

FIFTY-SIXTH DAY

TUESDAY, APRIL 26, 2005

PROCEEDINGS

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, West, Whitmire, Zaffirini.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The President announced that a quorum of the Senate was present.

The Reverend James Anderson, Saint Mark Presbyterian Church, San Angelo, offered the invocation as follows:

Great and gracious God, You have so blessed our great state with abundant lands filled with many riches, our endless thanks are never enough. We thank You especially for all the people with which You have blessed our state, people with ample gifts waiting to be developed and used in the betterment of all its citizens. We thank You for those who have accepted the responsibility for overseeing the welfare of the people they serve through elected office. Today, we ask that Your will be accomplished through the work of this legislative body. Recognizing that those who have dominion over others are called to protect the weak and the unwanted and those who have no other recourse, we ask that all matters of business conducted here today will be heard in a spirit of fairness and that all decisions be made with the intent to bring about justice for all those they represent. We ask Your continued blessings on the State of Texas, all its citizens, and each of their leaders. We ask that each person of influence in attendance today will always be aware of Your holy presence, and that, as leaders of this state, they will remember that their first duty is to You, the almighty God of the universe and their second duty is to their neighbors by protecting and preserving the foundations upon which this great state and our beloved nation were founded. Recognizing that there are many faith traditions who pray to You by many names, I humbly submit this prayer in the name of Jesus Christ. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVES OF ABSENCE

On motion of Senator Whitmire, Senator Jackson was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Janek was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Wentworth was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Williams was granted leave of absence for today on account of important business.

CO-AUTHOR OF SENATE BILL 127

On motion of Senator Lindsay, Senator West will be shown as Co-author of **SB 127**.

CO-AUTHOR OF SENATE BILL 831

On motion of Senator Shapiro, Senator Zaffirini will be shown as Co-author of **SB 831**.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 217, SB 734, SB 848, SCR 31, HCR 110.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 26, 2005

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 183, Relating to the prosecution of offenses involving the use of safety belts and child passenger safety seat systems.

HJR 6, Proposing a constitutional amendment providing that marriage in this state consists only of the union of one man and one woman.

HJR 54, Proposing a constitutional amendment creating the Texas rail relocation and improvement fund and authorizing grants of money and issuance of obligations for financing the relocation, construction, reconstruction, acquisition, improvement, rehabilitation, and expansion of certain rail facilities.

HJR 87, Proposing a constitutional amendment relating to the membership of the State Commission on Judicial Conduct.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Staples was recognized and presented Dr. Douglas Curran of Athens as the Physician of the Day.

The Senate welcomed Dr. Curran and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

HB 64 to Subcommittee on Higher Education.

HB 126 to Committee on Education.

HB 148 to Committee on Intergovernmental Relations.

HB 214 to Committee on Intergovernmental Relations.

HB 252 to Committee on Jurisprudence.

HB 360 to Committee on Criminal Justice.

HB 370 to Committee on Transportation and Homeland Security.

HB 410 to Committee on Jurisprudence.

HB 412 to Committee on Business and Commerce.

HB 468 to Committee on Transportation and Homeland Security.

HB 495 to Subcommittee on Higher Education.

HB 504 to Committee on Transportation and Homeland Security.

HB 526 to Committee on State Affairs.

HB 546 to Committee on Criminal Justice.

HB 585 to Committee on Intergovernmental Relations.

HB 614 to Committee on Health and Human Services.

HB 632 to Committee on Natural Resources.

HB 698 to Committee on Business and Commerce.

HB 720 to Committee on Business and Commerce.

HB 805 to Committee on Transportation and Homeland Security.

HB 808 to Committee on Business and Commerce.

HB 858 to Committee on Jurisprudence.

HB 881 to Committee on Natural Resources.

HB 907 to Committee on Transportation and Homeland Security.

HB 943 to Committee on Natural Resources.

HB 952 to Committee on Government Organization.
HB 956 to Committee on Jurisprudence.
HB 1011 to Committee on Administration.
HB 1018 to Committee on Business and Commerce.
HB 1179 to Committee on Jurisprudence.
HB 1186 to Committee on Jurisprudence.
HB 1188 to Committee on Intergovernmental Relations.
HB 1191 to Committee on Jurisprudence.
HB 1480 to Committee on Transportation and Homeland Security.
HB 1531 to Committee on Business and Commerce.
HB 1534 to Committee on Transportation and Homeland Security.
HB 1558 to Committee on Health and Human Services.
HB 1586 to Committee on Jurisprudence.
HB 1630 to Subcommittee on Higher Education.
HB 1646 to Committee on Transportation and Homeland Security.
HB 1673 to Committee on Natural Resources.
HB 1690 to Committee on State Affairs.
HB 1695 to Committee on Criminal Justice.
HB 1745 to Committee on Business and Commerce.
HB 1759 to Committee on Criminal Justice.
HB 1807 to Committee on Criminal Justice.
HB 1813 to Committee on Criminal Justice.
HB 1820 to Committee on Government Organization.
HB 1901 to Committee on Finance.
HB 1935 to Committee on Natural Resources.
HB 1937 to Committee on Intergovernmental Relations.
HB 1951 to Committee on Jurisprudence.
HB 1958 to Committee on Intergovernmental Relations.
HB 1959 to Committee on Natural Resources.
HB 1981 to Committee on Natural Resources.
HB 1987 to Committee on Natural Resources.
HB 1996 to Committee on Natural Resources.
HB 2024 to Committee on Natural Resources.
HB 2032 to Committee on Natural Resources.
HB 2046 to Committee on State Affairs.
HB 2096 to Committee on Natural Resources.
HB 2172 to Committee on Natural Resources.
HB 2174 to Committee on Jurisprudence.
HB 2195 to Committee on Criminal Justice.
HB 2196 to Committee on Government Organization.
HB 2256 to Committee on Jurisprudence.
HB 2267 to Committee on Business and Commerce.
HB 2298 to Committee on Business and Commerce.
HB 2331 to Committee on Health and Human Services.
HB 2336 to Committee on Veteran Affairs and Military Installations.
HB 2384 to Committee on Criminal Justice.

HB 2428 to Committee on Natural Resources.
HB 2430 to Committee on Natural Resources.
HB 2440 to Committee on Natural Resources.
HB 2555 to Committee on Natural Resources.
HB 2584 to Committee on Intergovernmental Relations.
HB 2587 to Committee on Intergovernmental Relations.
HB 2614 to Committee on Business and Commerce.
HB 2626 to Committee on Intergovernmental Relations.
HB 2760 to Committee on Business and Commerce.
HB 2885 to Committee on Criminal Justice.
HB 2892 to Committee on Intergovernmental Relations.
HB 2926 to Committee on Intergovernmental Relations.
HB 2961 to Committee on Business and Commerce.
HB 2962 to Committee on Business and Commerce.
HB 3199 to Committee on Jurisprudence.
HB 3265 to Committee on Jurisprudence.
HB 3340 to Committee on Natural Resources.
HB 3353 to Committee on Criminal Justice.
HB 3481 to Committee on Jurisprudence.
HB 3489 to Committee on Jurisprudence.
HCR 13 to Committee on International Relations and Trade.
HCR 71 to Committee on Administration.
HCR 93 to Committee on Intergovernmental Relations.

GUESTS PRESENTED

Senator Whitmire was recognized and introduced to the Senate high school seniors from the Spring Branch Independent School District in Houston, accompanied by their teachers and principal.

The Senate welcomed its guests.

SENATE BILL 245 WITH HOUSE AMENDMENT

Senator Gallegos called **SB 245** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 245** as follows:

1. On page 1, between lines 6 and 7 insert the following:

Sec. 552.0071. NAME OF ACT. This Act may be cited as the Sean McKinnis Charitable Solicitation Act.

2. On page 1, line 7, strike 552.0071 and insert in lieu thereof "552.0072"

The amendment was read.

Senator Gallegos moved to concur in the House amendment to **SB 245**.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Jackson, Janek, Wentworth, Williams.

SENATE RESOLUTION 682

Senator Ogden offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the County and District Clerks' Association of Texas and to proclaim April 26, 2005, as County and District Clerks Day at the State Capitol; and

WHEREAS, The County and District Clerks' Association of Texas was established in 1893 to promote professional standards and to educate its members on their statutory and constitutional duties; currently, 441 individuals belong to the group; and

WHEREAS, County clerks provide support for the commissioners court and for the county courts at law in each county, and district clerks provide support for the district courts in each county; and

WHEREAS, County and district clerks serve as custodians of all court pleadings and papers that are part of any cause of action, civil or criminal, in the courts they serve; they also index and secure all court records, collect filing fees, and handle funds held in litigation and money awarded to minors; and

WHEREAS, In addition, county clerks act as the recorders and records managers for their county, work with the Bureau of Vital Statistics, and serve as election officials in most counties; district clerks oversee all aspects of a case from filing through ancillary proceedings following judgment; they also receive and disburse court-ordered child support; and

WHEREAS, The county and district clerks of Texas carry out their responsibilities with dedication and skill and with respect for the high standards established by the County and District Clerks' Association of Texas; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend county and district clerks for their invaluable service to our state and extend best wishes for the future to all who participate in County and District Clerks Day at the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared as a memento of this occasion.

SR 682 was read and was adopted without objection.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate representatives of the County and District Clerks' Association of Texas: JoAnn Chastain, Immediate Past President and Angelina County Clerk; Becky Wilbanks, President and Cass County District Clerk; Beth Rothermal, Vice-president and Washinton County Clerk; Brenda Hudson, Treasurer and Swisher County District and County Clerk; and Janice Gray, Secretary and Coryell County District Clerk; accompanied by a delegation of county and district clerks.

The Senate welcomed its guests.

SENATE BILL 6 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 6** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 6** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to protective services; providing penalties.

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

ARTICLE 1. CHILD PROTECTIVE SERVICES

SECTION 1.01. Subchapter C, Chapter 39, Education Code, is amended by adding Section 39.0531 to read as follows:

Sec. 39.0531. REPORTING CONCERNING STUDENTS IN FOSTER CARE.

The campus report card under Section 39.052 and the district performance report under Section 39.053 must provide information evaluating the performance, using the academic excellence indicators adopted under Section 39.051(b), of students in foster care or other residential care under the conservatorship of the Department of Family and Protective Services.

SECTION 1.02. Section 54.211, Education Code, is amended to read as follows:

Sec. 54.211. EXEMPTIONS FOR STUDENTS IN FOSTER OR OTHER RESIDENTIAL CARE. (a) A student is exempt from the payment of tuition and fees authorized in this chapter if the student:

(1) was in foster care or other residential care under the conservatorship of the Department of Family and Protective ~~[and Regulatory]~~ Services on or after:

(A) the day preceding the student's 18th birthday;

(B) the day of the student's 14th birthday, if the student was also eligible for adoption on or after that day; or

(C) the day the student graduated from high school or received the equivalent of a high school diploma; and

(2) enrolls in an institution of higher education as an undergraduate student not later than:

(A) the third anniversary of the date the student was discharged from the foster or other residential care, the date the student graduated from high school, or the date the student received the equivalent of a high school diploma, whichever date is earliest; or

(B) the student's 21st birthday.

(b) The Texas Education Agency and the Texas Higher Education Coordinating Board shall develop outreach programs to ensure that students in foster or other residential care in grades 9-12 are aware of the availability of the exemption from the payment of tuition and fees provided by this section.

SECTION 1.03. Section 54.2111, Education Code, is amended to read as follows:

Sec. 54.2111. EXEMPTIONS FOR ADOPTED STUDENTS FORMERLY IN FOSTER OR OTHER RESIDENTIAL CARE. (a) A student is exempt from the payment of tuition and fees authorized by this chapter if the student:

(1) was adopted; and

(2) was the subject of an adoption assistance agreement under Subchapter D, Chapter 162, Family Code.

(b) The Texas Education Agency and the Texas Higher Education Coordinating Board shall develop outreach programs to ensure that adopted students in grades 9-12 formerly in foster or other residential care are aware of the availability of the exemption from the payment of tuition and fees provided by this section.

SECTION 1.04. Section 101.024, Family Code, is amended to read as follows:

Sec. 101.024. PARENT. (a) "Parent" means the mother, a man presumed to be the father, a man legally determined to be the father, a man who has been adjudicated to be the father by a court of competent jurisdiction, a man who has acknowledged his paternity under applicable law, or an adoptive mother or father. Except as provided by Subsection (b), the [The] term does not include a parent as to whom the parent-child relationship has been terminated.

(b) For purposes of establishing, determining the terms of, modifying, or enforcing an order, a reference in this title to a parent includes a person ordered to pay child support under Section 154.001(a-1) or to provide medical support for a child.

SECTION 1.05. (a) Section 107.004, Family Code, is amended to read as follows:

Sec. 107.004. ADDITIONAL DUTIES OF ATTORNEY AD LITEM FOR CHILD. (a) Except as otherwise provided by this chapter, the attorney ad litem appointed for a child shall:

(1) seek to elicit in a developmentally appropriate manner the child's expressed objectives of representation;

(2) advise the child;

(3) provide guidance to the child;

(4) represent the child's expressed objectives of representation and follow the child's expressed objectives of representation during the course of litigation if the attorney ad litem determines that the child is competent to understand the nature of an attorney-client relationship and has formed that relationship with the attorney ad litem;

(5) consider the impact on the child in formulating the attorney ad litem's presentation of the child's expressed objectives of representation to the court; and

(6) become familiar with:

(A) the American Bar Association's standards of practice for attorneys who represent children in abuse and neglect cases; and

(B) the suggested amendments to those standards adopted by the National Association of Counsel for Children.

(b) An attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263 shall complete at least three hours of continuing legal education relating to child advocacy as described by Subsection (c) as soon as practicable after the attorney

ad litem's appointment. An attorney ad litem is not required to comply with this subsection if the court finds that the attorney ad litem has experience equivalent to the required education.

(c) The continuing legal education required by Subsection (b) must:

(1) be low-cost, available on the Internet, and provided through the State Bar of Texas; and

(2) focus on the duties of an attorney ad litem in, and the procedures of and best practices for, a proceeding under Chapter 262 or 263.

(d) Except as provided by Subsection (e), an attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263 shall meet before each court hearing with:

(1) the child, if the child is at least four years of age; or

(2) the individual with whom the child ordinarily resides, including the child's parent, conservator, guardian, caretaker, or custodian, if the child is younger than four years of age.

(e) An attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263 is not required to comply with Subsection (d) before a hearing if the court finds at that hearing that the attorney ad litem has shown good cause why the attorney ad litem's compliance with that subsection is not feasible or in the best interest of the child.

(b) The changes in law made by this section apply only to an attorney ad litem for a child appointed in a proceeding under Chapter 262 or 263, Family Code, on or after the effective date of this section. An attorney ad litem for a child appointed in a proceeding under Chapter 262 or 263, Family Code, before the effective date of this section is governed by the law in effect on the date the attorney ad litem was appointed, and the former law is continued in effect for that purpose.

(c) The State Bar of Texas shall adopt rules governing the reporting of an attorney ad litem's timely completion of the continuing legal education required by Section 107.004(b), Family Code, as added by this section.

SECTION 1.06. (a) Section 154.001, Family Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The court may order each person who is financially able and whose parental rights have been terminated with respect to a child in substitute care for whom the department has been appointed managing conservator to support the child in the manner specified by the order:

(1) until the earliest of:

(A) the child's adoption;

(B) the child's 18th birthday or graduation from high school, whichever occurs later;

(C) removal of the child's disabilities of minority by court order, marriage, or other operation of law; or

(D) the child's death; or

(2) if the child is disabled as defined in this chapter, for an indefinite period.

(b) Section 154.001, Family Code, as amended by this section, applies only to a person whose parent-child relationship with respect to a child is terminated on or after the effective date of this section. A person whose parent-child relationship is

terminated before the effective date of this section is governed by the law in effect on the date the parent-child relationship was terminated, and the former law is continued in effect for that purpose.

SECTION 1.07. Section 162.304, Family Code, is amended by adding Subsection (f) to read as follows:

(f) Subject to the availability of funds, the department shall work with the Health and Human Services Commission and the federal government to develop a program to provide medical assistance under Chapter 32, Human Resources Code, to children who were in the conservatorship of the department at the time of adoptive placement and need medical or rehabilitative care but do not qualify for adoption assistance.

SECTION 1.08. Subchapter B, Chapter 231, Family Code, is amended by adding Section 231.122 to read as follows:

Sec. 231.122. MONITORING CHILD SUPPORT CASES; ENFORCEMENT. The Title IV-D agency shall monitor each Title IV-D case from the date the agency begins providing services on the case. If a child support obligor in a Title IV-D case becomes more than 60 days delinquent in paying child support, the Title IV-D agency shall expedite the commencement of an action to enforce the child support order.

SECTION 1.09. Section 261.001, Family Code, is amended by amending Subdivision (2) to read as follows:

(2) "Department" means the Department of Family and Protective ~~and Regulatory~~ Services.

SECTION 1.10. The heading to Section 261.107, Family Code, is amended to read as follows:

Sec. 261.107. FALSE REPORT; CRIMINAL PENALTY; CIVIL PENALTY.

SECTION 1.11. (a) Section 261.107, Family Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) A person commits an offense if the person knowingly or intentionally makes a report as provided in this chapter that the person knows is false or lacks factual foundation. An offense under this section is a state jail felony ~~[Class A misdemeanor]~~ unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a ~~[state jail]~~ felony of the third degree.

(d) The court shall order a person who is convicted of an offense under this section to pay any reasonable attorney's fees incurred by the person who was falsely accused of abuse or neglect in any proceeding relating to the false report.

(e) A person who engages in conduct described by Subsection (a) is liable to the state for a civil penalty of \$1,000. The attorney general shall bring an action to recover a civil penalty authorized by this subsection.

(b) Section 261.107(a), Family Code, as amended by this section, and Section 261.107(d), Family Code, as added by this section, apply only to an offense committed on or after the effective date of this section. An offense committed before the effective date of this section is covered by Section 261.107, Family Code, as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense is committed before the effective date of this section if any element of the offense occurs before that date.

(c) Section 261.107(e), Family Code, as added by this section, applies only to conduct that occurs on or after the effective date of this section. Conduct that occurs before the effective date of this section is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 1.12. Section 261.201, Family Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) The department shall provide to a relative or other individual with whom a child is placed any information the department considers necessary to ensure that the relative or other individual is prepared to meet the needs of the child. The information required by this subsection may include information related to any abuse or neglect suffered by the child.

SECTION 1.13. (a) Sections 261.301(a), (d), (f), (g), and (h), Family Code, are amended to read as follows:

(a) With assistance from the appropriate state or local law enforcement agency as provided by this section, the department or designated agency shall make a prompt and thorough investigation of a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare. The investigation shall be conducted without regard to any pending suit affecting the parent-child relationship.

(d) The executive commissioner of the Health and Human Services Commission shall [department may] by rule assign priorities and prescribe investigative procedures for investigations based on the severity and immediacy of the alleged harm to the child. Subject to the availability of funds, the rules must require the department to respond within 24 hours after a report of abuse and neglect that is assigned the highest priority and within 72 hours after a report of abuse and neglect that is assigned the second highest priority. The primary purpose of the investigation shall be the protection of the child.

(f) An investigation of a report to the department [~~that is assigned the highest priority in accordance with department rules adopted under Subsection (d) and~~] that alleges that a child has been or may be the victim of conduct that constitutes a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child shall be conducted jointly by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, from the appropriate local law enforcement agency and the department or the agency responsible for conducting an investigation under Subchapter E.

(g) The inability or unwillingness of a local law enforcement agency to conduct a joint investigation under this section [~~Subsection (f)~~] does not constitute grounds to prevent or prohibit the department from performing its duties under this subtitle. The department shall document any instance in which a law enforcement agency is unable or unwilling to conduct a joint investigation under this section [~~Subsection (f)~~].

(h) The department and the appropriate local law enforcement agency shall conduct an investigation, other than an investigation under Subchapter E, as provided by this section and Article 2.27, Code of Criminal Procedure, if the investigation is of a report [~~of child abuse or neglect that is assigned the highest priority in accordance with department rules adopted under Subsection (d) and~~] that alleges that a child has been or may be the victim of conduct that constitutes a criminal offense that poses an

immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child. Immediately on receipt of a report described by this subsection, the department shall notify the appropriate local law enforcement agency of the report.

(b) The change in law made by this section to Section 261.301, Family Code, applies to the investigation of a report of child abuse or neglect made on or after the effective date of this section. The investigation of a report of child abuse or neglect made before the effective date of this section is governed by the law in effect on the date the report was made, and the former law is continued in effect for that purpose.

