGEMENT SERVICES; DEPARTMENT DUTIES.

12 SECTION 46. Subsections (a) and (c), Section 45.002, Human
13 Resources Code, are amended to read as follows:

14 (a) Not later than September 1, 2008 [~~2011~~], the department
15 shall contract with one or more providers of [~~complete the~~
16 ~~statewide privatization of the provision of substitute care and~~]
17 case management services in one or more geographic areas of the
18 state as provided by Section 264.106, Family Code, with a goal of
19 contracting for those services in five percent of the cases in this
20 state.

21 (c) The [~~On and after September 1, 2011, the~~] department
22 shall:

23 (1) monitor the quality of services for which the
24 department contracts [~~and each independent administrator contract~~]
25 under this chapter; [~~and~~]

26 (2) ensure that the services are provided in
27 accordance with federal law and the laws of this state, including

1 department rules and rules of the Department of State Health
2 Services and the Texas Commission on Environmental Quality; and

3 (3) ensure that all substitute care and case
4 management service providers, to the extent possible, honor the
5 cultural and religious affiliations of a child placed in the
6 service provider's care, regardless of the religious affiliation of
7 the service provider.

8 SECTION 47. Section 45.004, Human Resources Code, is
9 amended to read as follows:

10 Sec. 45.004. [~~INDEPENDENT ADMINISTRATORS,~~] DEPARTMENT DATA
11 SYSTEM DUTIES. [~~(a) The department shall research and develop a~~
12 ~~comprehensive strategy for contracting for management support~~
13 ~~services from independent administrators on a regional basis. If~~
14 ~~the department determines that an independent administrator could~~
15 ~~manage and procure substitute care and case management services~~
16 ~~contracts with private agencies and conduct placement assessments~~
17 ~~in a more cost-beneficial manner, the department shall implement a~~
18 ~~transition plan to transfer the procurement, management, and~~
19 ~~oversight of substitute care and case management services from the~~
20 ~~department to an independent administrator, as well as~~
21 ~~responsibility for placement assessments. If the department~~
22 ~~determines that contracting for management support from an~~
23 ~~independent administrator is not cost beneficial, the~~
24 ~~privatization of substitute care and case management services will~~
25 ~~occur as provided by Section 45.002(b).~~

26 [~~(b) The comprehensive strategy, at a minimum, must:~~

27 [~~(1) use competitively procured independent~~

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1 ~~administrators to procure and manage substitute care and case~~
2 ~~management providers in a geographic region designated by the~~
3 ~~department,~~

4 ~~[(2) require independent administrators to contract~~
5 ~~with private agencies that will:~~

6 ~~[(A) increase local foster and adoptive~~
7 ~~placement options for all children, especially teenagers, sibling~~
8 ~~groups, children whose race or ethnicity is disproportionately~~
9 ~~represented in foster care, children with severe or multiple~~
10 ~~disabilities, and other children who are difficult to place, and~~

11 ~~[(B) expand efforts to recruit foster families,~~
12 ~~adoptive families, and alternative care providers through~~
13 ~~faith-based and other targeted recruitment programs, and~~

14 ~~[(3) allow permanency services providers to enter~~
15 ~~client, service, and outcome information into the department's~~
16 ~~client data system.~~

17 ~~[(c)]~~ Subject to the appropriation of funds, the department
18 shall:

19 (1) enhance existing data systems to include contract
20 performance information; and

21 (2) implement a contracting data system developed or
22 procured by the department, to track quality assurance and other
23 contracting tools to effectively manage, monitor, and evaluate
24 performance-based contracting functions.

25 SECTION 48. The heading to Section 45.054, Human Resources
26 Code, is amended to read as follows:

27 Sec. 45.054. EVALUATION OF CASE MANAGEMENT SERVICES

1 ~~[REGIONAL IMPLEMENTATION]~~.

2 SECTION 49. Subsections (c) and (d), Section 45.054, Human
3 Resources Code, are amended to read as follows:

4 (c) Not later than the second ~~[first]~~ anniversary of the
5 date the department enters into the first contract for ~~[substitute~~
6 ~~care and]~~ case management services under a pilot program described
7 by this chapter and Section 264.106, Family Code ~~[section]~~, the
8 department shall contract with a qualified, independent third party
9 to evaluate the pilot program ~~[each phase of the privatization of~~
10 ~~substitute care and case management services]~~. Each evaluation
11 must:

12 (1) assess the performance of ~~[substitute care and]~~
13 case management services based on compliance with defined quality
14 outcomes for children;

15 (2) assess the achievement of performance measures;

16 (3) compare for quality the performance of ~~[substitute~~
17 ~~care and]~~ case management services provided by contractors to
18 ~~[substitute care and]~~ case management services provided by the
19 department ~~[in similar regions]~~;

20 (4) determine if contracted services are cost
21 beneficial; and

22 (5) assess the contractor's ~~[private sector's]~~ ability
23 to meet the performance measures ~~[, including service capacity, for~~
24 ~~the remaining regions]~~.

25 (d) The independent third party with whom the department
26 contracts under Subsection (c) shall submit its reports and
27 recommendations to the House Human Services Committee, or its

1 successor, and the Senate Health and Human Services Committee, or
2 its successor, not later than September 1, 2010.

3 SECTION 50. Section 45.101, Human Resources Code, is
4 amended to read as follows:

5 Sec. 45.101. GOALS FOR CONTRACTING [~~PRIVATIZATION~~]. In
6 contracting for substitute care and case management services, the
7 department's goals shall be:

8 (1) [~~The transition plan adopted under Section 45.053~~
9 ~~must provide for a new structural model for the community-centered~~
10 ~~delivery of substitute care and case management services that is~~
11 ~~based on a goal of]~~ improving protective services;

12 (2) [~~]~~ achieving timely permanency for children in
13 substitute care, including family reunification, placement with a
14 relative, or adoption; [~~]~~ and

15 (3) improving the overall well-being of children in
16 substitute care consistent with federal and state mandates.

17 SECTION 51. (a) The Department of Family and Protective
18 Services shall develop a child protective services improvement plan
19 that is designed to build on the child protective services reform
20 elements added by Chapter 268, Acts of the 79th Legislature,
21 Regular Session, 2005. In developing the plan, the department
22 shall seek to expand on or modify initiatives that have resulted in
23 demonstrable improvements and that serve the primary goals of:

24 (1) keeping families together while ensuring child
25 safety in the home;

26 (2) reducing the length of time children remain in
27 state care; and

1 (3) improving the quality and accountability of foster
2 care.

3 (b) The improvement plan must include:

4 (1) expanding the use of family group decision-making;

5 (2) reducing caseloads for caseworkers providing
6 family-based safety services and ongoing substitute care services;

7 (3) implementing an enhanced in-home support program,
8 as enacted by Section 264.2011, Family Code, as added by this Act,
9 to provide enhanced in-home supports to certain families;

10 (4) providing additional purchased client services
11 designed to keep families together and to reunite families more
12 quickly while ensuring child safety;

13 (5) enhancing support of kinship placements by hiring
14 or contracting to provide additional kinship workers to provide
15 additional support and education to relative placements and
16 purchasing additional support services for relative placements;

17 (6) enhancing services needed to support court
18 services and preparation of records for adoptive placement;

19 (7) improving the quality and accountability of
20 child-care licensing monitoring and investigations by assigning
21 those functions to separate staff, providing specialized training
22 to staff who perform each function, performing additional
23 investigations of certain reports involving young children, and
24 providing additional support and oversight to both functions;

25 (8) expanding substitute and adoptive placement
26 quality and capacity in local communities through the procurement
27 of a statewide needs assessment and through implementation of

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1 recommendations for expanding and improving provider capabilities;

2 (9) streamlining criminal history background checks
3 to increase the efficiency and effectiveness of those checks;

4 (10) improving the quality of services delivered by
5 the Department of Family and Protective Services through expanded
6 use of mobile technology and enhancements to the department's CLASS
7 and IMPACT database systems and operations;

8 (11) expanding implementation of the remediation plan
9 required under Section 1.54, Chapter 268, Acts of the 79th
10 Legislature, Regular Session, 2005, to address racial or ethnic
11 disparities in foster care; and

12 (12) implementing a statewide pilot program for a
13 time-limited, posthospitalization "step-down" rate, approved by
14 the executive commissioner of the Health and Human Services
15 Commission, to support the successful transition of children who
16 have experienced or are likely to experience multiple inpatient
17 admissions in a psychiatric hospital to an appropriate level of
18 care.

19 (c) The recommendations for expanding and improving
20 provider capabilities under Subdivision (8), Subsection (b) of this
21 section, must include provisions for start-up funding for providers
22 to build necessary capacity in the state, partnerships with
23 community leaders to identify local resources to support building
24 capacity, and the development of pilot projects to procure regional
25 capacity development. Beginning September 1, 2007, at the end of
26 each fiscal year, the Department of Family and Protective Services
27 shall prepare a progress report that details the department's

1 activities in implementing the recommendations described in
2 Subdivision (8), Subsection (b) of this section. The progress
3 report must include regional data regarding the number of children
4 in state conservatorship who are placed in their home region
5 separated into classifications based on levels of care. The
6 Department of Family and Protective Services shall submit the
7 periodic progress reports required by this subsection to:

8 (1) the governor;

9 (2) the lieutenant governor;

10 (3) the speaker of the house of representatives;

11 (4) appropriate oversight committees of the
12 legislature;

13 (5) the Legislative Budget Board; and

14 (6) the state auditor.