(c) The Department of Family and Protective Services shall develop and implement an automated tracking and reporting system that enables the department to track information on initial contacts to monitor compliance with the requirements of Section 261.301(d), Family Code, as amended by this section, relating to the timely response to reports of abuse and neglect.

(d) The executive commissioner of the Health and Human Services Commission shall adopt the rules as required by Section 261.301(d), Family Code, as amended by this section, not later than September 1, 2007.

SECTION 1.14. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3011 to read as follows:

Sec. 261.3011. JOINT INVESTIGATION GUIDELINES AND TRAINING.

(a) The department shall, in consultation with the appropriate law enforcement agencies in each county, develop guidelines and protocols for joint investigations by the department and the law enforcement agency under Section 261.301. The guidelines and protocols must:

(1) clarify the respective roles of the department and law enforcement agency in conducting the investigation; and

(2) incorporate the use of forensic methods in determining the occurrence of child abuse and neglect.

(b) The department shall collaborate with law enforcement agencies to provide to department investigators and law enforcement officers responsible for investigating reports of abuse and neglect joint training relating to methods to effectively conduct joint investigations under Section 261.301. The training must include information on interviewing techniques, evidence gathering, and testifying in court for criminal investigations.

SECTION 1.15. (a) Section 261.3015(a), Family Code, is amended to read as follows:

(a) In assigning priorities and prescribing investigative procedures based on the severity and immediacy of the alleged harm to a child under Section 261.301(d), the department ~~[board by rule]~~ shall establish a flexible response system to allow the department to make the most effective use of [allocate] resources by investigating serious cases of abuse and neglect and by screening out less serious cases of abuse and neglect if the department determines, after contacting a professional or other credible source, that the child's safety can be assured without further investigation. The department may administratively close the less serious cases without providing services or making a referral to another entity for assistance [providing assessment and family preservation services in less serious cases].

(b) To ensure the safety of children, the Department of Family and Protective Services shall use highly skilled caseworkers to perform the screening functions described by Section 261.3015(a), Family Code, as amended by this section, and develop standardized policy guidelines, including accountability measures to monitor closed cases, to ensure that screening guidelines do not result in the closing of cases that should not be closed.

SECTION 1.16. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3021 to read as follows:

Sec. 261.3021. CASEWORK DOCUMENTATION AND MANAGEMENT. Subject to the appropriation of money for these purposes, the department shall:

(1) identify critical investigation actions that impact child safety and require department caseworkers to document those actions in a child's case file not later than the day after the action occurs;

(2) identify and develop a comprehensive set of casework quality indicators that must be reported in real time to support timely management oversight;

(3) provide department supervisors with access to casework quality indicators and train department supervisors on the use of that information in the daily supervision of caseworkers;

(4) develop a case tracking system that notifies department supervisors and management when a case is not progressing in a timely manner;

(5) use current data reporting systems to provide department supervisors and management with easier access to information; and

(6) train department supervisors and management on the use of data to monitor cases and make decisions.

SECTION 1.17. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3031 to read as follows:

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

SECTION 1.18. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3032 to read as follows:

Sec. 261.3032. INTERFERENCE WITH INVESTIGATION; CRIMINAL PENALTY. (a) A person commits an offense if, with the intent to interfere with the department's investigation of a report of abuse or neglect of a child, the person takes, retains, or conceals the child and the person's taking, retention, or concealment interferes with the department's investigation.

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

(c) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

SECTION 1.19. (a) Section 261.307, Family Code, is amended to read as follows:

Sec. 261.307. INFORMATION RELATING TO INVESTIGATION PROCEDURE. As soon as possible after initiating an investigation of a parent or other person having legal custody of a child, the department shall provide to the person:

(1) a brief and easily understood summary of:

(A) ~~(+)~~ the department's procedures for conducting an investigation of alleged child abuse or neglect, including:

(i) ~~(A)~~ a description of the circumstances under which the department would request to remove the child from the home through the judicial system; and

(ii) ~~(B)~~ an explanation that the law requires the department to refer all reports of alleged child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

(B) ~~(2)~~ the person's right to file a complaint with the department or to request a review of the findings made by the department in the investigation;

(C) ~~(3)~~ the person's right to review all records of the investigation unless the review would jeopardize an ongoing criminal investigation;

(D) ~~(4)~~ the person's right to seek legal counsel;

(E) ~~(5)~~ references to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions; and

(F) ~~(6)~~ the process the person may use to acquire access to the child if the child is removed from the home;

(2) if the department determines that removal of the child may be warranted, a proposed child placement resources form that instructs the parent or other person having legal custody of the child to complete and return the form to the department or agency and to identify in the form three individuals who could be relative caregivers or designated caregivers, as those terms are defined by Section 264.751; and

(3) an informational manual required by Section 261.3071.

(b) The Department of Family and Protective Services shall develop the proposed child placement resources form required to be provided under Section 261.307, Family Code, as amended by this section, not later than November 1, 2005.

(c) The Department of Family and Protective Services shall provide the proposed child placement resources form as required by Section 261.307, Family Code, as amended by this section, to the parent or other person having legal custody of a child who is the subject of an investigation of abuse or neglect that is commenced on or after November 1, 2005.

SECTION 1.20. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3071 to read as follows:

Sec. 261.3071. INFORMATIONAL MANUALS. (a) In this section, "relative caregiver" and "designated caregiver" have the meanings assigned those terms by Section 264.751.

(b) The department shall develop and publish informational manuals that provide information for:

(1) a parent or other person having custody of a child who is the subject of an investigation under this chapter; and

(2) a person who is selected by the department to be the child's relative or designated caregiver.

(c) Information provided in the manuals must be in both English and Spanish and must include, as appropriate:

(1) useful indexes of information such as telephone numbers;

(2) the information required to be provided under Section 261.307(1);

(3) information describing the rights and duties of a relative or designated caregiver; and

(4) information regarding the relative and other designated caregiver program under Subchapter I, Chapter 264.

SECTION 1.21. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3101 to read as follows:

Sec. 261.3101. FORENSIC INVESTIGATION SUPPORT. The department shall, subject to the availability of money:

(1) employ or contract with medical and law enforcement professionals who shall be strategically placed throughout the state to provide forensic investigation support and to assist caseworkers with assessment decisions and intervention activities;

(2) employ or contract with subject matter experts to serve as consultants to department caseworkers in all aspects of their duties; and

(3) designate persons who shall act as liaisons within the department whose primary functions are to develop relationships with local law enforcement agencies and courts.

SECTION 1.22. Section 261.3125, Family Code, is amended to read as follows:

Sec. 261.3125. CHILD SAFETY SPECIALISTS ~~[INVESTIGATIONS COORDINATOR]~~. (a) The department shall employ in each of the department's administrative regions ~~[region of the department for child protective services]~~ at least one child safety specialist ~~[protective services investigations coordinator]~~. The job responsibilities of the child safety specialist ~~[investigations coordinator]~~ must focus ~~[only]~~ on child abuse and neglect investigation issues, including reports of child abuse required by Section 261.101, to achieve a greater compliance with that section, and on assessing and improving the effectiveness of the department in providing for the protection of children in the region.

(b) The duties of a child safety specialist ~~[protective services investigations coordinator]~~ must include the duty to:

(1) conduct staff reviews and evaluations of cases determined to involve a high risk to the health or safety of a child, including cases of abuse reported under Section 261.101, to ensure that risk assessment tools are fully and correctly used;

(2) review and evaluate ~~[monitor]~~ cases in which there have been multiple referrals to the department of child abuse or neglect involving the same family, child, or person alleged to have committed the abuse or neglect; and

(3) approve decisions and assessments related to investigations of cases of child abuse or neglect that involve a high risk to the health or safety of a child.

SECTION 1.23. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3126 to read as follows:

Sec. 261.3126. COLOCATION OF INVESTIGATORS. (a) In each county, to the extent possible, the department and the local law enforcement agencies that investigate child abuse in the county shall colocate in the same offices investigators from the department and the law enforcement agencies to improve the efficiency of child abuse investigations. The department shall consider locating investigators from the department and county and municipal law enforcement agencies at a children's advocacy center in the county.

(b) A law enforcement agency is not required to comply with the colocation requirements of this section if the law enforcement agency does not have a full-time peace officer solely assigned to investigate reports of child abuse and neglect.

(c) If a county does not have a children's advocacy center, the department shall, if practicable, establish a children's advocacy center in the county as provided by Section 264.402 and locate investigators from the department and county and municipal law enforcement agencies at the center.

SECTION 1.24. Subchapter B, Chapter 262, Family Code, is amended by adding Section 262.114 to read as follows:

Sec. 262.114. EVALUATION OF IDENTIFIED RELATIVES AND OTHER DESIGNATED INDIVIDUALS; PLACEMENT. (a) Before a full adversary hearing under Subchapter C, the Department of Family and Protective Services must perform a background and criminal history check of the relatives or other designated individuals identified as a potential relative or designated caregiver, as defined by Section 264.751, on the proposed child placement resources form provided under Section 261.307. The department shall evaluate each person listed on the form to determine the relative or other designated individual who would be the most appropriate substitute caregiver for the child and must complete a home study of the most appropriate substitute caregiver, if any, before the full adversary hearing. Until the department identifies a relative or other designated individual qualified to be a substitute caregiver, the department must continue to explore substitute caregiver options. The time frames in this subsection do not apply to a relative or other designated individual located in another state.

(b) The department may place a child with a relative or other designated individual identified on the proposed child placement resources form if the department determines that the placement is in the best interest of the child. The department may place the child with the relative or designated individual before conducting the background and criminal history check or home study required under Subsection (a). The department shall provide a copy of an informational manual required under Section 261.3071 to the relative or other designated caregiver at the time of the child's placement.

SECTION 1.25. (a) Section 262.201(c), Family Code, is amended to read as follows:

(c) If the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that there is a continuing danger to the physical health or safety of the child and for the child to remain in the home is contrary to the welfare of the child, the court shall issue an appropriate temporary order under Chapter 105. The court shall require each parent, alleged father, or relative of the child before the court to submit the proposed child placement resources form provided under Section 261.307, if the

form has not been previously provided, and provide the Department of Family and Protective [~~and Regulatory~~] Services with information necessary to locate any other absent parent, alleged father, or relative of the child. The court shall inform each parent in open court that parental and custodial rights and duties may be subject to restriction or to termination unless the parent or parents are willing and able to provide the child with a safe environment. If the court finds that the child requires protection from family violence by a member of the child's family or household, the court shall render a protective order under Title 4 for the child. In this subsection, "family violence" has the meaning assigned by Section 71.004.

(b) The change in law made by this section to Section 262.201(c), Family Code, applies only to a full adversary hearing that occurs on or after November 1, 2005. A full adversary hearing that occurs before that date is governed by the law as it existed before amendment by this section, and the former law is continued in effect for that purpose.

SECTION 1.26. Section 263.001(a)(1), Family Code, is amended to read as follows:

(1) "Department" means the Department of Family and Protective [~~and Regulatory~~] Services.

SECTION 1.27. (a) Section 263.102, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The service plan must:

(1) be specific;

(2) be in writing;

(3) be prepared by the department or other agency in conference with the child's parents;

(4) state appropriate deadlines;

(5) state whether the goal of the plan is:

(A) return of the child to the child's parents;

(B) termination of parental rights and placement of the child for adoption; or

(C) because of the child's special needs or exceptional circumstances, continuation of the child's care out of the child's home;

(6) state steps that are necessary to:

(A) return the child to the child's home if the placement is in foster care;

(B) enable the child to remain in the child's home with the assistance of a service plan if the placement is in the home under the department's or other agency's supervision; or

(C) otherwise provide a permanent safe placement for the child;

(7) state the actions and responsibilities that are necessary for the child's parents to take to achieve the plan goal during the period of the service plan and the assistance to be provided to the parents by the department or other authorized agency toward meeting that goal;

(8) state any specific skills or knowledge that the child's parents must acquire or learn to achieve the plan goal;

(9) state the name of the person with the department or other agency whom the child's parents may contact for information relating to the child if other than the person preparing the plan; and

(10) ~~(9)~~ prescribe any other term or condition that the department or other agency determines to be necessary to the service plan's success.

(d) The department or other authorized entity must write the service plan in a clear and understandable manner in order to facilitate a parent's ability to follow the requirements of the service plan.

(b) Section 263.202(c), Family Code, is amended to read as follows:

(c) The court shall advise the parties that progress under the service plan will be reviewed at all subsequent hearings, including a review of whether the parties have acquired or learned any specific skills or knowledge stated in the service plan.

(c) The changes in law made by Sections 263.102 and 263.202(c), Family Code, as amended by this section, apply only to a child placed in the custody of the Department of Family and Protective Services on or after the effective date of this section. A child placed in the custody of the department before the effective date of this section is governed by the law in effect on the date the child was placed in the department's custody, and the former law is continued in effect for that purpose.

SECTION 1.28. (a) Section 263.201, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The court shall require each parent, alleged father, or relative of the child before the court to submit the proposed child placement resources form provided under Section 261.307 at the status hearing, if the form has not previously been submitted.

(b) The change in law made by this section to Section 263.201, Family Code, applies only to a status hearing that occurs on or after November 1, 2005. A status hearing that occurs before that date is governed by the law as it existed before amendment by this section, and the former law is continued in effect for that purpose.

SECTION 1.29. (a) Section 263.502(c), Family Code, is amended to read as follows:

(c) The placement review report must:

(1) evaluate whether the child's current placement is appropriate for meeting the child's needs;

(2) evaluate whether efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child if the child is placed in institutional care;

(3) contain a discharge plan for a child who is at least 16 years of age that identifies ~~identify~~ the services and specific tasks that are needed to assist the ~~the~~ ~~[a]~~ child ~~[who is at least 16 years of age]~~ in making the transition from substitute care to adult ~~independent~~ living ~~[if the services are available in the community]~~;

(4) evaluate whether the child's current educational placement is appropriate for meeting the child's academic needs;

(5) identify other plans or services that are needed to meet the child's special needs or circumstances; and

(6) ~~(5)~~ describe the efforts of the department or authorized agency to place the child for adoption if parental rights to the child have been terminated and the child is eligible for adoption.

(b) In implementing the provisions of Section 263.502(c)(3), Family Code, as amended by this section, the Department of Family and Protective Services shall, to the extent that funding is appropriated for this purpose, contract with outside entities to assist in the discharge planning process.

SECTION 1.30. Subtitle D, Title 2, Human Resources Code, is amended by adding Chapter 45 to read as follows:

CHAPTER 45. PRIVATIZATION OF SUBSTITUTE CARE AND CASE
MANAGEMENT SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 45.001. DEFINITIONS. In this chapter:

(1) "Case management services" means the provision of case management services to a child for whom the department has been appointed temporary or permanent managing conservator, including caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates.

(2) "Commission" means the Health and Human Services Commission.

(3) "Department" means the Department of Family and Protective Services.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Family-based safety services" means services designed to help children at risk of being placed in foster care to remain safely with their families.

(6) "Independent administrator" means an independent agency selected through a competitive procurement process to:

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

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

(7) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts may also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(8) "Permanency services" means services, other than family-based safety services, provided to secure a child's safety, permanency, and well-being, including substitute care services, family reunification services, adoption and postadoption services, preparation for adult living services, and case management services.

(9) "Placement assessment" means the process used by the department or another authorized entity to determine the most appropriate, least restrictive, safe placement resource for a child who must be separated temporarily from the care of the child's parents.

(10) "Privatize" means to contract with a private entity to provide certain governmental services.

(11) "Psychotropic medication" means a drug that affects the mind through action on the central nervous system and is prescribed for depression, schizophrenia, attention deficit hyperactivity disorder, seizures, and a variety of other similar conditions.

(12) "Substitute care provider" means a child-care institution or a child-placing agency, as defined by Section 42.002.

(13) "Substitute care services" means services provided to or for children in substitute care and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, and post-placement supervision, including relative placement. The term does not include the regulation of facilities under Subchapter C, Chapter 42.

Sec. 45.002. PRIVATIZING SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES; DEPARTMENT DUTIES. (a) Not later than September 1, 2009, the department shall complete the statewide privatization of the provision of substitute care and case management services in this state.

(b) On and after September 1, 2009:

(1) all substitute care and case management services for children for whom the department has been appointed temporary or permanent managing conservator must be provided by child-care institutions and child-placing agencies; and

(2) except as provided by Subsection (d) and notwithstanding any other law, the department may not directly provide those services.

(c) On and after September 1, 2009, the department shall:

(1) monitor the quality of services for which the department and each independent administrator contract under this chapter; and

(2) ensure that the services are provided in accordance with federal law and the laws of this state, including department rules and rules of the Department of State Health Services and the Texas Commission on Environmental Quality.

(d) On and after September 1, 2009, the department may provide substitute care and case management services in an emergency. The executive commissioner shall adopt rules describing the circumstances in which the department may provide those services.

Sec. 45.003. HIRING PREFERENCE. A substitute care or case management services provider that contracts with the department to provide substitute care services or case management services shall give a preference in hiring to qualified department employees in good standing with the department who provide substitute care or case management services and whose positions with the department may be eliminated as a result of the privatization of substitute care and case management services.

Sec. 45.004. INDEPENDENT ADMINISTRATORS; DEPARTMENT DUTIES.

(a) The department shall research and develop a comprehensive strategy for contracting for management support services from independent administrators on a regional basis. If the department determines that an independent administrator could manage and procure substitute care and case management services contracts with private agencies and conduct placement assessments in a more cost-beneficial manner, the department shall implement a transition plan to transfer the procurement, management, and oversight of substitute care and case management services from the department to an independent administrator, as well as responsibility for placement assessments. If the department determines that contracting for management support from an independent administrator is not cost beneficial, the privatization of substitute care and case management services will occur as provided by Section 45.002(b).

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

(1) use competitively procured independent administrators to procure and manage substitute care and case management providers in a geographic region designated by the department;

(2) require independent administrators to contract with private agencies that will:

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

(B) expand efforts to recruit foster families, adoptive families, and alternative care providers through faith-based and other targeted recruitment programs; and

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

(c) Subject to the appropriation of funds, the department shall:

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

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

[Sections 45.005-45.050 reserved for expansion]

SUBCHAPTER B. DEPARTMENT DUTIES

Sec. 45.051. REORGANIZING STAFF RESPONSIBILITIES. Not later than March 1, 2006, the department shall develop a plan for reorganizing the department's operation to support future procurement of, contracting with, and monitoring of private contractors and enforcement of the licensing of facilities. The plan must include provisions for reducing duplication of the department's program monitoring activities.

Sec. 45.052. FINANCING. The department shall create financing and payment arrangements that provide incentives for an independent administrator and its subcontract providers to achieve safety, permanency, and well-being outcomes and improved system performance. In developing this financing arrangement, the department shall examine:

(1) the use of case rates or performance-based fee-for-service contracts that include incentive payments or payment schedules that link reimbursement to results; and

(2) ways to reduce a contractor's financial risk that could jeopardize the solvency of the contractor, including the use of a risk-reward corridor that limits risk of loss and potential profits or the establishment of a statewide risk pool.

Sec. 45.053. ADOPTION OF TRANSITION PLAN. (a) Not later than September 30, 2005, the commission and the department shall submit to the legislature a plan for the development of the transition plan, including the planning structure and process, engagement of stakeholders, and access to experienced consultation and technical assistance.

(b) Not later than March 1, 2006, the commission and the department shall, in consultation with private entities under contract to provide substitute care services for the department, including members of the boards of directors of the private entities and other community stakeholders, develop and adopt a substitute care and case management services transition plan consistent with the requirements of Subchapter C.

(c) The executive commissioner shall adopt rules to implement the privatization of substitute care and case management services in this state.

Sec. 45.054. REGIONAL IMPLEMENTATION. (a) The department shall implement the privatization of substitute care and case management services on a regional basis. The transition plan must include a schedule with deadlines for implementation of the plan in each region of the state. The plan must ensure that the transition is completed in the first region not later than December 31, 2006, and that the transition is completed statewide not later than September 1, 2009.

(b) The transition plan must include a schedule with the following deadlines for implementation of the plan:

(1) completion of the transition plan, not later than March 1, 2006;

(2) release of a request for proposal for a geographic region of the state designated by the department, not later than April 30, 2006;

(3) the awarding of the contract described by Subdivision (2), not later than September 30, 2006;

(4) establishment of the multidisciplinary team and necessary processes, evaluation criteria, and monitoring tools to be used to monitor and evaluate the performance of the contractor, not later than September 30, 2006;

(5) the review and evaluation of the multidisciplinary team's reports pertaining to the contractor's achievement of performance-based milestones and the effect on the quality of permanency services provided, not later than December 31, 2007;

(6) release of a request for proposal for additional geographic regions of the state designated by the department, not later than March 31, 2008;

(7) the awarding of the contracts described by Subdivision (6), not later than July 31, 2008;

(8) release of a request for proposal for all remaining geographic regions of the state designated by the department, not later than December 31, 2008; and

(9) the awarding of the contracts described by Subdivision (8), not later than May 31, 2009.

(c) Not later than the first anniversary of the date the department enters into the first contract under this section, the department shall institute an independent evaluation of the implementation of the privatization of substitute care and case management services. The department shall report the results of the evaluation to the legislature to determine whether to refine the service delivery model for the remaining regional transitions. The evaluation must assess performance based on compliance with defined quality outcomes for children.

[Sections 45.055-45.100 reserved for expansion]

SUBCHAPTER C. TRANSITION PLAN

Sec. 45.101. GOALS FOR PRIVATIZATION. The transition plan adopted under Section 45.053 must provide for a new structural model for the community-centered delivery of substitute care and case management services that is based on a goal of improving protective services, achieving timely permanency for children in substitute care, including family reunification, placement with a relative, or adoption, and improving the overall well-being of children in substitute care consistent with federal and state mandates.

Sec. 45.102. TRANSITION PLAN REQUIREMENTS. The transition plan developed by the department and the commission must:

(1) identify barriers to privatization, including regional disparities in resources, provider capacity, and population, and propose solutions to stimulate capacity and adjust program delivery;

(2) provide details regarding the target population and services by region that will be part of the system redesign, including the number of children and families, historic caseload trends and service utilization information, and projected caseloads;

(3) provide details regarding the roles, responsibilities, and authority assigned to the public and private entities, including the department, independent administrators, and substitute care and case management providers, in making key decisions throughout the child and family case;

(4) include an implementation plan to transfer all foster homes certified by the department to private child-placing agencies, ensuring minimum disruption to the children in foster care and to current foster parents;

(5) specify the limited circumstances under which a foster home verified by the department may continue to be verified by the department when continuation would be in the best interest of a child in the care of the foster home;

(6) include a process for assessing each child who is transferred to a private substitute care provider to verify the child's service needs;

(7) include an implementation plan to transfer all adoption services to private agencies, including details of how and when cases will be transferred and how adoption provider contracts and reimbursements methods will be structured;

(8) describe the process to transfer the duties of case management and family reunification services from department staff to private agency staff, including the integration of family group conferencing into private agency case management;

(9) describe the manner in which the department will procure and contract for kinship services that are funded by the state;

(10) provide details regarding financial arrangements and performance expectations for independent administrators and substitute care and case management providers that:

(A) provide incentives for desired results and explicit contract performance and outcome indicators;

(B) describe how various risk-based arrangements will be weighed and realistically assessed using sound actuarial data and risk modeling and how mechanisms will be selected to limit uncontrollable risks that could threaten provider stability and quality;

(C) describe how financing options will increase flexibility to promote innovation and efficiency in service delivery; and

(D) provide balance between control over key decisions and the level of risk the contractor assumes;

(11) require the executive commissioner to evaluate whether existing rate structures are appropriate to compensate substitute care providers who enter into contracts with an independent administrator under Section 264.106, Family Code, considering new functions to be served by the providers, and, if necessary, require the executive commissioner to adjust the rates accordingly;

(12) require the department to enter into contracts for the provision of substitute care and case management services as required by Section 264.106, Family Code, and describe the procurement and contracting process, including:

(A) stating how the department will shift from an open-enrollment system to a competitive procurement system;

(B) identifying the services that will be procured and contracted for directly with the department and the services that will be procured by an independent administrator; and

(C) developing a procurement and contracting schedule to ensure full implementation not later than September 1, 2009;

(13) provide for the implementation of Sections 264.1062 and 264.107, Family Code, by describing each party's responsibility and ensuring that the department retains the legal authority to effectively provide oversight;

(14) describe formal training required for department staff, independent administrators, and substitute care and case management providers;

(15) define roles and expectations related to reporting and managing data required to ensure quality services and meet state and federal requirements, including data collection responsibilities for an independent administrator and service provider;

(16) describe how the transition will impact the state's ability to obtain federal funding and examine options to further maximize federal funding opportunities and increased flexibility; and

(17) describe the costs of the transition, the initial start-up costs, and mechanisms to periodically assess the overall adequacy of funds and the fiscal impact of the change.

[Sections 45.103-45.150 reserved for expansion]

SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Sec. 45.151. EXPIRATION. This chapter expires September 1, 2010.

SECTION 1.31. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.0091 to read as follows:

Sec. 264.0091. USE OF TELECONFERENCING AND VIDEOCONFERENCING TECHNOLOGY. The department, in cooperation with district and county courts, shall expand the use of teleconferencing and videoconferencing to facilitate participation by medical experts and other individuals in court proceedings.

SECTION 1.32. Section 264.001, Family Code, is amended to read as follows:

Sec. 264.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" [~~department~~] means the Department of Family and Protective [~~and Regulatory~~] Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

SECTION 1.33. Section 264.106, Family Code, is amended to read as follows:

Sec. 264.106. REQUIRED CONTRACTS FOR SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES. (a) In this section:

(1) "Case management services" means the provision of case management services to a child for whom the department has been appointed temporary or permanent managing conservator, including caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates.

(2) "Independent administrator" means an independent agency selected through a competitive procurement process to:

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

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

(3) "Permanency services" means services, other than family-based safety services, provided to secure a child's safety, permanency, and well-being, including substitute care services, family reunification services, adoption and postadoption services, preparation for adult living services, and case management services.

(4) "Substitute care provider" means a child-care institution or a child-placing agency, as defined by Section 42.002, Human Resources Code.

(5) "Substitute care services" means services provided to or for children in substitute care and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, and post-placement supervision, including relative placement. The term does not include the regulation of facilities under Subchapter C, Chapter 42, Human Resources Code.

(b) The department shall, in accordance with Section 45.004, Human Resources Code:

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

(2) contract with private agencies as part of regional community-centered networks managed by independent administrators ~~[substitute care providers only to the extent necessary to meet the need]~~ for the provision of all necessary substitute care and case management ~~[those]~~ services;

(3) contract with an independent administrator to coordinate and manage all services needed for children in the temporary or permanent managing conservatorship of the department in a designated geographic area;

(4) monitor the quality of services for which the department and each independent administrator contract under this section; and

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

(c) An independent administrator may not:

(1) directly provide substitute care services; or

(2) have a financial interest in or a financial interest connected to a community-based organization that provides permanency services in the state.

(d) Administrative services to be provided by an independent administrator include:

(1) recruiting and subcontracting with community-based substitute care providers to ensure a full array of services in defined geographic areas;

(2) managing placements and making referrals for placement based on department-approved protocols;

(3) monitoring services delivered by subcontractors;

(4) providing training and technical assistance to contract providers;

(5) maintaining data systems that support tracking and reporting key performance and outcome data; and

(6) ensuring accountability for achieving defined client and system outcomes.

~~(e) [(b) Before contracting with a substitute care provider, the department shall determine whether:~~

~~[(1) community resources are available to support children placed under the provider's care; and~~

~~[(2) the appropriate public school district has sufficient resources to support children placed under the provider's care if the children will attend public school.~~

~~[(e)]~~ In addition to the requirements of Section 40.058(b), Human Resources Code, a contract with an independent administrator ~~[a substitute care provider]~~ must include provisions that:

(1) enable the department to monitor the effectiveness of the ~~[provider's]~~ services; ~~and~~

(2) specify performance outcomes;

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

(4) ensure that an independent administrator may not refuse to accept a client who is referred for services or reject a client who is receiving services unless the department has reviewed the independent administrator's decision and approved the decision in writing;

(5) authorize the department, an agent of the department, and the state auditor to inspect all books, records, and files maintained by an independent administrator relating to the contract; and

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

(f) A contract with an independent administrator for substitute care and case management services must include department-approved provisions that:

(1) enable the independent administrator and the department to:

(A) monitor the effectiveness of substitute care and case management services; and

(B) specify performance standards and authorize termination of the contract for cause;

(2) describe how performance is linked to reimbursement amounts or schedules to provide incentives for desired results;

(3) require all independent administrators and private contractors to disclose to the department any information that may indicate an actual or potential conflict of interest with the commission, the department, or another health and human services agency, including information regarding actual or potential related-party transactions, relationships, interests, or business history, and any other factor that may indicate an actual or potential conflict of interest;

(4) authorize the independent administrator, an agent of the independent administrator, the department, an agent of the department, and the state auditor to inspect all books, records, and files maintained by a contractor relating to the contract; and

(5) the department determines are necessary to ensure accountability for the delivery of services and for the expenditure of public funds.

(g) [~~(d)~~] In determining whether to contract with a substitute care provider or an independent administrator, the department shall consider the provider's or administrator's performance under any previous contract [for substitute care services] between the department and the provider or administrator.

(h) A contract under this section does not affect the rights and duties of the department in the department's capacity as the temporary or permanent managing conservator of a child.

(i) Except as provided by Subsection (j) and notwithstanding any other law, on and after September 1, 2009, the department may not directly provide substitute care and case management services for children for whom the department has been appointed temporary or permanent managing conservator.

(j) On and after September 1, 2009, the department may provide substitute care and case management services in an emergency. The executive commissioner shall adopt rules describing the circumstances in which the department may provide those services.

~~[(c) In this section, "substitute care provider" means a person who provides residential care for children for 24 hours a day, including:~~

~~[(1) a child care institution, as defined by Section 42.002, Human Resources Code;~~

~~[(2) a child placing agency, as defined by Section 42.002, Human Resources Code;~~

~~[(3) a foster group home or foster family home, as defined by Section 42.002, Human Resources Code; and~~

~~[(4) an agency group home or agency home, as defined by Section 42.002, Human Resources Code, other than an agency group home, agency home, or a foster home verified or certified by the department.]~~

SECTION 1.34. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.1062 to read as follows:

Sec. 264.1062. EVALUATION OF INDEPENDENT ADMINISTRATORS. The department shall develop and implement a comprehensive multidisciplinary team to monitor and evaluate the performance of independent administrators. The team must consist of specialized staff who can enable the department to measure critical dimensions of community-based organization performance, obtained through the quality assurance functions of the independent administrator, including:

(1) achievement of client and system outcomes;

(2) compliance with contractual terms and conditions; and

(3) any history of the community-based organization's noncompliance with the department's licensing standards.

SECTION 1.35. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.1063 to read as follows:

Sec. 264.1063. MONITORING PERFORMANCE OF SUBSTITUTE CARE AND CASE MANAGEMENT PROVIDERS. (a) The department, in consultation with private entities under contract with an independent administrator to provide substitute care or case management services, shall establish a quality assurance program that uses comprehensive, multitiered assurance and improvement systems based, subject to the availability of funds, on real-time data to evaluate performance.

(b) The contract performance outcomes specified in a contract under Section 264.106 must be consistent with the fiscal goals of privatizing substitute care and case management services and must be within the contractor's authority to deliver. The contract must clearly define the manner in which the substitute care or case management provider's performance will be measured and identify the information sources the department and independent administrator will use to evaluate the performance.

SECTION 1.36. Section 264.107, Family Code, is amended by adding Subsections (c)-(f) to read as follows:

(c) The contract between the department and an independent administrator or other authorized entity must require, not later than September 1, 2012, the use of real-time technology in the independent administrator's or other authorized entity's placement system to screen possible placement options for a child and match the child's needs with the most qualified providers with vacancies.

(d) The department shall institute a quality assurance system in monitoring the independent administrators or other authorized entities to ensure that placement decisions are reliable and are made in a consistent manner.

(e) In making placement decisions, an independent administrator or other authorized entity shall use clinical protocols to match a child to the most appropriate placement resource.

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

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

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

SECTION 1.37. Section 264.1075, Family Code, is amended to read as follows:

Sec. 264.1075. ASSESSING NEEDS OF CHILD ~~[USE OF ASSESSMENT SERVICES]~~. (a) On removing a child from the child's home ~~[Before placing a child in substitute care]~~, the department shall use assessment services provided by a child-care facility, a ~~[or]~~ child-placing agency, or the child's medical home during the initial substitute care placement. The assessment may be used ~~[in accordance with Section 42.0425, Human Resources Code,]~~ to determine the most appropriate substitute care placement for the child, if needed.

(b) As soon as possible after a child begins receiving foster care under this subchapter, the department shall assess whether the child has a developmental disability or mental retardation. The commission shall establish the procedures that the department must use in making an assessment under this subsection. The procedures may include screening or participation by:

(1) a person who has experience in childhood developmental disabilities or mental retardation;

(2) a local mental retardation authority; or

(3) a provider in a county with a local child welfare board.

SECTION 1.38. Subchapter B, Chapter 264, Family Code, is amended by adding Sections 264.115 and 264.116 to read as follows:

Sec. 264.115. PREPARATION FOR ADULT LIVING PROGRAM. (a) To assist children in the conservatorship of the department in transitioning to independent living, the department shall:

(1) expand efforts to improve discharge planning and increase the availability of transitional family group decision-making for each child in the department's permanent managing conservatorship who is at least 16 years of age;

(2) coordinate with the commission to obtain authority, to the extent allowed by federal law, the Medicaid state plan, or the Title IV-E state plan, or by any waiver or amendment to either plan, necessary to:

(A) extend foster care eligibility and transition services for youth 21 years of age or younger and develop policies to permit eligible youth to return to foster care as necessary to achieve the goals of the Preparation for Adult Living Program; and

(B) extend Medicaid coverage for youth 21 years of age or younger who are in foster care or were formerly in foster care, with a single application at the time the youth leaves foster care; and

(3) enter into cooperative agreements with the Texas Workforce Commission and local workforce development boards to further the objectives of the Preparation for Adult Living Program.

(b) The department, the Texas Workforce Commission, and the local workforce development boards shall ensure that services are prioritized and targeted to meet the needs of foster care and former foster care children and ensure that the services include, if feasible, referrals for short-term stays for children needing housing.

Sec. 264.116. ANNUAL SURVEY. (a) The department shall conduct an annual random survey of a sample of children from each region of the state who are at least 14 years of age and who receive substitute care services. The survey must include questions regarding:

(1) the quality of the substitute care services provided to the child;

(2) any improvements that could be made to better support the child; and

(3) any other factor that the department considers relevant to enable the department to identify potential program enhancements.

(b) The identity of each child participating in a department survey is confidential and not subject to public disclosure under Chapter 552, Government Code. The department shall adopt procedures to ensure that the identity of each child participating in a department survey remains confidential.

SECTION 1.39. Subchapter C, Chapter 264, Family Code, is amended by adding Section 264.2015 to read as follows:

Sec. 264.2015. FAMILY GROUP CONFERENCING. The department may collaborate with the courts and other appropriate local entities to develop and implement family group conferencing as a strategy for promoting family preservation and permanency for children.

SECTION 1.40. Section 264.203(c), Family Code, is amended to read as follows:

(c) If the person ordered to participate in the services fails to follow the court's order, the court may impose appropriate sanctions in order to protect the health and safety of the child, including the removal of the child as specified by Chapter 262 [community service as a sanction for contempt].

SECTION 1.41. Subchapter C, Chapter 264, Family Code, is amended by adding Sections 264.204 and 264.205 to read as follows:

Sec. 264.204. COMMUNITY-BASED FAMILY SERVICES. (a) The department shall administer a grant program to provide funding to community organizations, including faith-based or county organizations, to respond to:

(1) low-priority, less serious cases of abuse and neglect; and

(2) cases in which an allegation of abuse or neglect of a child was unsubstantiated but involved a family that has been previously investigated for abuse or neglect of a child.

(b) The executive commissioner shall adopt rules to implement the grant program, including rules governing the submission and approval of grant requests and the cancellation of grants.

(c) To receive a grant, a community organization whose grant request is approved must execute an interagency agreement or a contract with the department. The contract must require the organization receiving the grant to perform the services as stated in the approved grant request. The contract must contain appropriate provisions for program and fiscal monitoring.

(d) In areas of the state in which community organizations receive grants under the program, the department shall refer low-priority, less serious cases of abuse and neglect to a community organization receiving a grant under the program.

(e) A community organization receiving a referral under Subsection (d) shall make a home visit and offer family social services to enhance the parents' ability to provide a safe and stable home environment for the child. If the family chooses to use the family services, a case manager from the organization shall monitor the case and ensure that the services are delivered.

(f) If after the home visit the community organization determines that the case is more serious than the department indicated, the community organization shall refer the case to the department for a full investigation.

(g) The department may not award a grant to a community organization in an area of the state in which a similar program is already providing effective family services in the community.

(h) For purposes of this section, a case is considered to be a less serious case of abuse or neglect if:

(1) the circumstances of the case do not appear to involve a reasonable likelihood that the child will be abused or neglected in the foreseeable future; or

(2) the allegations in the report of child abuse or neglect:

(A) are general in nature or vague and do not support a determination that the child who is the subject of the report has been abused or neglected or will likely be abused or neglected; or

(B) if substantiated, would not be considered abuse or neglect under this chapter.

Sec. 264.205. CULTURAL AWARENESS. If the department determines that the number of children of a particular race or ethnicity in the child protective services system is not proportionate to the general population, the department shall attempt to reduce the disproportionate representation by:

(1) documenting any disproportionate representation and instituting policies and practices to promote parity in outcomes for all children;

(2) prioritizing prevention and early intervention services for communities and groups with disproportionate representation in the child protective services population;

(3) developing and providing cultural competency training to department staff members who provide child protective services;

(4) increasing targeted recruitment efforts of foster and adoptive families who can meet the needs of children who are waiting for permanent homes;

(5) targeting recruitment efforts to ensure diversity among department staff;

and

(6) developing collaborative partnerships with community groups, agencies, faith-based organizations, and other community-based organizations to provide culturally competent services to children and families of every race and ethnicity.

SECTION 1.42. Section 264.503, Family Code, is amended by amending Subsections (b)-(e) and adding Subsection (d-1) to read as follows:

(b) To ensure that the committee achieves its purpose, the department and the ~~[Texas]~~ Department of State Health Services shall perform the duties specified by this section.

(c) The department shall:

(1) recognize the creation and participation of review teams; and

(2) work cooperatively with the committee and with individual child fatality review teams ~~[promote and coordinate training to assist the review teams in carrying out their duties;~~

~~[(3) assist the committee in developing model protocols for:~~

~~[(A) the reporting and investigating of child fatalities for law enforcement agencies, child protective services, justices of the peace and medical examiners, and other professionals involved in the investigations of child deaths;~~

~~[(B) the collection of data regarding child deaths; and~~

~~[(C) the operation of the review teams; and~~

~~[(4) develop and implement procedures necessary for the operation of the committee].~~

(d) The Department of State Health Services ~~[department]~~ shall:

(1) promote and coordinate training to assist the review teams in carrying out their duties;

(2) assist the committee in developing model protocols for:

(A) the reporting and investigating of child fatalities for law enforcement agencies, child protective services, justices of the peace and medical examiners, and other professionals involved in the investigations of child deaths;

(B) the collection of data regarding child deaths; and

(C) the operation of the review teams;

(3) develop and implement procedures necessary for the operation of the committee; and

(4) promote education of the public regarding the incidence and causes of child deaths, the public role in preventing child deaths, and specific steps the public can undertake to prevent child deaths.

(d-1) The committee shall enlist the support and assistance of civic, philanthropic, and public service organizations in the performance of the duties imposed under Subsection (d) [this subsection].

(e) In addition to the duties under Subsection (d), the ~~[The Texas]~~ Department of State Health Services shall:

(1) collect data under this subchapter and coordinate the collection of data under this subchapter with other data collection activities; and

(2) perform annual statistical studies of the incidence and causes of child fatalities using the data collected under this subchapter.

SECTION 1.43. Section 264.602, Family Code, is amended by adding Subsection (e) to read as follows:

(e) The department, in cooperation with the statewide organization with which the attorney general contracts under Section 264.603 and other interested agencies, shall support the expansion of court-appointed volunteer advocate programs into counties in which there is a need for the programs.

SECTION 1.44. (a) Chapter 264, Family Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. RELATIVE AND OTHER DESIGNATED CAREGIVER
PLACEMENT PROGRAM

Sec. 264.751. DEFINITIONS. In this subchapter:

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

(A) is appointed to provide substitute care for the child, but is not licensed or certified to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

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

(2) "Relative" means a person related to a child by consanguinity as determined under Section 573.022, Government Code.

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

(A) provides substitute care for a child for whom the department has been appointed managing conservator, but who is not licensed or certified to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

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

Sec. 264.752. RELATIVE AND OTHER DESIGNATED CAREGIVER PLACEMENT PROGRAM. (a) The department shall develop and administer a program to:

(1) promote continuity and stability for children for whom the department is appointed managing conservator by placing those children with relative or other designated caregivers; and

(2) facilitate relative or other designated caregiver placements by providing assistance and services to those caregivers in accordance with this subchapter and rules adopted by the executive commissioner.