15 (d) The Department of Family and Protective Services shall
16 implement the improvement plan described by this section only to
17 the extent that funds are available for that purpose. If funds are
18 available to support some, but not all, elements of the plan, the
19 department shall implement only those parts of the plan for which
20 funding is available. To the extent feasible, the department shall
21 contract for services needed to implement elements of the
22 improvement plan, including the services needed to expand family
23 group decision-making, family-based safety services, kinship
24 support services, and purchased client services.

25 SECTION 52. (a) Not later than December 31, 2007, the
26 Department of Family and Protective Services shall prepare and
27 submit a detailed plan for:

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1 (1) the implementation of each element of the child
2 protective services improvement plan required by Section 51 of this
3 Act for which funding has been obtained; and

4 (2) the continued implementation of all child
5 protective services reform activities required by Chapter 268, Acts
6 of the 79th Legislature, Regular Session, 2005, as modified by this
7 Act.

8 (b) At the end of each fiscal year beginning August 31,
9 2008, the Department of Family and Protective Services shall
10 prepare and submit a progress report that details the department's
11 activities in implementing the plan described by Subdivision (1),
12 Subsection (a) of this section. The progress report must include
13 the department's calculation of cost savings from reduced stays in
14 foster care and any other cost savings that can be attributed to the
15 implementation of the improvement plan and continued child
16 protective services reforms.

17 (c) The Department of Family and Protective Services shall
18 submit the implementation plan and periodic progress reports
19 required by this section to:

- 20 (1) the governor;
- 21 (2) the lieutenant governor;
- 22 (3) the speaker of the house of representatives;
- 23 (4) appropriate oversight committees of the
- 24 legislature;
- 25 (5) the Legislative Budget Board; and
- 26 (6) the state auditor.

27 (d) This section expires September 1, 2010.

1 SECTION 53. The Department of Family and Protective
2 Services shall actively pursue a waiver or other authorization from
3 an appropriate federal agency to use any available federal funds,
4 including funds available under Title IV-E, Social Security Act (42
5 U.S.C. Section 670 et seq.), to provide monthly monetary assistance
6 under a caregiver assistance agreement in accordance with Section
7 264.755, Family Code.

8 SECTION 54. The following sections are repealed:

9 (1) Subsections (d), (f), (i), (j), and (k), Section
10 264.106, Family Code;

11 (2) Section 264.1062, Family Code;

12 (3) Section 42.022, Human Resources Code;

13 (4) Section 42.0505, Human Resources Code;

14 (5) Subdivisions (5), (6), (8), (9), (10), and (11),
15 Section 45.001, Human Resources Code;

16 (6) Subsections (b), (d), and (e), Section 45.002,
17 Human Resources Code;

18 (7) Sections 45.052 and 45.053, Human Resources Code;

19 (8) Subsections (a), (b), and (e) through (h), Section
20 45.054, Human Resources Code; and

21 (9) Section 45.102, Human Resources Code.

22 SECTION 55. The change in law made by this Act to Section
23 102.004, Family Code, applies only to an original suit affecting
24 the parent-child relationship filed on or after the effective date
25 of this Act. An original suit affecting the parent-child
26 relationship filed before the effective date of this Act is
27 governed by the law in effect on the date that the suit was filed,

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1 and the former law is continued in effect for that purpose.

2 SECTION 56. Subsections (a-2), (b-1), (g), and (h), Section
3 42.056, Human Resources Code, as added by this Act, apply to the
4 conduct of background and criminal history checks of a person whose
5 name is submitted to the Department of Family and Protective
6 Services under Subsection (a), Section 42.056, Human Resources
7 Code, on or after the effective date of this Act.

8 SECTION 57. This Act takes effect September 1, 2007.

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David Newkirk
President of the Senate

Jim Caddick
Speaker of the House

I hereby certify that S.B. No. 758 passed the Senate on April 23, 2007, by the following vote: Yeas 29, Nays 2; May 25, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2007, House granted request of the Senate; May 27, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Aetsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 758 passed the House, with amendments, on May 23, 2007, by the following vote: Yeas 146, Nays 0, two present not voting; May 26, 2007, House granted request of the Senate for appointment of Conference Committee; May 28, 2007, House adopted Conference Committee Report by the following vote: Yeas 142, Nays 0, two present not voting.

Robert Nancy
Chief Clerk of the House

Approved:

15 JUN 07
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10 PM O'CLOCK
JUN 5 2007
Roger Williams
Secretary of State