(b) The executive commissioner shall adopt rules necessary to implement this subchapter. The rules must include eligibility criteria for receiving assistance and services under this subchapter.

Sec. 264.753. EXPEDITED PLACEMENT. The department shall expedite the completion of the background and criminal history check, the home study, and any other administrative procedure to ensure that the child is placed with a qualified relative or caregiver as soon as possible after the date the caregiver is identified.

Sec. 264.754. INVESTIGATION OF PROPOSED PLACEMENT. Before placing a child with a proposed relative or other designated caregiver, the department must conduct an investigation to determine whether the proposed placement is in the child's best interests.

Sec. 264.755. CAREGIVER ASSISTANCE AGREEMENT. The department shall, subject to the availability of funds, enter into a caregiver assistance agreement with each relative or other designated caregiver to provide monetary assistance and additional support services to the caregiver. The monetary assistance and support services shall be based on a family's need, as determined by rules adopted by the executive commissioner, and may include:

(1) a one-time cash payment of not more than \$1,000 to the caregiver on the initial placement of a child or, if the child and at least one of the child's siblings are placed with the caregiver, a one-time cash payment of not more than \$1,000 to the caregiver on the initial placement of the sibling group, to assist the caregiver in purchasing essential child-care items such as furniture and clothing;

(2) case management services and training and information about the child's needs until the caregiver is appointed permanent managing conservator;

(3) referrals to appropriate state agencies administering public benefits or assistance programs for which the child, the caregiver, or the caregiver's family may qualify;

(4) family counseling not provided under the Medicaid program for the caregiver's family for a period not to exceed two years from the date of initial placement;

(5) if the caregiver meets the eligibility criteria determined by rules adopted by the executive commissioner, reimbursement of all child-care expenses incurred while the child is under 13 years of age, or under 18 years of age if the child has a developmental disability, and while the department is the child's managing conservator;

(6) if the caregiver meets the eligibility criteria determined by rules adopted by the executive commissioner, reimbursement of 50 percent of child-care expenses incurred after the caregiver is appointed permanent managing conservator of the child while the child is under 13 years of age, or under 18 years of age if the child has a developmental disability; and

(7) reimbursement of other expenses, as determined by rules adopted by the executive commissioner, not to exceed \$500 per year for each child.

Sec. 264.756. ASSISTANCE WITH PERMANENT PLACEMENT. The department shall collaborate with the State Bar of Texas and local community partners to identify legal resources to assist relatives and other designated caregivers in obtaining conservatorship, adoption, or other permanent legal status for the child.

Sec. 264.757. COORDINATION WITH OTHER AGENCIES. The department shall coordinate with other health and human services agencies, as defined by Section 531.001, Government Code, to provide assistance and services under this subchapter.

Sec. 264.758. FUNDS. The department and other state agencies shall actively seek and use federal funds available for the purposes of this subchapter.

(b) Not later than December 1, 2005, the executive commissioner of the Health and Human Services Commission shall adopt rules for implementing and administering the relative and other designated caregiver placement program under Subchapter I, Chapter 264, Family Code, as added by this section.

(c) Not later than March 1, 2006, the Department of Family and Protective Services shall implement the relative and other designated caregiver placement program in accordance with Subchapter I, Chapter 264, Family Code, as added by this section.

SECTION 1.45. (a) Subtitle E, Title 5, Family Code, is amended by adding Chapter 266 to read as follows:

CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR CHILDREN IN FOSTER CARE

Sec. 266.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of Family and Protective Services.

Sec. 266.002. CONSTRUCTION WITH OTHER LAW. This chapter does not limit the right to consent to medical, dental, psychological, and surgical treatment under Chapter 32.

Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT VICTIMS. (a) Subject to the availability of funds, the commission shall collaborate with health care and child welfare professionals to design a comprehensive, cost-effective medical services delivery model to meet the needs of children served by the department, either directly or by contract. The medical services delivery model must include:

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

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

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

(4) a review system composed of medical and mental health professionals to assess clinical care recommendations as needed for individual foster children; and

(5) development of protocols for use of psychotropic medications for foster children based on the recommendations and best practices manual developed by an ad hoc work group consisting of experts from the fields of pharmacy, psychiatry, pediatrics, family practice, and internal medicine and staff from the commission.

(b) The commission shall collaborate with health and human services agencies, community partners, the health care community, and federal health and social services programs to maximize services and benefits available under this section.

(c) The executive commissioner shall adopt rules necessary to implement this chapter.

Sec. 266.004. CONSENT FOR MEDICAL CARE. (a) Medical care may not be provided to a child in foster care unless the person authorized by this section has provided consent.

(b) Unless the court has specifically authorized a relative caregiver who lives with the child to give medical consent, the following persons may provide consent required by Subsection (a):

(1) the caseworker, supervisor, or program director responsible for the child's case;

(2) medical personnel employed by the department; or

(3) a caregiver designated by the department.

(c) The department shall file with the court the name of each person who may provide consent for medical care. The department shall notify the court of any change to the list of persons authorized to provide consent for medical care in the department's next report to the court following the date of the change.

(d) A physician or other provider of medical care acting in good faith may rely on the representation by a person that the person has the authority to consent to the provision of medical care to a child in foster care as provided by Subsection (b).

(e) The department, a person authorized to consent to medical care under Subsection (b), the child's parent if the parent's rights have not been terminated, a guardian ad litem or attorney ad litem if one has been appointed, or the person providing foster care to the child may petition the court for any order related to medical care of a child in foster care that the department or other person believes is in the best interest of the child. Notice of the petition must be given to each person entitled to notice under Section 263.301(b).

(f) On its own motion or in response to a petition under Subsection (e), the court may issue any order related to the medical care of a child in foster care that the court determines is in the best interest of the child.

(g) Notwithstanding Subsection (b), a person may not be authorized to consent to medical care provided to a child in foster care unless the person has completed a department-approved training program related to consenting to medical care. This subsection does not apply to a parent whose rights have not been terminated unless the court orders the parent to complete the training.

(h) A person authorized under Subsection (b) to consent to medical care for a child in foster care shall participate in each appointment of the child with the provider of the medical care. The level of participation may vary depending on the nature of the appointment. The authorized person may designate another person to participate in the appointment for the authorized person.

(i) A person authorized under Subsection (b) to give consent to medical care for a child in foster care must be aware of a child's medical condition and history before giving consent.

Sec. 266.005. PARENTAL NOTIFICATION OF SIGNIFICANT MEDICAL CONDITIONS. (a) In this section, "significant medical condition" means an injury or illness that is life-threatening or has potentially serious long-term health consequences, including hospitalization for surgery or other procedures, except minor emergency care.

(b) Except as provided by Subsection (c), the department shall notify the child's parents of any significant medical condition involving a child in foster care as soon as practicable, but not later than 24 hours after the department learns of the significant medical condition.

(c) The department is not required to provide notice under Subsection (b) to a parent who:

(1) has failed to give the department current contact information and cannot be located; or

(2) has executed an affidavit of relinquishment of parental rights.

Sec. 266.006. HEALTH PASSPORTS. (a) The commission shall make available to the person authorized to consent to medical care under Section 266.004(b) and any provider of health care to a child in foster care the most complete health history of the child available to the department.

(b) The commission shall develop a health passport for each child in foster care. The commission in conjunction with the department shall determine the format of the passport. The passport may be maintained in an electronic format. The health passport must include the most complete medical history of the child available to the department and must be readily accessible to medical care providers.

(c) The department shall maintain the passport as part of the department's records for the child as long as the child remains in foster care.

Sec. 266.007. JUDICIAL REVIEW OF MEDICAL CARE. (a) At each hearing under Chapter 263, or more frequently if ordered by the court, the court shall review a summary of the medical care provided to the child since the last hearing. The summary must include information regarding:

(1) the nature of any emergency medical care provided to the child and the circumstances necessitating emergency medical care, including any injury or acute illness suffered by the child;

(2) any medication prescribed for the child and the condition for which the medication was prescribed;

(3) the degree to which the child or foster care provider has complied or failed to comply with any plan of medical treatment for the child;

(4) any adverse reaction to or side effects of any medical treatment provided to the child;

(5) any specific medical condition of the child that has been diagnosed or for which tests are being conducted to make a diagnosis;

(6) any activity that the child should avoid or should engage in that might affect the effectiveness of the treatment, including physical activities, other medications, and diet; and

(7) other information required by department rule or by the court.

(b) At or before each hearing under Chapter 263, the department shall provide the summary of medical care described by Subsection (a) to:

(1) the court;

(2) the person authorized to consent to medical treatment for the child;

(3) the guardian ad litem or attorney ad litem, if one has been appointed by the court;

(4) the child's parent, if the parent's rights have not been terminated; and

(5) any other person determined by the department or the court to be necessary or convenient to the provision of medical care to children in foster care.

Sec. 266.008. MONITORING USE OF MEDICATIONS. As part of the commission's drug utilization review, the commission shall annually monitor the use of medications for foster children.

Sec. 266.009. EDUCATION. (a) The commission shall develop an education passport for each child in foster care. The commission, in conjunction with the department, shall determine the format of the passport. The passport may be maintained in an electronic format. The passport must contain educational records of the child, including the names and addresses of educational providers, the child's grade-level performance, and any other educational information the commission determines is important.

(b) The department shall maintain the passport as part of the department's records for the child as long as the child remains in foster care.

(c) The department and the commission shall collaborate with the Texas Education Agency to develop policies and procedures to ensure that the needs of foster children are met in every school district.

(b) The Health and Human Services Commission is required to develop and implement the passport programs required by Sections 266.006 and 266.009, Family Code, as added by this section, if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, develop and implement the passport programs using other appropriations available for that purpose. In addition, the commission may develop and implement the passport programs required by Sections 266.006 and 266.009, Family Code, as added by this section, only if technology necessary to ensure privacy is available.

(c) If the Health and Human Services Commission develops and implements the passport programs required by Sections 266.006 and 266.009, Family Code, as added by this section, the commission shall finalize the form and content of the passports not later than March 1, 2006.

(d) Not later than September 1, 2007, the Health and Human Services Commission shall make the health passport required by Section 266.006, Family Code, as added by this section, available in an electronic format.

(e) Not later than September 1, 2008, the Health and Human Services Commission shall ensure that the health passport required by Section 266.006, Family Code, as added by this section, can interface directly with other electronic health record systems that contain information that impacts the health care of the child.

SECTION 1.46. Chapter 265, Family Code, is amended by adding Section 265.004 to read as follows:

Sec. 265.004. USE OF EVIDENCE-BASED PROGRAMS FOR AT-RISK FAMILIES. (a) To the extent that money is appropriated for the purpose, the department shall fund evidence-based programs offered by community-based organizations that are designed to prevent or ameliorate child abuse and neglect.

(b) The department shall place priority on programs that target children whose race or ethnicity is disproportionately represented in the child protective services system.

(c) The department shall periodically evaluate the evidence-based abuse and neglect prevention programs to determine the continued effectiveness of the programs.

SECTION 1.47. Section 651.004, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The Department of Family and Protective Services is not required to comply with management-to-staff ratio requirements of this section with respect to caseworker supervisors, program directors, and program administrators.

SECTION 1.48. (a) Subchapter C, Chapter 2155, Government Code, is amended by adding Section 2155.1442 to read as follows:

Sec. 2155.1442. FOSTER CARE RESIDENTIAL CONTRACT MANAGEMENT. (a) The Health and Human Services Commission shall contract with the state auditor to perform on-site financial audits of selected residential contractors as necessary. The state auditor, in consultation with the commission, shall select the contractors to audit based on the contract's risk assessment rating, allegations of fraud or misuse of state or other contract funds, or other appropriate audit selection criteria. The residential contractors selected to be audited must be included in the audit plan and approved by the legislative audit committee under Section 321.013.

(b) The Department of Family and Protective Services shall require that all files related to contracts for residential care of foster children:

(1) are complete and accurately reflect the contractor's actual updated contract performance; and

(2) are maintained in accordance with the department's record retention procedures and made available to the state auditor when requested.

(c) Subject to the availability of funds appropriated for the purpose, the Department of Family and Protective Services may develop an Internet-based system to enable residential contractors to review their reimbursement accounts or other pertinent financial data and reconcile their accounts.

(b) Section 2155.1442, Government Code, as added by this section, applies only to a contract that is entered into or renewed on or after the effective date of this section. A contract entered into or renewed before that date is governed by the law in effect on the date the contract is entered into or renewed, and the former law is continued in effect for that purpose.

(c) Not later than October 1, 2009, the state auditor shall begin the on-site financial audits of selected contractors as provided by Section 2155.1442(a), Government Code, as added by this section.

SECTION 1.49. Section 22.035(j), Human Resources Code, is amended to read as follows:

(j) The work group shall study and make recommendations in the following areas:

(1) access of a child or a child's family to effective case management services, including case management services with a single case manager, parent case managers, or independent case managers;

(2) the transition needs of children who reach an age at which they are no longer eligible for services at the ~~[Texas]~~ Department of State Health Services, the Texas Education Agency, and other applicable state agencies;

(3) the blending of funds, including case management funding, for children needing long-term care and health services;

(4) collaboration and coordination of children's services between the department, the ~~[Texas]~~ Department of State Health Services, the ~~[Texas]~~ Department of Aging and Disability Services, the Department of Assistive and Rehabilitative Services ~~[Mental Health and Mental Retardation]~~, and any other agency determined to be applicable by the work group;

(5) budgeting and the use of funds appropriated for children's long-term care services and children's health services;

(6) services and supports for families providing care for children with disabilities;

(7) effective permanency planning for children who reside in institutions or who are at risk of placement in an institution;

(8) barriers to enforcement of regulations regarding institutions that serve children with disabilities; ~~and~~

(9) the provision of services under the medical assistance program to children younger than 23 years of age with disabilities or special health care needs under a waiver granted under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c));

(10) minimizing the number of foster children placed in institutions and maximizing the number of foster children receiving community-based care;

(11) planning for the transition of children with developmental disabilities or mental retardation out of foster care to enhance opportunities for the children to remain in their communities;

(12) monitoring the care provided in residential settings to foster children with developmental disabilities or mental retardation; and

(13) recruiting individuals to provide foster care in a residential setting to children with developmental disabilities or mental retardation.

SECTION 1.50. The heading to Subtitle D, Title 2, Human Resources Code, is amended to read as follows:

SUBTITLE D. DEPARTMENT OF FAMILY AND PROTECTIVE
~~[AND REGULATORY]~~ SERVICES; CHILD WELFARE AND
PROTECTIVE SERVICES

SECTION 1.51. The heading to Chapter 40, Human Resources Code, is amended to read as follows:

CHAPTER 40. DEPARTMENT OF FAMILY AND PROTECTIVE
~~[AND REGULATORY]~~ SERVICES

SECTION 1.52. Sections 40.001(3) and (5), Human Resources Code, are amended to read as follows:

(3) "Department" means the Department of Family and Protective ~~and Regulatory~~ Services.

(5) "Family preservation" includes the provision of services designed to assist families, including adoptive and extended families, who are at risk or in crisis, including:

(A) preventive services designed to help a child at risk of foster care placement remain safely with the child's family; and

(B) services designed to help a child return, when the return is safe and appropriate, to the family from which the child was removed [~~protection of parents and their children from needless family disruption because of unfounded accusations of child abuse or neglect. It does not include the provision of state social services for the rehabilitation of parents convicted of abusing or neglecting their children.~~].

SECTION 1.53. Section 40.002(b), Human Resources Code, is amended to read as follows:

(b) Notwithstanding any other law, the department shall:

(1) provide protective services for children and elderly and disabled persons, including investigations of alleged abuse, neglect, or exploitation in facilities of the Texas Department of Mental Health and Mental Retardation or its successor agency;

(2) provide family support and family preservation services that respect the fundamental right of parents to control the education and upbringing of their children;

(3) license, register, and enforce regulations applicable to child-care facilities, ~~and~~ child-care administrators, and child-placing agency administrators; and

(4) implement and manage programs intended to provide early intervention or prevent at-risk behaviors that lead to child abuse, delinquency, running away, truancy, and dropping out of school.

SECTION 1.54. Section 40.003, Human Resources Code, is amended to read as follows:

Sec. 40.003. SUNSET PROVISION. The Department of Family and Protective [~~and Regulatory~~] Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2013 [~~2009~~].

SECTION 1.55. Section 40.030, Human Resources Code, is amended to read as follows:

Sec. 40.030. ADVISORY COMMITTEES. The executive commissioner or the executive commissioner's designee [~~board~~] may appoint advisory committees in accordance with Chapter 2110, Government Code [~~Article 6252-33, Revised Statutes~~].

SECTION 1.56. The heading to Section 40.0305, Human Resources Code, is amended to read as follows:

Sec. 40.0305. STRATEGIC USE OF TECHNOLOGY [~~STEERING COMMITTEE~~].

SECTION 1.57. Sections 40.0305(a), (d), and (e), Human Resources Code, are amended to read as follows:

(a) The department shall continually explore the strategic use of technology as a means to improve services, reduce workload burdens, increase accountability, and enhance the overall efficiency and effectiveness of department operations. The

department shall develop strategic plans and seek funding to implement technology enhancements that the department determines are feasible and cost-effective [establish a strategic technology steering committee within the department to evaluate major information technology project proposals].

(d) In evaluating major information technology project proposals, the department, in cooperation with the commission, [steering committee] shall:

- (1) assess the major information needs of the department;
- (2) define standard criteria for setting priorities for the department's information needs;
- (3) forecast the returns to the department on project investments;
- (4) evaluate the department's available information resources; and
- (5) review, approve, and evaluate the status of projected costs and benefits related to project proposals.

(e) To the extent that funds are appropriated for these specific purposes, the department shall implement the following technology projects:

(1) a mobile technology project, including online transcription services designed to:

(A) increase caseworker access to department policy and family case history;

(B) facilitate communication between caseworkers and supervisors;

(C) allow timely and accurate data entry; and

(D) reduce backlogged investigations; and

(2) a modified design of the department's automated case management system to improve risk and safety assessment and service plan development, and to facilitate incorporation of historical case data. [The steering committee shall make recommendations to the executive director based on the committee's performance of its duties.]

SECTION 1.58. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Section 40.03051 to read as follows:

Sec. 40.03051. PAPERLESS INFORMATION EXCHANGE PILOT PROGRAM. (a) The department shall develop and implement a pilot program to allow the paperless exchange of information between the department and courts with jurisdiction over child protective services cases.

(b) The pilot program must:

(1) include one or more courts with jurisdiction over child protective services cases; and

(2) be designed to facilitate the progression of child protective services cases through the judicial process.

(c) The executive commissioner shall adopt rules necessary to implement this section.

(d) Notwithstanding any other provision of this section, the department is not required to implement the pilot program unless funds are appropriated for that purpose.

(e) Not later than December 1, 2006, the department shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the preliminary results of the pilot program. The report must include:

- (1) a description of the status of the pilot program;
 - (2) a description of the effects of the pilot program on the progression of child protective services cases through the judicial process; and
 - (3) an evaluation of the feasibility of expanding the system statewide.
- (f) This section expires September 1, 2009.

SECTION 1.59. Section 40.031, Human Resources Code, is amended to read as follows:

Sec. 40.031. DIVISIONS OF DEPARTMENT. (a) The executive commissioner ~~[board]~~ may establish divisions within the department as necessary for efficient administration and for the discharge of the department's functions.

(b) The executive commissioner shall establish an investigations division to oversee and direct the investigation functions of the child protective services program, including the receipt and screening of all reports of alleged child abuse or neglect.

(c) The commissioner shall designate a person with law enforcement experience as the director of the investigations division.

(d) The investigations division shall, as appropriate, refer children and families in need of services to other department divisions or to other persons or entities with whom the department contracts for the provision of the needed services.

(e) Reports of alleged child abuse or neglect investigated under Subchapter E, Chapter 261, Family Code, are not subject to investigation by the investigations division ~~[board may allocate and reallocate functions, programs, and activities among the department's divisions].~~

SECTION 1.60. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Section 40.035 to read as follows:

Sec. 40.035. ENHANCED TRAINING OF CHILD PROTECTIVE SERVICES CASEWORKERS. To improve the quality and consistency of training provided to child protective services caseworkers, the department shall:

(1) augment classroom-based training with a blended learning environment using computer-based modules, structured field experience, and simulation for skills development;

(2) use a core curriculum for all new department caseworkers and specialized training for specific jobs;

(3) require that department caseworkers transferring from one specialty to another complete the core curriculum and advanced training for the new specialty before assuming their new responsibilities; and

(4) centralize accountability and oversight of all department training in order to ensure statewide consistency.

SECTION 1.61. Section 40.0525(c), Human Resources Code, is amended to read as follows:

(c) Subject to Section 40.031(b), this ~~[This]~~ section does not require the department to establish separate departments for investigations and service delivery.

SECTION 1.62. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.0526 to read as follows:

Sec. 40.0526. BUILDING COMMUNITY PARTNERSHIPS TO SUPPORT CHILDREN AND FAMILIES. (a) The department shall develop a statewide strategy to build alliances and networks at the local level that support the detection and treatment of child abuse and neglect and enhance the coordination and delivery of services to children and families.

(b) The strategy must include plans to:

(1) move staff from centralized office sites into community-based settings to the greatest extent feasible; and

(2) enter into agreements for the establishment or development of joint offices or workplaces with local officials and organizations, including:

(A) children's advocacy centers;

(B) law enforcement officials;

(C) prosecutors;

(D) health care providers; and

(E) domestic violence shelters.

(c) The department may employ specialized staff, to the extent that funds are appropriated for that purpose, to serve as:

(1) local legal liaisons who support the prosecution in each region of legal cases through the judicial system by improving coordination and cooperation in case consultation and preparation of cases for court; and

(2) local community initiative specialists in each region who focus on building community alliances and networks.

(d) An agreement made in accordance with this section for the joint location of department personnel with other local officials or organizations is not subject to Chapter 2167, Government Code.

SECTION 1.63. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.0527 to read as follows:

Sec. 40.0527. COMPREHENSIVE STAFFING AND WORKLOAD DISTRIBUTION PLAN FOR CHILD PROTECTIVE SERVICES. (a) The department shall develop and implement a staffing and workload distribution plan for the child protective services program to:

(1) reduce caseloads;

(2) enhance accountability;

(3) improve the quality of investigations;

(4) eliminate delays; and

(5) ensure the most efficient and effective use of child protective services staff and resources.

(b) In developing and implementing the plan, the department shall, subject to available funds:

(1) develop a methodology for the equitable distribution of investigative and other staff to ensure an equitable assignment of cases in each area of the state;

(2) evaluate the duties of investigators and supervisors and identify and reassign functions that may be performed more efficiently by support or other paraprofessional staff;

(3) ensure that investigative and service units contain adequate supervisory and support staff;

- (4) provide incentives to recruit and retain:
(A) caseworkers and supervisors assigned to investigative units; and
(B) specialized staff with law enforcement or forensic investigation experience;
- (5) ensure that caseworkers and supervisors who are in an investigations unit are paid appropriately to increase employee retention;
- (6) when appropriate, identify and use alternative work schedules;
- (7) develop a program to replace caseworkers and investigators with trainees hired in anticipation of vacant positions or mobile caseworkers who provide coverage for vacancies as needed;
- (8) use a system of regional hiring supervisors for targeted recruitment efforts;
- (9) improve staff recruitment and screening methods to promote the hiring of the most qualified candidates and improve an applicant's understanding of the job requirements;
- (10) reduce the time necessary to complete a plan of service for a child and family when providing family-based safety services; and
- (11) identify methods to reduce the administrative area that a manager is responsible for to increase accountability.

SECTION 1.64. Section 40.058, Human Resources Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A contract for the purchase of substitute care services, as defined by Section 264.106, Family Code, must be procured using:

- (1) department procurement procedures; or
(2) procurement procedures approved by the executive commissioner that promote open and fair competition.

SECTION 1.65. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Sections 40.071 and 40.072 to read as follows:

Sec. 40.071. DRUG-ENDANGERED CHILD INITIATIVE. The department shall establish a drug-endangered child initiative aimed at protecting children who are exposed to methamphetamine or to chemicals and other hazardous materials used in the illicit manufacture of methamphetamine.

Sec. 40.072. DUTY TO REPORT; DEPARTMENT RECORDS. (a) To the extent that reporting does not interfere with an ongoing criminal investigation, the Department of Public Safety and each local law enforcement agency shall report to the department on discovering the presence of a child in a location where methamphetamine is manufactured.

(b) The department shall maintain a record of reports received under this section and shall include in the record information regarding actions taken by the department to ensure the child's safety and well-being.

SECTION 1.66. Section 42.002, Human Resources Code, is amended by adding Subdivisions (18) and (19) to read as follows:

(18) "Controlling person" means a person who, either alone or in connection with others, has the ability to directly or indirectly influence or direct the management, expenditures, or policies of a residential child-care facility.

(19) "Residential child-care facility" means a facility licensed or certified by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers. The term includes child-care institutions, child-placing agencies, foster group homes, foster homes, agency foster group homes, and agency foster homes.

SECTION 1.67. Sections 42.021(b) and (d), Human Resources Code, are amended to read as follows:

(b) The commissioner [~~executive director of the department~~] shall appoint as director of a division designated under Subsection (a) a person who meets the qualifications set by the executive commissioner [~~board~~].

(d) The commissioner [~~director~~] may divide the state into regions for the purpose of administering this chapter.

SECTION 1.68. Sections 42.023(a) and (b), Human Resources Code, are amended to read as follows:

(a) The department [~~executive director~~] shall prepare an annual written report regarding the department's activities under this chapter.

(b) The annual report shall include:

(1) a report by regions of applications for licensure or certification, of initial [~~provisional~~] licenses issued, denied, or revoked, of licenses issued, denied, suspended or revoked, of emergency closures and injunctions, and of the compliance of state-operated agencies, if such agencies exist, with certification requirements;

(2) a summary of the training programs required by the department and their effectiveness [~~amount and kind of in service training and other professional development opportunities provided for department staff~~];

(3) a summary of training and other professional development opportunities offered to facilities' staffs; [~~and~~]

(4) a report of new administrative procedures, of the number of staff and staff changes, and of plans for the coming year; and

(5) a report of trends in licensing violations on a statewide and regional basis and the department's plans to address those trends through the provision of technical assistance.

SECTION 1.69. (a) Section 42.041(c), Human Resources Code, is amended to read as follows:

(c) A single license that lists addresses and the appropriate facilities may be issued to a child-care institution that operates noncontiguous facilities that are across the street from, in the same city block as, or on the same property as one another [~~nearby~~] and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(b) Section 42.041(c), Human Resources Code, as amended by this section, applies only to a license issued or renewed on or after the effective date of this section. A license issued or renewed before the effective date of this section is governed by the law in effect at the time the license is issued or renewed, and the former law is continued in effect for that purpose.

SECTION 1.70. (a) Section 42.042, Human Resources Code, is amended by adding Subsections (d-1), (g-1), (h-1), and (q) to read as follows:

(d-1) The department shall provide a standard inspection checklist and other forms for use in conducting inspections of residential child-care facilities and issuing inspection reports.

(g-1) In promulgating minimum standards under this section, the department shall assign a tested weighted value for each standard that correlates to that standard's potential impact on the health and safety of children. In developing a methodology to classify and assign weighted values to designate the risk associated with each minimum standard, the department may consult with a committee appointed by the executive commissioner composed of representatives of public and private entities.

(h-1) The executive commissioner shall adopt rules governing:

(1) the placement and care of children by a child-placing agency, as necessary to ensure the health and safety of those children;

(2) the verification and monitoring of agency foster homes, agency foster group homes, and adoptive homes by a child-placing agency; and

(3) if appropriate, child-placing agency staffing levels, office locations, and administration.

(q) The executive commissioner shall require residential child-care facilities to immediately report to the department when the facility determines that a child is missing or if there is a serious incident involving a child, including death or serious injury, abuse or neglect, or arrest or truancy.

(b) Except as provided by Subsection (c) of this section, the executive commissioner of the Health and Human Services Commission shall adopt rules and establish standards, policies, and procedures to implement and administer Sections 42.042(d-1), (g-1), (h-1), and (q), Human Resources Code, as added by this section, as soon as possible after the effective date of this section.

(c) The executive commissioner shall adopt rules and establish standards under Section 42.042(g-1) for facilities other than a residential child-care facility when the Department of Family and Protective Services and the Health and Human Services Commission perform a comprehensive review of those standards.

SECTION 1.71. Section 42.0426, Human Resources Code, is amended to read as follows:

Sec. 42.0426. TRAINING OF PERSONNEL. (a) A licensed facility shall provide training for staff members in:

(1) the recognition of symptoms of child abuse, neglect, and sexual molestation and the responsibility and procedure of reporting suspected occurrences of child abuse, neglect, and sexual molestation to the department or other appropriate entity;

(2) the application of first aid; and

(3) the prevention and spread of communicable diseases.

(b) A residential child-care facility shall implement a behavior intervention program approved by the department for the benefit of a child served by the facility who needs assistance in managing the child's conduct. The program must include:

(1) behavior intervention instruction for staff members who work directly with children served by the facility; and

(2) training for all employees regarding the risks associated with the use of prone restraints.

SECTION 1.72. (a) Section 42.044, Human Resources Code, is amended by adding Subsections (e)-(h) to read as follows:

(e) The department shall periodically conduct inspections of a random sample of agency foster homes and agency foster group homes. The department shall use the inspections to monitor and enforce compliance by a child-placing agency with rules and standards established under Section 42.042.

(f) The department shall use an inspection checklist that includes a list of all required items for inspection in conducting a monitoring inspection under this section.

(g) A person assigned to conduct an inspection or investigation of a residential child-care facility under this section must:

(1) hold a bachelor's degree and have at least two years of relevant work experience;

(2) complete a course of training regarding the minimum standards applicable to the type of facility or facilities to which the person will be assigned; and

(3) pass an examination administered by the department relating to the type of facility or facilities to which the person will be assigned.

(h) The department shall annually evaluate and determine the effectiveness of the department's required inspection training programs in providing consistent training on the interpretation and enforcement of licensing standards for residential child-care facilities. In conducting the evaluation, the department shall determine the number of residential child-care facility licensing violations identified statewide and identify any regional discrepancies in licensing enforcement.

(b) The education and experience requirements required under Section 42.044(g), Human Resources Code, as added by this section, apply only to staff hired or assigned for the first time to conduct inspections or investigations of residential child-care facilities on or after the effective date of this section.

SECTION 1.73. The heading to Section 42.0441, Human Resources Code, is amended to read as follows:

Sec. 42.0441. INSPECTION RESULTS FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES.

SECTION 1.74. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.04411 to read as follows:

Sec. 42.04411. INSPECTION RESULTS AND EXIT CONFERENCE FOR RESIDENTIAL CHILD-CARE FACILITIES. (a) On completion of an inspection of a residential child-care facility under Section 42.044, the inspector shall hold an exit conference with a representative of the inspected facility. The inspector shall provide to the representative a copy of the inspection checklist used by the inspector.

(b) The inspector shall provide the representative an opportunity to communicate regarding potential violations.

SECTION 1.75. Section 42.046, Human Resources Code, is amended by adding Subsection (e) to read as follows:

(e) The department may deny an application under this section if the applicant:

(1) has a residential child-care facility license revoked in another state; or

(2) is barred from operating a residential child-care facility in another state.

SECTION 1.76. Sections 42.0461(f) and (g), Human Resources Code, are amended to read as follows:

(f) A child-placing agency that proposes to verify an agency foster home or agency foster group home that is located in a county with a population of less than 300,000 that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker shall:

(1) comply with the notice and hearing requirements imposed by Subsections (a) and (b); and

(2) after conducting the required public hearing, provide the department with information relating to the considerations specified in Subsection (d).

(g) The department may prohibit the child-placing agency from verifying the proposed agency foster home or agency foster group home on the same grounds that the department may deny an application under Subsection (e). The department may invalidate the verification of an agency foster home or agency foster group home that was not verified using the procedures required by Subsection (f) on or after September 1, 1997.

SECTION 1.77. Section 42.051, Human Resources Code, is amended to read as follows:

Sec. 42.051. INITIAL ~~[PROVISIONAL]~~ LICENSE. (a) The department shall issue an initial ~~[a provisional]~~ license when a facility's plans meet the department's licensing requirements and one of the following situations exists:

(1) the facility is not currently operating;

(2) the facility has relocated and has made changes in the type of child-care service it provides; or

(3) there is a change in ownership of the facility resulting in changes in policy and procedure or in the staff who have direct contact with the children.

(b) An initial ~~[A provisional]~~ license is valid for six months from the date it is issued and may be renewed for an additional six months.

SECTION 1.78. Section 42.054(b), Human Resources Code, is amended to read as follows:

(b) The department shall charge each child-care facility a fee of \$35 for an initial ~~[a provisional]~~ license. The department shall charge each child-placing agency a fee of \$50 for an initial ~~[a provisional]~~ license.

SECTION 1.79. Section 42.072, Human Resources Code, is amended by amending Subsection (c) and adding Subsection (g) to read as follows:

(c) The department may not issue a license, listing, registration, or certification to a [A] person whose license, listing, registration, or certification is revoked or whose application for a license, listing, registration, or certification is denied for a substantive reason under this chapter ~~[may not apply for any license, listing, registration, or certification under this chapter]~~ before;

(1) the fifth anniversary of the date on which the revocation takes effect by department or court order or the decision to deny the application is final, if the facility is a residential child-care facility; or

(2) the second anniversary of the date on which the revocation takes effect by department or court order or the decision to deny the application is final, if the facility is not a residential child-care facility.

(g) Notwithstanding Subsection (c), the department may refuse to issue a license, listing, registration, or certification to:

(1) a person whose license or certification for a residential child-care facility was revoked by the department or by court order;

(2) a person who was a controlling person of a residential child-care facility at the time conduct occurred that resulted in the revocation of the license or certification of the facility;

(3) a person who voluntarily closed a residential child-care facility or relinquished the person's license or certification after:

(A) the department took an action under Subsection (a) in relation to the facility or person; or

(B) the person received notice that the department intended to take an action under Subsection (a) in relation to the facility or person; or

(4) a person who was a controlling person of a residential child-care facility at the time conduct occurred that resulted in the closure of the facility or relinquishment of the license or certification in the manner described by Subdivision (3).

SECTION 1.80. Section 42.073(c), Human Resources Code, is amended to read as follows:

(c) An order is valid for 10 days after the effective date of the order, except that an order relating to a residential child-care facility is valid for 30 days after the effective date of the order.

SECTION 1.81. Section 42.077, Human Resources Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) If the department determines that the license of a residential child-care facility should be revoked or suspended, the facility shall mail notification of the action or proposed action by certified mail to a parent of each child served by the facility, if the person's parental rights have not been terminated, and to the child's managing conservator, as appropriate. The residential child-care facility shall mail the notification not later than the fifth day after the date the facility is notified of the department's determination that revocation or suspension of the license is appropriate.

SECTION 1.82. (a) Section 42.078, Human Resources Code, is amended by amending Subsections (a)-(i) and (l)-(n) and adding Subsection (a-1) to read as follows:

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

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

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

(A) on an application for the issuance or renewal of a license or registration or an attachment to the application; or

(B) in response to a matter under investigation;

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

- (A) a book, record, or file required to be maintained by the facility; or
- (B) any part of the premises of the facility;

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

(5) fails to pay a penalty assessed under this chapter on or before the date the penalty is due, as determined under this section.

(a-1) Nonmonetary, administrative penalties or remedies, including but not limited to corrective action plans, probation, and evaluation periods, shall be imposed when appropriate before monetary penalties.

(b) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The penalty for a violation may be in an amount not to exceed the following limits, based on the maximum number of children for whom the facility or family home was authorized to provide care or the number of children under the care of the child-placing agency when the violation occurred ~~[receiving care at the facility or family home at the time of the violation]:~~

(1) for violations that occur in a facility other than a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$50 [\$20]
21-40	\$60 [\$30]
41-60	\$70 [\$40]
61-80	\$80 [\$50]
81-100	\$100 [\$75]
More than 100	\$150 [\$100]

(2) for violations that occur in a residential child-care facility:

<u>Number of children</u>	<u>Maximum amount of penalty</u>
<u>20 or less</u>	<u>\$100</u>
<u>21-40</u>	<u>\$150</u>
<u>41-60</u>	<u>\$200</u>
<u>61-80</u>	<u>\$250</u>
<u>81-100</u>	<u>\$375</u>
<u>More than 100</u>	<u>\$500</u>

(c) In addition to the number of children, the [The] amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) Monetary penalties shall not be assessed for violations that are the result of clerical errors ~~[or standards which do not clearly apprise the facility or family home of the action required by the standard].~~

(e) If the department [~~executive director~~] determines that a violation has occurred, the department [~~executive director~~] may issue a recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(f) Within 14 days after the date the recommendation is issued, the department [~~executive director~~] shall give written notice of the recommendation to the person owning or operating the facility or family home or to the controlling person, if applicable. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the department [~~executive director~~] or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) If the person accepts the determination and recommended penalty of the department [~~executive director~~] or fails to respond to the notice in a timely manner, the department [~~executive director~~] shall issue an order and impose the recommended penalty.

(i) If the person requests a hearing, the department [~~executive director~~] shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and issue a final decision finding that a violation has occurred and imposing a penalty or finding that no violation occurred.

(l) Within the 30-day period, a person who acts under Subsection (k)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the department [~~executive director~~] by certified mail.

(m) On receipt of a copy of an affidavit under Subsection (l)(2), the department [~~executive director~~] may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(n) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the department [~~executive director~~] may refer the matter to the attorney general for collection of the amount of the penalty.

(b) Section 42.078, Human Resources Code, as amended by this section, applies to conduct that occurs on or after the effective date of this section. Conduct that occurs before the effective date of this section is governed by Section 42.078, Human Resources Code, as it existed before amendment by this section, and the former law is continued in effect for that purpose.

SECTION 1.83. The heading to Chapter 43, Human Resources Code, is amended to read as follows:

CHAPTER 43. REGULATION OF CHILD-CARE AND CHILD-PLACING
AGENCY ADMINISTRATORS

SECTION 1.84. Section 43.001, Human Resources Code, is amended by amending Subdivision (1) and adding Subdivisions (3) and (4) to read as follows:

(1) "Child-care institution" has the meaning assigned by Section 42.002 [~~means a profit or nonprofit children's home, orphanage, institution, or other place that receives and provides 24-hour-a-day care for more than six children who are dependent, neglected, handicapped, delinquent, in danger of becoming delinquent, or in need of group care~~].

(3) "Child-placing agency" has the meaning assigned in Section 42.002.

(4) "Child-placing agency administrator" means a person who supervises and exercises direct control over a child-placing agency and who is responsible for the child-placing agency's program and personnel, regardless of whether the person has an ownership interest in the child-placing agency or shares duties with other persons.

SECTION 1.85. (a) Section 43.003, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) A person may not serve as a child-placing agency administrator without a license issued by the department under this chapter.

(b) Notwithstanding Section 43.003(c), Human Resources Code, as added by this section, a person is not required to hold a license issued under Chapter 43, Human Resources Code, to act as a child-placing agency administrator until January 1, 2006.

SECTION 1.86. (a) Section 43.004, Human Resources Code, is amended to read as follows:

Sec. 43.004. QUALIFICATIONS FOR LICENSE. (a) To be eligible for a child-care administrator's license a person must:

(1) provide information for the department's use in conducting a criminal history and background check under Subsection (c) [~~present evidence in writing of good moral character, ethical commitment, and sound physical and emotional health~~];

(2) pass an examination developed [~~devised~~] and administered by the department that demonstrates competence in the field of child-care administration;

(3) have one year of full-time experience in management or supervision of child-care personnel and programs; and

(4) have one of the following educational and experience qualifications:

(A) a master's or doctoral [~~doctor of philosophy~~] degree in social work or other area of study; or

(B) a bachelor's degree and two years' full-time experience in child care or a closely related field[;

~~[(C) an associate degree from a junior college and four years' experience in child care or a closely related field; or~~

~~[(D) a high school diploma or its equivalent and six years' experience in child care or a closely related field].~~

(b) To be eligible for a child-placing agency administrator's license a person must:

(1) provide information for the department's use in conducting a criminal history and background check under Subsection (c);

(2) pass an examination developed and administered by the department that demonstrates competence in the field of placing children in residential settings or adoptive homes;

(3) have one year of full-time experience in management or supervision of child-placing personnel and programs; and

(4) have one of the following educational and experience qualifications:

(A) a master's or doctoral degree in social work or other area of study;

or

(B) a bachelor's degree and two years' full-time experience in the field of placing children in residential settings or adoptive homes or a closely related field.

(c) Before the department issues a license under this chapter, the department must conduct a criminal history and background check of the applicant using:

(1) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(2) the information in the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code.

(b) Section 43.004(a), Human Resources Code, as added by this section, applies only to a person who applies for a license or license renewal on or after the effective date of this section.

SECTION 1.87. (a) Section 43.0041, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) A person who fails an examination three times may not submit a new application for a license until after the first anniversary of the date the person last failed the examination.

(b) Section 43.0041(c), Human Resources Code, as added by this section, applies only to an examination taken on or after the effective date of this section. An examination taken before the effective date of this section is not considered in determining whether a person is prohibited from seeking a new license for the period specified by Section 43.0041(c), Human Resources Code, as added by this section.

SECTION 1.88. Section 43.0081(a), Human Resources Code, is amended to read as follows:

(a) The department may issue a provisional child-care administrator's license to an applicant licensed in another state who applies for a license in this state. An applicant for a provisional license under this section must:

(1) be licensed in good standing as a child-care administrator for at least two years in another state, the District of Columbia, a foreign country, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(2) have passed a national or other examination recognized by the department that demonstrates competence in the field of child-care administration; and

(3) be sponsored by a person licensed by the department under this chapter with whom the provisional license holder may practice under this section.

SECTION 1.89. (a) Section 43.009(a), Human Resources Code, is amended to read as follows:

(a) To be eligible for license renewal, a license holder shall present evidence to the department of participation in a program of continuing education for 15 ~~[approximating 15 actual]~~ hours of formal study each year during the two-year period before the renewal.

(b) Section 43.009(a), Human Resources Code, as amended by this section, applies to a person who seeks license renewal on or after September 1, 2007. A person who seeks license renewal before September 1, 2007, is governed by the law in effect before amendment by this section, and the former law is continued in effect for that purpose.

SECTION 1.90. The heading to Section 43.010, Human Resources Code, is amended to read as follows:

Sec. 43.010. LICENSE DENIAL, REVOCATION, SUSPENSION, OR REFUSAL TO RENEW; REPRIMAND OR PROBATION.

SECTION 1.91. (a) Sections 43.010(a), (b), and (d), Human Resources Code, are amended to read as follows:

(a) The department may deny, ~~[shall]~~ revoke, suspend, or refuse to renew a license, or place on probation ~~[a person whose license has been suspended,]~~ or reprimand a license holder for:

(1) violating ~~[a violation by the license holder of]~~ this chapter or a rule adopted under this chapter;

(2) circumventing or attempting to circumvent the requirements of this chapter or a rule adopted under this chapter;

(3) engaging in fraud or deceit related to the requirements of this chapter or a rule adopted under this chapter;

(4) providing false or misleading information to the department during the license application or renewal process for any person's license;

(5) making a statement about a material fact during the license application or renewal process that the person knows or should know is false;

(6) having a criminal history or central registry record that would prohibit a person from working in a child-care facility, as defined by Section 42.002, under rules applicable to that type of facility;

(7) using drugs or alcohol in a manner that jeopardizes the person's ability to function as an administrator; or

(8) [of the board.]

~~[(b) The department may revoke a license if the license holder is:~~

~~[(1) convicted of a felony;~~

~~[(2) convicted of a misdemeanor involving fraud or deceit;~~

~~[(3) addicted to a dangerous drug or intemperate in the use of alcohol; or~~

~~[(4) grossly negligent in]~~ performing duties as a child-care administrator in

a negligent manner.

(b) A person whose license is revoked under Subsection (a) is not eligible to apply for another license under this chapter for a period of five years after the date the license was revoked.

(d) If a license holder is placed on probation [~~suspension is probated~~], the department may require the license holder:

(1) to report regularly to the department on the conditions of the probation;

(2) to limit practice to the areas prescribed by the department; or

(3) to continue or renew professional education until the practitioner attains a degree of skill satisfactory to the department in those areas in which improvement is a condition of the probation.

(b) Section 43.010(b), Human Resources Code, as amended by this section, applies only to a person whose license is revoked on or after the effective date of this section. A person whose license is revoked before the effective date of this section is governed by the law in effect at the time of the revocation, and the former law is continued in effect for that purpose.

SECTION 1.92. Section 43.0105, Human Resources Code, is amended to read as follows:

Sec. 43.0105. REVOCATION OF PROBATION. The department may revoke the probation of a license holder [~~whose license is suspended~~] if the license holder violates a term of the conditions of probation.

SECTION 1.93. Section 43.0106, Human Resources Code, is amended to read as follows:

Sec. 43.0106. ADMINISTRATIVE [~~DISCIPLINARY~~] HEARING. (a) If the department denies a license or proposes to suspend, revoke, or refuse to renew a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. Rules of practice adopted by the executive commissioner [~~board~~] under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

(b) A person may not continue to operate as a licensed child-care administrator or child-placing agency administrator during the appeal process if the department determines that the person is an immediate threat to the health or safety of a child.

(c) The department must notify the person and, if applicable, the governing body of the facility that employs the person of the department's determination under Subsection (b).

SECTION 1.94. Section 43.012, Human Resources Code, is amended to read as follows:

Sec. 43.012. PENALTY. A person who serves as a child-care or child-placing agency administrator without the license required by this chapter commits a Class C misdemeanor.

SECTION 1.95. The following provisions of the Human Resources Code are repealed:

- (1) Section 40.001(1);
- (2) Section 40.028;
- (3) Section 40.029;
- (4) Sections 40.0305(b) and (c); and
- (5) Section 43.010(c).

ARTICLE 2. ADULT PROTECTIVE SERVICES

SECTION 2.01. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Section 40.0315 to read as follows:

Sec. 40.0315. INVESTIGATION UNIT FOR ADULT PROTECTIVE SERVICES. (a) The adult protective services division of the department shall maintain an investigation unit to investigate allegations of abuse, neglect, and exploitation of elderly and disabled persons reported to the division.

(b) An investigator in the unit shall determine whether an elderly or disabled person who is the subject of a report made under Section 48.051(a) may have suffered from abuse, neglect, or exploitation as a result of the criminal conduct of another person. If the investigator determines that criminal conduct may have occurred, the investigator shall immediately notify the appropriate law enforcement agency.

SECTION 2.02. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Sections 40.0322 and 40.0323 to read as follows:

Sec. 40.0322. QUALIFICATIONS FOR ADULT PROTECTIVE SERVICES PERSONNEL; RECRUITMENT. (a) In hiring department employees whose duties include providing services as part of, or relating to, the provision of adult protective services directly to an elderly or disabled person, the commissioner shall ensure that the department hires, as often as possible, persons with professional credentials related to adult protective services, including persons who are licensed master social workers, as defined by Section 505.002, Occupations Code, or licensed professional counselors.

(b) Subject to the availability of funds, the executive commissioner by rule shall develop and the department shall implement a recruiting program designed to attract and retain for employment in the adult protective services division persons with professional credentials described by Subsection (a).

(c) Subject to the availability of funds, the executive commissioner by rule shall develop and the department shall implement an incentive program to encourage each department employee whose duties include the duties described by Subsection (a) to obtain professional credentials described by that subsection if the employee does not have those credentials.

Sec. 40.0323. COORDINATION REGARDING RECRUITMENT FOR AND CURRICULUM OF CERTAIN CERTIFICATE OR DEGREE PROGRAMS. The department and the Texas Higher Education Coordinating Board jointly shall develop strategies to:

(1) promote certificate or degree programs in the fields of social work and psychology to individuals enrolled in or admitted to institutions of higher education in this state; and

(2) ensure that persons receiving a certificate or degree, including a graduate degree, in social work or psychology from an institution of higher education in this state have the knowledge and skills regarding protective services that are provided directly to elderly or disabled persons and necessary for successful employment by the adult protective services division of the department.

SECTION 2.03. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Section 40.035 to read as follows:

Sec. 40.035. TRAINING PROGRAM FOR ADULT PROTECTIVE SERVICES; CONTINUING EDUCATION. (a) The department shall develop and implement a training program that each newly hired or assigned department employee must complete before:

(1) initiating an investigation of a report of alleged abuse, neglect, or exploitation of an elderly or disabled person under Chapter 48; or

(2) providing protective services to elderly or disabled persons under that chapter.

(b) The training program must:

(1) provide the person with appropriate comprehensive information regarding:

(A) the incidence and types of reports of abuse, neglect, and exploitation of elderly or disabled persons that are received by the department, including information concerning false reports; and

(B) the use and proper implementation of:

(i) the risk assessment criteria developed under Section 48.004;

(ii) the criteria used by caseworkers to determine whether elderly or disabled persons lack capacity to consent to receive protective services; and

(iii) the legal procedures available under Chapter 48 for the protection of elderly or disabled persons, including the procedures for obtaining a court order for emergency protective services under Section 48.208;

(2) include best practices for management of a case from the intake process to the provision of protective services, including criteria that specify the circumstances under which an employee should:

(A) consult a supervisor regarding a case; or

(B) refer an elderly or disabled person to an appropriate public agency or community service provider for guardianship or other long-term services after the delivery of protective services to that person has been completed;

(3) provide appropriate specialized training in any necessary topics, including:

(A) investigation of suspected identity theft and other forms of financial exploitation and suspected self-neglect; and

(B) establishment and maintenance of working relationships with community organizations and other local providers who provide services to elderly and disabled persons;

(4) include on-the-job training, which must require another department caseworker with more experience to accompany and train the caseworker in the field for a three-month period;

(5) provide for the development of individualized training plans;

(6) include training in working with law enforcement agencies and the court system when legal intervention is sought for investigations or emergency orders; and

(7) include testing, progress reports, or other evaluations to assess the performance of trainees.

(c) The department at least annually shall provide comprehensive case management training to supervisors of department employees who conduct investigations under Chapter 48. The training must be designed to enable the supervisors to provide guidance on investigations of reports of alleged abuse, neglect, or exploitation that are complex or present unique problems.

(d) The department shall develop and implement appropriate continuing education programs for employees of the adult protective services division who have completed initial training under this section. The continuing education programs must be designed to provide an annual update regarding changes in:

(1) adult protective services division policies and procedures; and

(2) applicable law, including statutory changes affecting the adult protective services division or elderly or disabled persons served by the division.

(e) A department employee required to participate in a continuing education program under this section must complete the program at least once each calendar year.

(f) The department shall:

(1) make curriculum developed for a training or continuing education program under this section readily available to department employees in written form; and

(2) periodically revise a training and continuing education program established under this section as necessary to satisfy training needs identified by the department or department employees.

SECTION 2.04. (a) Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.0515 to read as follows:

Sec. 40.0515. QUALITY ASSURANCE PROGRAM FOR ADULT PROTECTIVE SERVICES; QUARTERLY REPORTS. (a) The department shall develop and implement a quality assurance program for adult protective services provided by or on behalf of the department.

(b) In developing the program, the department shall establish:

(1) client-centered outcome measures for each of the following functions of the adult protective services program:

(A) intake process;

(B) investigations;

(C) risk assessment determinations; and

(D) delivery of protective services;

(2) minimum job performance standards for personnel and each work department of the adult protective services division of the department; and

(3) procedures for conducting periodic performance reviews to monitor compliance with the standards established under Subdivision (2).

(c) The department shall promptly address a person's or work department's failure to meet minimum job performance standards established under Subsection (b)(2):

(1) by issuing to the person or work department, as appropriate, a corrective action plan detailing the actions required to comply with the standards; or

(2) if necessary, through disciplinary action, including a person's demotion or discharge, for repeated failure to meet the standards.

(d) Each employee of the adult protective services division must receive a performance evaluation required by Section 40.032(c) at least annually. The department shall ensure that disciplinary or other corrective action is taken against a supervisor or other managerial employee who is required to conduct a performance evaluation and fails to complete that evaluation in a timely manner.

(e) A summary of the findings of outcome measures established and performance reviews conducted under this section must be reported to regional directors and other senior management employees of the adult protective services division.

(f) Each fiscal quarter the department shall file with the governor and the presiding officer of each house of the legislature a report that includes:

(1) a comprehensive review of the adult protective services division's overall performance during the preceding quarter; and

(2) a summary of the adult protective services division's performance during the preceding quarter on each of the outcome measures established under Subsection (b)(1).

(b) The Department of Family and Protective Services shall submit the initial report required under Section 40.0515, Human Resources Code, as added by this section, not later than February 1, 2006.

SECTION 2.05. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.0527 to read as follows:

Sec. 40.0527. PUBLIC AWARENESS. (a) The executive commissioner by rule shall develop and the department shall implement a statewide public awareness campaign designed to educate the public regarding the abuse, neglect, and exploitation of elderly and disabled persons.

(b) The department may use mass communications media, the Internet, publications, or other means of public education in conducting the campaign.

(c) A public awareness strategy implemented for the program must include:

(1) the provision of information on the incidence and types of reports of abuse, neglect, and exploitation of elderly or disabled persons; and

(2) practices that can reduce the incidences of abuse, neglect, and exploitation of elderly or disabled persons in this state.

(d) The department shall enlist the support and assistance of civic, philanthropic, and public service organizations in the performance of the duties imposed under this section.

SECTION 2.06. Subchapter A, Chapter 48, Human Resources Code, is amended by adding Section 48.004 to read as follows:

Sec. 48.004. RISK ASSESSMENT. The executive commissioner by rule shall develop and maintain risk assessment criteria for use by department personnel in determining whether an elderly or disabled person is in a state of abuse, neglect, or exploitation and needs protective services. The criteria must provide for a comprehensive assessment of the person's:

(1) environmental, physical, medical, mental health, and financial condition;
and

(2) social interaction and support.

SECTION 2.07. Section 48.151, Human Resources Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The department shall develop and implement a system to ensure that, to the greatest extent possible, investigations conducted by the department that involve especially complex issues of abuse, neglect, or exploitation, such as issues associated with identity theft and other forms of financial exploitation, are assigned to personnel who have experience and training in those issues.

SECTION 2.08. Sections 48.205(a) and (b), Human Resources Code, are amended to read as follows:

(a) Subject to the availability of funds, the [The] department shall [may] provide direct protective services or contract with protective services agencies for the provision [provisions] of those services.

(b) The department shall use existing resources and services of public and private agencies in providing protective services. If the department does not have existing resources to provide direct protective services to elderly or disabled persons, the department, subject to the availability of funds, shall contract with protective services agencies for the provision of those services, especially to elderly or disabled persons residing in rural or remote areas of this state or not previously served by the department.

SECTION 2.09. Section 48.208, Human Resources Code, is amended by amending Subsections (b), (c), and (e) and adding Subsections (c-1), (c-2), and (e-1) to read as follows:

(b) If the department determines that an elderly or disabled person is suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety, that the person lacks capacity to consent to receive protective services, and that no consent can be obtained, the department shall [may] petition the probate or statutory or constitutional county court that has probate jurisdiction in the county in which the elderly or disabled person resides for an emergency order authorizing protective services.

(c) The petition shall be verified and shall include:

(1) the name, age, and address of the elderly or disabled person who needs protective services;

(2) the nature of the abuse, neglect, or exploitation;

(3) the services needed; and

(4) a [medical] report signed by a physician, physician assistant, registered nurse, or advanced practice nurse that contains the information required by Subsection (c-1) or a report signed by a psychologist licensed under Chapter 501, Occupations Code, that contains the information required by Subsection (c-2), [stating that the person is suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety and stating that the person is physically or mentally incapable of consenting to services] unless the court finds that an immediate danger to the health or safety of the elderly or disabled person exists and there is not sufficient time to obtain the [medical] report.

(c-1) A report obtained from a physician, physician assistant, registered nurse, or advanced practice nurse under Subsection (c)(4) must state that the person:

(1) is suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety; and

(2) is physically or mentally incapable of consenting to services.

(c-2) A report obtained from a licensed psychologist under Subsection (c)(4) must state that the person:

(1) is suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety; and

(2) is mentally incapable of consenting to services.

(e) The emergency order expires at the end of 72 hours from the time of the order unless:

(1) the 72-hour period ends on a Saturday, Sunday, or legal holiday in which event the order is automatically extended to 4 p.m. on the first succeeding business day; or

(2) the court extends the order as provided by Subsection (e-1).

(e-1) The court may extend an emergency order issued under this section once for an additional period of not more than 30 days if the court receives a medical report signed by a physician stating that the person is physically or mentally incapable of consenting to services and the court, after a hearing, finds that the immediate danger to the health or safety of the elderly or disabled person continues to exist. The medical report must be based on an examination the physician performed not earlier than the date the court granted the initial emergency order. An extension order ~~may be renewed for not more than 14 additional days. A renewal order~~ that ends on a Saturday, Sunday, or legal holiday is automatically extended to 4 p.m. on the first succeeding business day. The court may shorten the term of ~~modify~~ or terminate the emergency order on petition of the department, the elderly or disabled ~~incapacitated~~ person, or any person interested in the elderly or disabled person's ~~his~~ welfare.

SECTION 2.10. Section 531.0162, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) Subject to available appropriations, the commission shall use technology whenever possible in connection with the adult protective services program of the Department of Family and Protective Services to:

(1) provide for automated collection of information necessary to evaluate program effectiveness using systems that integrate collection of necessary information with other routine duties of caseworkers and other service providers; and

(2) consequently reduce the time that caseworkers and other service providers are required to use in gathering and reporting information necessary for program evaluation.

(d) The commission shall include representatives of the private sector in the technology planning process used to determine appropriate technology for the adult protective services program of the Department of Family and Protective Services.

SECTION 2.11. (a) Section 531.048, Government Code, is amended by adding Subsection (g) to read as follows:

(g) The executive commissioner shall develop and, subject to the availability of funds, implement a caseload management reduction plan to reduce, not later than January 1, 2011, caseloads for caseworkers employed by the adult protective services division of the Department of Family and Protective Services to a level that does not exceed professional caseload standards by more than five cases per caseworker. The plan must provide specific annual targets for caseload reduction.

(b) Not later than January 1, 2006, the executive commissioner of the Health and Human Services Commission shall adopt rules establishing the caseload management reduction plan as provided by Section 531.048(g), Government Code, as added by this section.

(c) Not later than December 31 of each even-numbered year, the executive commissioner of the Health and Human Services Commission shall prepare a report regarding the implementation of the plan provided by Section 531.048(g), Government Code, as added by this section. The report must include an assessment of the effect of the plan on reducing caseloads and the amount of funding necessary to fully implement the plan during the next biennium. The executive commissioner shall submit the report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each house and senate standing committee having jurisdiction over adult protective services.

SECTION 2.12. PILOT PROGRAM FOR MONITORING CERTAIN UNLICENSED LONG-TERM CARE FACILITIES. (a) In this section:

(1) "Disabled person" has the meaning assigned by Section 48.002, Human Resources Code.

(2) "Elderly person" has the meaning assigned by Section 48.002, Human Resources Code.

(3) "Long-term care facility" means:

(A) a nursing home or related institution;

(B) an assisted living facility;

(C) an ICF-MR, as defined by Section 531.002, Health and Safety

Code;

(D) a community home subject to Chapter 123, Human Resources Code; or

(E) any other residential arrangement that provides care to four or more adults who are unrelated to the proprietor of the establishment.

(b) The executive commissioner of the Health and Human Services Commission by rule shall develop and implement a pilot program in which local task forces composed of health care providers, representatives from governmental entities, and local government officials are created to:

(1) identify, through a coordination of efforts and resources, persons establishing or operating:

(A) long-term care facilities providing personal care services, health-related services, or other care to elderly or disabled persons without being licensed or providing disclosures as required by state law; or

(B) residential facilities or arrangements providing personal care services or other care in violation of state law to three or fewer elderly or disabled persons who are unrelated to the proprietor of the establishment; and

(2) take appropriate action necessary to:

(A) report the facilities or arrangements described by Subdivision (1) of this subsection to the appropriate state regulatory agencies or local law enforcement agencies;

(B) assist, whenever practicable, a long-term care facility described by Subdivision (1)(A) of this subsection in obtaining the appropriate licensure or making the appropriate disclosures on request of the facility; and

(C) assist, if it is feasible and practicable, a facility or arrangement described by Subdivision (1)(B) of this subsection in complying with applicable regulatory requirements of state or local law.

(c) Not later than January 1, 2006, the executive commissioner of the Health and Human Services Commission shall implement the pilot program in at least one rural area and one urban area of this state.

(d) Not later than January 1, 2007, the Health and Human Services Commission shall submit a report on the status and progress of the pilot program to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each house and senate standing committee having jurisdiction over adult protective services. The report must include a recommendation regarding the advisability of expanding the pilot program statewide.

(e) This section expires September 1, 2007.

ARTICLE 3. GUARDIANSHIP AND RELATED SERVICES

SECTION 3.01. The heading to Subchapter E, Chapter 48, Human Resources Code, is amended to read as follows:

SUBCHAPTER E. PROVISION OF SERVICES; ~~[GUARDIANSHIP SERVICES;]~~ EMERGENCY PROTECTION

SECTION 3.02. Section 48.209, Human Resources Code, is amended to read as follows:

Sec. 48.209. REFERRAL FOR GUARDIANSHIP SERVICES
[GUARDIANSHIPS]. (a) The department shall refer an individual to the Department of Aging and Disability Services for guardianship services under Subchapter E, Chapter 161, if the individual is:

(1) a minor in the conservatorship of the department who:

(A) is 16 years of age or older; and

(B) the department has reason to believe will, because of a physical or mental condition, be substantially unable to provide for the individual's own food, clothing, or shelter, to care for the individual's own physical health, or to manage the individual's own financial affairs when the individual becomes an adult; or

(2) an elderly or disabled person who:

(A) has been found by the department to be in a state of abuse, neglect, or exploitation; and

(B) the department has reason to believe is an incapacitated person as defined by Section 601(14)(B), Texas Probate Code.

(b) Notwithstanding Subsection (a), if a less restrictive alternative to guardianship is appropriate and available for the individual, the department shall pursue that alternative instead of making a referral to the Department of Aging and Disability Services for guardianship services.

(c) The department and the Department of Aging and Disability Services shall enter into a memorandum of understanding that sets forth in detail the roles and duties of each agency regarding the referral for guardianship services under Subsection (a) and the provision of guardianship services to individuals under Subchapter E, Chapter 161.

(d) Nothing in this section shall prohibit the department from also making a referral of an individual to a court having probate jurisdiction in the county where the individual is domiciled or found, if the court has requested the department to notify the court of any individuals who may be appropriate for a court-initiated guardianship proceeding under Section 683, Texas Probate Code. In making a referral under this subsection and if requested by the court, the department shall, to the extent allowed by law, provide the court with all relevant information in the department's records relating to the individual. The court, as part of this process, may not require the department to:

(1) perform the duties of a guardian ad litem or court investigator as prescribed by Section 683, Texas Probate Code; or

(2) gather additional information not contained in the department's records.

(e) The department may not be appointed to serve as temporary or permanent guardian for any individual. ~~[(a) The department shall file an application under Section 682 or 875, Texas Probate Code, to be appointed guardian of the person or estate or both of an individual who is a minor, is a conservatee of the department, and, because of a physical or mental condition, will be substantially unable to provide food, clothing, or shelter for himself or herself, to care for the individual's own physical health, or to manage the individual's own financial affairs when the individual becomes an adult. If a less restrictive alternative to guardianship is available for an individual, the department shall pursue the alternative instead of applying for appointment as a guardian.~~

~~[(b) As a last resort, the department may apply to be appointed guardian of the person or estate of an elderly or disabled person who is found by the department to be in a state of abuse, neglect, or exploitation, and who, because of a physical or mental condition, will be substantially unable to provide food, clothing, or shelter for himself or herself, to care for the individual's own physical health, or to manage the individual's own financial affairs. A representative of the department shall take the oath required by the Texas Probate Code on behalf of the department if the department is appointed guardian. If the department knows that an individual is willing and able to serve as the guardian, the department may inform the court of that individual's willingness and ability.~~

~~[(c) If appropriate, the department may contract with a political subdivision of this state, a private agency, or another state agency for the provision of guardianship services under this section. The department or a political subdivision of the state or state agency with which the department contracts under this section is not required to post a bond or pay any cost or fee otherwise required by the Texas Probate Code.~~

~~[(d) If the department is appointed guardian, the department is not liable for funding services provided to the department's ward, including long-term care or burial expenses.~~

~~[(e) The department may not be required to pay fees associated with the appointment of a guardian ad litem or attorney ad litem.~~

~~[(f) The department shall file an application with the court to name a successor guardian if the department becomes aware of a qualified and willing individual or guardianship program serving the area in which the ward is located.]~~

SECTION 3.03. Section 161.071, Human Resources Code, is amended to read as follows:

Sec. 161.071. GENERAL POWERS AND DUTIES OF DEPARTMENT. The department is responsible for administering human services programs for the aging and disabled, including:

(1) administering and coordinating programs to provide community-based care and support services to promote independent living for populations that would otherwise be institutionalized;

(2) providing institutional care services, including services through convalescent and nursing homes and related institutions under Chapter 242, Health and Safety Code;

(3) providing and coordinating programs and services for persons with disabilities, including programs for the treatment, rehabilitation, or benefit of persons with developmental disabilities or mental retardation;

(4) operating state facilities for the housing, treatment, rehabilitation, or benefit of persons with disabilities, including state schools for persons with mental retardation;

(5) serving as the state unit on aging required by the federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) and its subsequent amendments, including performing the general functions under Section 101.022 to ensure:

(A) implementation of the federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) and its subsequent amendments, including implementation of services and volunteer opportunities under that Act for older residents of this state through area agencies on aging;

(B) advocacy for residents of nursing facilities through the office of the state long-term care ombudsman;

(C) fostering of the state and community infrastructure and capacity to serve older residents of this state; and

(D) availability of a comprehensive resource for state government and the public on trends related to and services and programs for an aging population;

(6) performing all licensing and enforcement activities and functions related to long-term care facilities, including licensing and enforcement activities related to convalescent and nursing homes and related institutions under Chapter 242, Health and Safety Code;

(7) performing all licensing and enforcement activities related to assisted living facilities under Chapter 247, Health and Safety Code;

(8) performing all licensing and enforcement activities related to intermediate care facilities for persons with mental retardation under Chapter 252, Health and Safety Code; ~~and~~

(9) performing all licensing and enforcement activities and functions related to home and community support services agencies under Chapter 142, Health and Safety Code; and

(10) serving as guardian of the person or estate, or both, for an incapacitated individual as provided by Subchapter E of this chapter and Chapter XIII, Texas Probate Code.

SECTION 3.04. Chapter 161, Human Resources Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. GUARDIANSHIP SERVICES

Sec. 161.101. GUARDIANSHIP SERVICES. (a) The department shall file an application under Section 682 or 875, Texas Probate Code, to be appointed guardian of the person or estate, or both, of a minor referred to the department under Section 48.209(a)(1) for guardianship services if the department determines:

(1) that the minor, because of a mental or physical condition, will be substantially unable to provide for the minor's own food, clothing, or shelter, to care for the minor's own physical health, or to manage the individual's own financial affairs when the minor becomes an adult; and

(2) that a less restrictive alternative to guardianship is not available for the minor.

(b) The department shall conduct a thorough assessment of the conditions and circumstances of an elderly or disabled person referred to the department under Section 48.209(a)(2) for guardianship services to determine whether a guardianship is appropriate for the individual. In determining whether a guardianship is appropriate, the department may consider the resources and funds available to meet the needs of the elderly or disabled person. The executive commissioner shall adopt rules for the administration of this subsection.

(c) If after conducting an assessment of an elderly or disabled person under Subsection (b) the department determines that a guardianship is appropriate for the elderly or disabled person, the department shall file an application under Section 682 or 875, Texas Probate Code, to be appointed guardian of the person or estate, or both, of the individual. If after conducting the assessment the department determines that a less restrictive alternative to guardianship is available for the elderly or disabled person, the department shall pursue the less restrictive alternative instead of applying for appointment as the person's guardian.

(d) The department may not be required by a court to file an application for guardianship, and the department may not be appointed as permanent guardian for any individual unless the department files an application to serve or otherwise agrees to serve as the individual's guardian of the person or estate, or both.

(e) A guardianship created for an individual as a result of an application for guardianship filed under Subsection (a) may not take effect before the individual's 18th birthday.

Sec. 161.102. REFERRAL TO GUARDIANSHIP PROGRAM, COURT, OR OTHER PERSON. (a) If the department becomes aware of a guardianship program, private professional guardian, or other person willing and able to provide the guardianship services that would otherwise be provided by the department to an

individual referred to the department by the Department of Family and Protective Services under Section 48.209, the department shall refer the individual to that person or program for guardianship services.

(b) If requested by a court, the department shall notify the court of any referral made to the department by the Department of Family and Protective Services relating to any individual who is domiciled or found in a county where the requesting court has probate jurisdiction and who may be appropriate for a court-initiated guardianship proceeding under Section 683, Texas Probate Code. In making a referral under this subsection and if requested by the court, the department shall, to the extent allowed by law, provide the court with all relevant information in the department's records relating to the individual. The court, as part of this process, may not require the department to:

(1) perform the duties of a guardian ad litem or court investigator as prescribed by Section 683, Texas Probate Code; or

(2) gather additional information not contained in the department's records.

Sec. 161.103. CONTRACT FOR GUARDIANSHIP SERVICES. If appropriate, the department may contract with a political subdivision of this state, a guardianship program as defined by Section 601, Texas Probate Code, a private agency, or another state agency for the provision of guardianship services under this section.

Sec. 161.104. QUALITY ASSURANCE PROGRAM. The department shall develop and implement a quality assurance program for guardianship services provided by or on behalf of the department. If the department enters into a contract with a political subdivision, guardianship program, private agency, or other state agency under Section 161.103, the department shall establish a monitoring system as part of the quality assurance program to ensure the quality of guardianship services for which the department contracts under that section.

Sec. 161.105. OATH. A representative of the department shall take the oath required by Section 700, Texas Probate Code, on behalf of the department if the department is appointed guardian.

Sec. 161.106. GUARDIANSHIP POWERS AND DUTIES. In serving as guardian of the person or estate, or both, for an incapacitated individual, the department has all the powers granted and duties prescribed to a guardian under Chapter XIII, Texas Probate Code, or any other applicable law.

Sec. 161.107. EXEMPTION FROM GUARDIANSHIP BONDS, CERTAIN COSTS, FEES, AND EXPENSES. (a) The department or a political subdivision of this state or state agency with which the department contracts under Section 161.103 is not required to post a bond or pay any cost or fee associated with a bond otherwise required by the Texas Probate Code in guardianship matters.

(b) The department is not required to pay any cost or fee otherwise imposed for court proceedings or other services, including:

(1) a filing fee or fee for issuance of service of process imposed by Section 51.317, 51.318(b)(2), or 51.319, Government Code;

(2) a court reporter fee imposed by Section 51.601, Government Code;

(3) a judicial fund fee imposed by Section 51.702, Government Code;

(4) a judge's fee imposed by Section 25.0008 or 25.0029, Government Code;

(5) a cost or security fee imposed by Section 12 or 622, Texas Probate Code; or

(6) a fee imposed by a county officer under Section 118.011 or 118.052, Local Government Code.

(c) The department may not be required to pay fees associated with the appointment of a guardian ad litem or attorney ad litem.

(d) A political subdivision of this state or state agency with which the department contracts under Section 161.103 is not required to pay any cost or fee otherwise required by the Texas Probate Code.

(e) The department is not liable for funding services provided to a ward of the department, including long-term care or burial expenses.

Sec. 161.108. APPLICATION FOR SUCCESSOR GUARDIAN. The department shall review each of the department's pending guardianship cases at least annually to determine whether a more suitable person, including a guardianship program or private professional guardian, is willing and able to serve as successor guardian for a ward of the department. If the department becomes aware of any person's willingness and ability to serve as successor guardian, the department shall notify the court in which the guardianship is pending as required by Section 695A, Texas Probate Code.

Sec. 161.109. ACCESS TO RECORDS OR DOCUMENTS. (a) The department shall have access to all of the records and documents concerning an individual referred for guardianship services under this subchapter that are necessary to the performance of the department's duties under this subchapter, including client-identifying information and medical, psychological, educational, or residential information.

(b) The department is exempt from the payment of a fee otherwise required or authorized by law to obtain a medical record, including a mental health record, from a hospital or health care provider if the request for a record is made in the course of an assessment for guardianship services conducted by the department.

(c) If the department cannot obtain access to a record or document that is necessary to properly perform a duty under this subchapter, the department may petition the probate court or the statutory or constitutional court having probate jurisdiction for access to the record or document.

(d) The court with probate jurisdiction shall, on good cause shown, order the person or entity who denied access to a record or document to allow the department to have access to the record or document under the terms and conditions prescribed by the court.

(e) A person or entity is entitled to notice of and a hearing on the department's petition for access as described by this section.

(f) Access to, or disclosure of, a confidential record or other confidential information under this section does not constitute a waiver of confidentiality for other purposes or as to other persons.

Sec. 161.110. LEGAL REPRESENTATION OF DEPARTMENT. (a) Except as provided by Subsection (b), (c), or (f), the prosecuting attorney representing the state in criminal cases in the county court shall represent the department in any proceeding under this subchapter unless the representation would be a conflict of interest.

(b) If the attorney representing the state in criminal cases in the county court is unable to represent the department in an action under this subchapter because of a conflict of interest, the attorney general shall represent the department in the action.

(c) If the attorney general is unable to represent the department in an action under this subchapter, the attorney general shall deputize an attorney who has contracted with the department under Subsection (d) or an attorney employed by the department under Subsection (e) to represent the department in the action.

(d) Subject to the approval of the attorney general, the department may contract with a private attorney to represent the department in an action under this subchapter.

(e) The department may employ attorneys to represent the department in an action under this subchapter.

(f) In a county having a population of more than 2.8 million, the prosecuting attorney representing the state in civil cases in the county court shall represent the department in any proceeding under this subchapter unless the representation would be a conflict of interest. If such attorney is unable to represent the department in an action under this subchapter because of a conflict of interest, the attorney general shall represent the department in the action.

Sec. 161.111. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION. (a) All files, reports, records, communications, or working papers used or developed by the department in the performance of duties relating to the assessment for or the provision of guardianship services to an individual referred for guardianship services under this subchapter are confidential and not subject to disclosure under Chapter 552, Government Code.

(b) Confidential information may be disclosed only for a purpose consistent with this subchapter, as required by other state or federal law, or as necessary to enable the department to exercise its powers and duties as guardian of the person or estate, or both, of an individual.

(c) A court may order disclosure of confidential information only if:

(1) a motion is filed with the court requesting release of the information and a hearing on that request;

(2) notice of the hearing is served on the department and each interested party; and

(3) the court determines after the hearing and an in camera review of the information that disclosure is essential to the administration of justice and will not endanger the life or safety of any individual who:

(A) is being assessed by the department for guardianship services under this subchapter;

(B) is a ward of the department; or

(C) provides services to a ward of the department.

(d) The department shall establish a policy and procedures for the exchange of information with another state agency or governmental entity, including a court, with a local guardianship program to which an individual is referred for services, or with any other entity who provides services to a ward of the department, as necessary for the department, state agency, governmental entity, or other entity to properly execute its respective duties and responsibilities to provide guardianship services or other needed services to meet the needs of the ward under this subchapter or other law. An exchange of information under this subsection does not constitute a release for purposes of waiving the confidentiality of the information exchanged.

Sec. 161.112. INDEMNIFICATION FOR LEGAL EXPENSES. If a present or former employee of the department who was involved in activities related to the provision of guardianship services under this subchapter is criminally prosecuted for conduct related to the person's misfeasance or nonfeasance in the course and scope of the person's employment and is found not guilty after a trial or appeal or if the complaint or indictment is dismissed without a plea of guilty or nolo contendere being entered, the department may indemnify the person or the person's estate for the reasonable attorney's fees incurred in defense of the prosecution up to a maximum of \$10,000.

Sec. 161.113. IMMUNITY. (a) In this section, "volunteer" means a person who:

(1) renders services for or on behalf of the department under the supervision of a department employee; and

(2) does not receive compensation that exceeds the authorized expenses the person incurs in performing those services.

(b) A department employee or an authorized volunteer who performs a department duty or responsibility under this subchapter is immune from civil or criminal liability for any act or omission that relates to the duty or responsibility if the person acted in good faith and within the scope of the person's authority.

SECTION 3.05. Section 695A, Texas Probate Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If, while serving as a guardian for a ward under this chapter, the Department of Aging and Disability Services becomes aware of a guardianship program or private professional guardian willing and able to serve as the ward's successor guardian and the department is not aware of a family member or friend of the ward or any other interested person who is willing and able to serve as the ward's successor guardian, the department shall notify the court in which the guardianship is pending of the guardianship program's or private professional guardian's willingness and ability to serve.

SECTION 3.06. Section 700(b), Texas Probate Code, is amended to read as follows:

(b) A representative of the Department of ~~Protective and Regulatory~~ Aging and Disability Services shall take the oath required by Subsection (a) of this section if the department is appointed guardian.

SECTION 3.07. Section 875(j), Texas Probate Code, is amended to read as follows:

(j) The court may not customarily or ordinarily appoint the Department of Aging and Disability [~~Protective and Regulatory~~] Services as a temporary guardian under this section. The appointment of the department as a temporary guardian under this section should be made only as a last resort.

SECTION 3.08. TRANSFERS TO THE DEPARTMENT OF AGING AND DISABILITY SERVICES. (a) On September 1, 2005:

(1) all powers, duties, functions, programs, and activities of the Department of Family and Protective Services related to providing guardianship services for incapacitated persons under Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code, or other law are transferred to the Department of Aging and Disability Services;

(2) all employees of the Department of Family and Protective Services who primarily perform duties related to providing guardianship services for incapacitated persons under Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code, or other law become employees of the Department of Aging and Disability Services;

(3) a rule or form adopted by the executive commissioner of the Health and Human Services Commission that relates to the provision of guardianship services by the Department of Family and Protective Services for incapacitated persons under Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code, or other law, as those laws existed immediately before that date, is a rule or form of the Department of Aging and Disability Services and remains in effect until altered by the executive commissioner;

(4) a reference in law to the Department of Family and Protective Services or its predecessor agency, the Department of Protective and Regulatory Services, that relates to providing guardianship services for incapacitated persons under Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code, or other law means the Department of Aging and Disability Services;

(5) a waiver in effect that was issued by the Department of Family and Protective Services Commission relating to the provision of guardianship services for incapacitated persons under Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code, or other law is continued in effect as a waiver of the Department of Aging and Disability Services;

(6) a proceeding involving the Department of Family and Protective Services that is related to providing guardianship services for incapacitated persons under Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code, or other law is transferred without change in status to the Department of Aging and Disability Services, and the Department of Aging and Disability Services assumes, without a change in status, the position of the Department of Family and Protective Services in a proceeding relating to guardianship matters to which the Department of Family and Protective Services is a party;

(7) all money, contracts, rights, and obligations of the Department of Family and Protective Services related to providing guardianship services for incapacitated persons under Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code, or other law are transferred to the Department of Aging and Disability Services, subject to Subsection (b) of this section;

(8) all property and records in the custody of the Department of Family and Protective Services related to providing guardianship services for incapacitated persons under Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code, or other law shall be transferred to the Department of Aging and Disability Services; and

(9) all funds appropriated by the legislature to the Department of Family and Protective Services for purposes related to providing guardianship services for incapacitated persons under Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code, or other law are transferred to the Department of Aging and Disability Services.

(b) The Department of Aging and Disability Services shall administer a contract of the Department of Family and Protective Services transferred under Subsection (a)(7) of this section until the contract expires or is otherwise lawfully terminated.

(c) To effectuate a smooth and orderly transfer of existing guardianship status, a court may not require the Department of Family and Protective Services or the Department of Aging and Disability Services to comply with the provisions concerning resignation of a guardian and appointment of a successor guardian under Subpart D, Part 4, Chapter XIII, Texas Probate Code, with respect to guardianship cases of the Department of Family and Protective Services transferred to the Department of Aging and Disability Services under this section and Section 2.09 of this Act.

(d) A reference in a legal document, including a letter of guardianship issued under Section 659, Texas Probate Code, to the Department of Family and Protective Services as guardian in an existing guardianship or application for guardianship that is pending on the effective date of this Act is considered to be a reference to the Department of Aging and Disability Services.

(e) A public entity, a private entity, or any other person, including a bank, a service provider, law enforcement personnel, or medical personnel, is required to accept the Department of Aging and Disability Services' authority as guardian in the same manner the entity or person would have accepted the Department of Family and Protective Services' authority as guardian of a particular ward.

(f) The Department of Aging and Disability Services may not be required to take a new oath of guardianship under Section 700, Texas Probate Code, with respect to a guardianship case transferred to the department from the Department of Family and Protective Services under this section and Section 2.09 of this Act.

SECTION 3.09. TRANSITION PLAN. The executive commissioner of the Health and Human Services Commission shall establish a plan for the transfer of guardianship cases of the Department of Family and Protective Services to the Department of Aging and Disability Services on or before the last day of the period prescribed by the executive commissioner.

ARTICLE 4. REPORT; EFFECTIVE DATE

SECTION 4.01. (a) Not later than the 180th day after the effective date of this Act, and every six months after that date, the Health and Human Services Commission shall provide a detailed progress report on the implementation of the provisions of this Act to:

- (1) the governor;
 - (2) the Legislative Budget Board;
 - (3) the lieutenant governor;
 - (4) the speaker of the house of representatives;
 - (5) appropriate oversight committees of the legislature; and
 - (6) the state auditor.
- (b) Each progress report must address:
- (1) the achievement status of each major element of reform and each of the performance milestones specified in this Act;
 - (2) any significant obstacles encountered by the Health and Human Services Commission, Department of Family and Protective Services, or Department of Aging and Disability Services in implementing the provisions of this Act, and the steps proposed to resolve those obstacles;
 - (3) any provision of this Act the Health and Human Services Commission, Department of Family and Protective Services, or Department of Aging and Disability Services determines that it is unable to fully implement due to insufficient funds;
 - (4) any significant unanticipated fiscal implications associated with the implementation of this Act, and recommendations for addressing the fiscal implications in the most cost-effective manner; and
 - (5) steps taken to enhance internal and external accountability for:
 - (A) achieving favorable outcomes for children needing protective services and adults needing protective services or guardianship services; and
 - (B) the expenditure of public funds.
- (c) In accordance with Chapter 321, Government Code, the state auditor may conduct financial and compliance audits related to the implementation of this Act as specified in an audit plan. The state auditor shall coordinate an audit performed under this subsection with the Health and Human Services Commission, Department of Family and Protective Services, and Department of Aging and Disability Services internal auditors and the commission's office of inspector general to avoid duplication of effort.
- (d) Except as provided by this subsection, this section expires September 1, 2010. Subsections (a) and (b) of this section expire September 1, 2009.

SECTION 4.02. This Act takes effect September 1, 2005.

Floor Amendment No. 1

Amend **CSSB 6**, in SECTION 1.11(a) of the bill, by striking amended Section 261.107(a), Family Code (House committee printing page 8, lines 2-8), and substituting the following:

(a) A person commits an offense if, with the intent to deceive, the person knowingly [~~or intentionally~~] makes a report as provided in this chapter that [~~the person knows~~] is false [~~or lacks factual foundation~~]. An offense under this section is a state jail felony [~~Class A misdemeanor~~] unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a [~~state jail~~] felony of the third degree.

Floor Amendment No. 3

Amend **CSSB 6** in Section 1.59 of the bill, in added Section 40.031(e), Human Resources Code (House committee printing, page 76, line 5), by striking "Subchapter E, Chapter 261" and substituting "Section 261.401 or 261.404".

Floor Amendment No. 4

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered sections to the article and renumbering the remaining sections of the article as appropriate:

SECTION 1. __. Section 107.013, Family Code, is amended by adding Subsection (c) to read as follows:

(c) In a suit filed by a governmental entity requesting temporary managing conservatorship of a child, the court shall appoint an attorney ad litem to represent the interests of an indigent parent of the child who responds in opposition to the suit.

SECTION 1. __. Section 107.015(c), Family Code, is amended to read as follows:

(c) If indigency of the parents is shown, an attorney ad litem appointed to represent a child or parent in a suit filed by a governmental entity [~~in which termination of the parent-child relationship is requested~~] shall be paid from the general funds of the county according to the fee schedule that applies to an attorney appointed to represent a child in a suit under Title 3 as provided by Chapter 51. The court may not award attorney ad litem fees under this chapter against the state, a state agency, or a political subdivision of the state except as provided by this subsection.

SECTION 1. __. (a) Section 118.018, Local Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as provided by Subsection (d), a [A] county clerk who collects a fee under this section from a marriage license applicant shall deposit \$3 of that fee to be sent to the comptroller as provided by Subchapter B, Chapter 133, for deposit in the family trust fund established under Section 2.014, Family Code.

(d) In addition to other fees collected under this section, a county clerk shall collect from a marriage license applicant a fee not to exceed \$15 to be deposited in the county treasury to be used by the county only to pay the fees to provide attorneys ad litem to represent indigent parents in child protective services cases.

(b) Section 118.019, Local Government Code, is amended to read as follows:

Sec. 118.019. DECLARATION OF INFORMAL MARRIAGE. (a) The fee for "Declaration of Informal Marriage" under Section 118.011 is for all services rendered in connection with the execution of a declaration of informal marriage under Section 2.402 [1.92], Family Code. The fee shall be collected at the time the service is rendered.

(b) In addition to the fee described by Subsection (a), a county clerk shall collect from the parties to a declaration of informal marriage a fee not to exceed \$15 to be deposited in the county treasury to be used by the county only to pay the fees to provide attorneys ad litem to represent indigent parents in child protective services cases.

(c) Section 118.022(a), Local Government Code, is amended to read as follows:

(a) The county clerk shall deposit, as provided by Subchapter B, Chapter 133, \$12.50 of each fee collected for issuance of a marriage license or declaration of informal marriage, other than a fee imposed under Section 118.018(d) or 118.019(b), to be sent to the comptroller and deposited as provided by Subsection (b).

(d) The changes in law made by this section to Sections 118.018, 118.019, and 118.022, Local Government Code, apply only to a fee imposed for a marriage license application filed, or a declaration of an informal marriage executed, as applicable, on or after the effective date of this section. A fee imposed for an application filed or declaration executed before the effective date of this section is governed by the law in effect on the date the application was filed or the declaration was executed, and the former law is continued in effect for that purpose.

Floor Amendment No. 5

Amend **CSSB 6** as follows:

(1) In Section 1.30 of the bill, in added Section 45.002(a), Human Resources Code (House committee printing page 28, line 15), strike "2009" and substitute "2011".

(2) In Section 1.30 of the bill, in added Section 45.002(b), Human Resources Code (House committee printing page 28, line 18), strike "2009" and substitute "2011".

(3) In Section 1.30 of the bill, in added Section 45.002(c), Human Resources Code (House committee printing page 28, line 26), strike "2009" and substitute "2011".

(4) In Section 1.30 of the bill, in added Section 45.002(d), Human Resources Code (House committee printing page 29, line 7), strike "2009" and substitute "2011".

(5) In Section 1.30 of the bill, strike added Section 45.054(a), Human Resources Code (House committee printing page 32, lines 19-26), and substitute:

(a) The department shall implement the privatization of substitute care and case management services on a regional basis in accordance with the transition plan. The transition plan must include a schedule with deadlines for implementation of the plan. Subject to the requirements of Subsections (c), (d), and (e), statewide implementation of the plan shall be completed not later than September 1, 2011. The commission shall propose the first three regions of the state for implementation of privatization based on state demographics. The first three regions must include a rural region, a metropolitan region, and a region including border areas of the state.

(6) In Section 1.30 of the bill, in added Section 45.054(b), Human Resources Code (House committee printing page 33, between lines 12 and 13), insert a new Subdivision (5) to read as follows:

(5) completion of the transition of substitute care and case management services in the first region, not later than December 31, 2007;

(7) In Section 1.30 of the bill, in added Section 45.054(b), Human Resources Code (House committee printing page 33, line 13), strike "(5)" and substitute "(6)".

(8) In Section 1.30 of the bill, in added Section 45.054(b)(5), Human Resources Code (House committee printing page 33, line 16), strike "not later than" and substitute "annually beginning".

(9) In Section 1.30 of the bill, strike added Sections 45.054(b)(6)-(9), Human Resources Code (House committee printing page 33, lines 17-26), and substitute:

(7) completion of the transition of substitute care and case management services in the second and third regions, not later than December 1, 2009; and

(8) completion of the statewide implementation of contracted substitute care and case management services for additional geographic regions, not later than September 1, 2011.

(10) In Section 1.30 of the bill, strike added Section 45.054(c), Human Resources Code (House committee printing page 33, line 27 through page 34, line 8), and substitute:

(c) Not later than the first anniversary of the date the department enters into the first contract for substitute care and case management services under this section, the department shall contract with a qualified, independent third party to evaluate each phase of the privatization of substitute care and case management services. Each evaluation must:

(1) assess the performance of substitute care and case management services based on compliance with defined quality outcomes for children;

(2) assess the achievement of performance measures;

(3) compare for quality the performance of substitute care and case management services provided by contractors to substitute care and case management services provided by the department in the remaining regions;

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

(5) assess the private sector's ability to meet the performance measures, including service capacity, for the remaining regions.

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

(e) The department may continue to implement the transition plan for the second and third regions only after:

(1) the commission reports to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, the status of the initial transition of services to a contractor in the first region not later than December 31, 2006;

(2) the independent third party with whom the department contracts under Subsection (c) evaluates and reports to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, on the performance of contracted substitute care and case management services in the first region not later than December 31, 2008; and

(3) the commission determines, based on the report prepared under Subdivision (2) or information obtained by the review required under Subsection (b)(6), whether material modifications to the model for privatization of substitute care and case management services are necessary and submits a report and recommendations to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, not later than December 31, 2008.

(f) The department may not implement the transition plan for the second and third regions before September 1, 2009.

(g) The department may continue to implement the transition plan for the remaining regions of the state only after:

(1) the independent third party with whom the department contracts under Subsection (c) evaluates and reports to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, on the performance of contracted substitute care and case management services in the second and third regions not later than September 1, 2010; and

(2) the commission determines, based on the report prepared under Subdivision (1) or information obtained by the review required under Subsection (b)(6), whether material modifications to the model for privatization of substitute care and case management services are necessary and submits a report and recommendations to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, not later than December 31, 2010.

(11) In Section 1.30 of the bill, in added Section 45.102(12)(C), Human Resources Code (House committee printing page 37, line 10), strike "2009" and substitute "2011".

(12) In Section 1.30 of the bill, in added Section 45.151, Human Resources Code (House committee printing page 38, line 6), strike "2010" and substitute "2012".

(13) In Section 1.33 of the bill, in added Section 264.106(i), Family Code (House committee printing page 44, line 5), strike "2009" and substitute "2011".

(14) In Section 1.33 of the bill, in added Section 264.106(j), Family Code (House committee printing page 44, line 9), strike "2009" and substitute "2011".

(15) In Section 1.48(c) of the bill (House committee printing page 68, line 22), strike "2009" and substitute "2011".

Floor Amendment No. 6

Amend Floor Amendment No. 5 by Naishtat to **CSSB 6** as follows:

(1) In item 5 of the amendment (page 1, line 25) strike "The first three regions must include" and substitute ", and shall consider including".

(2) In item 10 of the amendment (page 3, line 6) by striking "the remaining" and substituting "similar".

(3) In item 10 of the amendment (page 3, line 17) strike "may" and substitute "shall".

(4) In item 10 of the amendment (page 4, line 9) strike "may" and substitute "shall".

Floor Amendment No. 7

Amend **CSSB 6** (House committee printing, page 59, line 9-page 66, line 24) by striking Section 1.45 of the bill and substituting the following:

SECTION 1.45. (a) Subtitle E, Title 5, Family Code, is amended by adding Chapter 266 to read as follows:

CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR
CHILDREN IN FOSTER CARE
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 266.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of Family and Protective Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "Foster child" means a child who resides in a child-care institution, foster group home, foster home, agency foster group home, or agency foster home, as those terms are defined by Section 42.002, Human Resources Code.

(5) "Medical care" includes:

(A) routine medical care, including treatment of illnesses commonly associated with childhood, and administration of medication;

(B) immunizations and vaccinations commonly administered in childhood;

(C) mental health treatment including the administration of medication;

(D) emergency medical care and administration of related medication;

and

(E) surgery and administration of related medication.

Sec. 266.002. CONSTRUCTION WITH OTHER LAW. This chapter does not limit the right to consent to medical, dental, psychological, and surgical treatment under Chapter 32.

Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT VICTIMS. (a) Subject to the availability of funds, the commission shall collaborate with health care and child welfare professionals to design a comprehensive, cost-effective medical services delivery model to meet the needs of children served by the department, either directly or by contract. The medical services delivery model must include:

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

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

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

(4) a review system composed of medical and mental health professionals to assess clinical care recommendations as needed for individual foster children; and

(5) development of protocols for use of psychotropic medications for foster children based on the recommendations and best practices manual developed by an ad hoc work group consisting of experts from the fields of pharmacy, psychiatry, pediatrics, family practice, and internal medicine and staff from the commission.

(b) The commission shall collaborate with health and human services agencies, community partners, the health care community, and federal health and social services programs to maximize services and benefits available under this section.

(c) Notwithstanding any other provision in this section, the commission shall implement Subsections (a)(4) and (5) regardless of whether the commission implements the other provisions of Subsection (a).

(d) The executive commissioner shall adopt rules necessary to implement this chapter.

Sec. 266.004. CONSENT FOR MEDICAL CARE. (a) Medical care may not be provided to a child in foster care unless the person authorized by this section has provided consent.

(b) Except as provided by Section 266.010, the court may authorize the following persons to consent to medical care for a foster child:

(1) an individual designated by name in an order of the court, including the child's foster parent or the child's parent, if the parent's rights have not been terminated and the court determines that it is in the best interest of the parent's child to allow the parent to make medical decisions on behalf of the child; or

(2) the department or an agent of the department.

(c) If the person authorized by the court to consent to medical care is the department or an agent of the department, the department shall, not later than the fifth business day after the date the court provides authorization, file with the court and each party the name, address, and telephone number of the individual who will exercise the duty and responsibility of providing informed consent on behalf of the department. If that individual changes, the department shall file notice of the change with the court and each party not later than the fifth business day after the date of the change.

(d) A physician or other provider of medical care acting in good faith may rely on the representation by a person that the person has the authority to consent to the provision of medical care to a foster child as provided by Subsection (b).

(e) The department, a person authorized to consent to medical care under Subsection (b), the child's parent if the parent's rights have not been terminated, a guardian ad litem or attorney ad litem if one has been appointed, or the person providing foster care to the child may petition the court for any order related to medical care for a foster child that the department or other person believes is in the best interest of the child. Notice of the petition must be given to each person entitled to notice under Section 263.301(b).

(f) If a physician who has examined or treated the foster child has concerns regarding the medical care provided to the foster child, the physician may file a letter with the court stating the reasons for the physician's concerns. The court shall provide a copy of the letter to each person entitled to notice under Section 263.301(b).

(g) On its own motion or in response to a petition under Subsection (e) or Section 266.010, the court may issue any order related to the medical care of a foster child that the court determines is in the best interest of the child.

(h) Notwithstanding Subsection (b), a person may not be authorized to consent to medical care provided to a foster child unless the person has completed a department-approved training program related to informed consent and the provision of all areas of medical care as defined by Section 266.001. This subsection does not apply to a parent whose rights have not been terminated unless the court orders the parent to complete the training.

(i) A person authorized under Subsection (b) to consent to medical care for a foster child shall attend or shall participate by telephone, if feasible, in each appointment of the child with the provider of the medical care, other than any counseling or therapy session.

(j) A person authorized under Subsection (b) to give consent to medical care for a foster child must be aware of the child's medical condition and history before giving consent.

Sec. 266.005. PARENTAL NOTIFICATION OF SIGNIFICANT MEDICAL CONDITIONS. (a) In this section, "significant medical condition" means an injury or illness that is life-threatening or has potentially serious long-term health consequences, including hospitalization for surgery or other procedures, except minor emergency care.

(b) Except as provided by Subsection (c), the department shall notify the child's parents of any significant medical condition involving a foster child as soon as practicable, but not later than 24 hours after the department learns of the significant medical condition.

(c) The department is not required to provide notice under Subsection (b) to a parent who:

(1) has failed to give the department current contact information and cannot be located;

(2) has executed an affidavit of relinquishment of parental rights; or

(3) has had the parent's parental rights terminated.

Sec. 266.006. HEALTH PASSPORTS. (a) The commission shall make available to the person authorized to consent to medical care under Section 266.004(b) and any provider of medical care to a foster child the most complete health history, including any emergency medical care, of the child available to the department.

(b) The commission shall develop a health passport for each foster child. The commission in conjunction with the department shall determine the format of the passport. The passport may be maintained in an electronic format. The passport must include the most complete medical and mental health history, including any emergency care, of the child available to the department and must be readily accessible to medical care providers.

(c) The department shall maintain the passport as part of the department's records for the child as long as the child remains in foster care.

Sec. 266.007. JUDICIAL REVIEW OF MEDICAL CARE. (a) At each hearing under Chapter 263, or more frequently if ordered by the court, the court shall review a summary of the medical care provided to the foster child since the last hearing. The summary must include information regarding:

(1) the nature of any emergency medical care provided to the child and the circumstances necessitating emergency medical care, including any injury or acute illness suffered by the child;

(2) all medical and mental health treatment that the child is receiving and the child's progress with the treatment;

(3) any medication prescribed for the child and the condition, diagnosis, and symptoms for which the medication was prescribed and the child's progress with the medication;

(4) the degree to which the child or foster care provider has complied or failed to comply with any plan of medical treatment for the child;

(5) any adverse reaction to or side effects of any medical treatment provided to the child;

(6) any specific medical condition of the child that has been diagnosed or for which tests are being conducted to make a diagnosis;

(7) any activity that the child should avoid or should engage in that might affect the effectiveness of the treatment, including physical activities, other medications, and diet; and

(8) other information required by department rule or by the court.

(b) At or before each hearing under Chapter 263, the department shall provide the summary of medical care described by Subsection (a) to:

(1) the court;

(2) the person authorized to consent to medical treatment for the child;

(3) the guardian ad litem or attorney ad litem, if one has been appointed by the court;

(4) the child's parent, if the parent's rights have not been terminated; and

(5) any other person determined by the department or the court to be necessary or appropriate for review of the provision of medical care to foster children.

(c) At each hearing under Chapter 263, the foster child shall be provided the opportunity to express to the court the child's views on the medical care being provided to the child.

Sec. 266.008. EDUCATION. (a) The commission shall develop an education passport for each foster child. The commission, in conjunction with the department, shall determine the format of the passport. The passport may be maintained in an electronic format. The passport must contain educational records of the child, including the names and addresses of educational providers, the child's grade-level performance, and any other educational information the commission determines is important.

(b) The department shall maintain the passport as part of the department's records for the child as long as the child remains in foster care.

(c) The department shall make the passport available to the person authorized to consent to medical care for the foster child and to a provider of medical care to the foster child if access to the foster child's educational information is necessary to the provision of medical care and is not prohibited by law.

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

Sec. 266.009. PROVISION OF MEDICAL CARE IN EMERGENCY. (a) Consent or court authorization for the medical care of a foster child otherwise required by this chapter is not required in an emergency during which it is immediately necessary to provide medical care to the foster child to prevent the imminent probability of death or substantial bodily harm to the child, including circumstances in which:

(1) the child is overtly or continually threatening or attempting to commit suicide or cause self-inflicted serious bodily harm; or

(2) the child is behaving in a manner that indicates that the child is unable to satisfy the child's need for nourishment, essential medical care, or self-protection.

(b) The physician providing the medical care or designee shall notify the person authorized to consent to medical care for a foster child about the decision to provide medical care without consent or court authorization in an emergency not later than the second business day after the date of the provision of medical care under this section. This notification must be documented in the foster child's health passport.

(c) This section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

Sec. 266.010. CONSENT TO MEDICAL CARE BY FOSTER CHILD AT LEAST 16 YEARS OF AGE. (a) A foster child who is at least 16 years of age may consent to the provision of medical care, except as provided by Chapter 33, if the court with continuing jurisdiction determines that the child has the capacity to consent to medical care. If the child provides consent by signing a consent form, the form must be written in language the child can understand.

(b) A court with continuing jurisdiction may make the determination regarding the foster child's capacity to consent to medical care during a hearing under Chapter 263 or may hold a hearing to make the determination on its own motion. In addition, a foster child who is at least 16 years of age, or the foster child's attorney ad litem, may file a petition with the court for a hearing. If the court determines that the foster child lacks the capacity to consent to medical care, the court may consider whether the foster child has acquired the capacity to consent to medical care at subsequent hearings under Section 263.503.

(c) If the court determines that a foster child lacks the capacity to consent to medical care, the person authorized by the court under Section 266.004 shall continue to provide consent for the medical care of the foster child.

(d) If a foster child who is at least 16 years of age and who has been determined to have the capacity to consent to medical care refuses to consent to medical care and the department or private agency providing substitute care or case management services to the child believes that the medical care is appropriate, the department or the private agency may file a motion with the court requesting an order authorizing the provision of the medical care.

(e) The motion under Subsection (d) must include:

(1) the child's stated reasons for refusing the medical care; and
(2) a statement prepared and signed by the treating physician that the medical care is the proper course of treatment for the foster child.

(f) If a motion is filed under Subsection (d), the court shall appoint an attorney ad litem for the foster child if one has not already been appointed. The foster child's attorney ad litem shall:

(1) discuss the situation with the child;
(2) discuss the suitability of the medical care with the treating physician;
(3) review the child's medical and mental health records; and
(4) advocate to the court on behalf of the child's expressed preferences regarding the medical care.

(g) The court shall issue an order authorizing the provision of the medical care in accordance with a motion under Subsection (d) to the foster child only if the court finds, by clear and convincing evidence, after the hearing that the medical care is in the best interest of the foster child and:

(1) the foster child lacks the capacity to make a decision regarding the medical care;

(2) the failure to provide the medical care will result in an observable and material impairment to the growth, development, or functioning of the foster child; or

(3) the foster child is at risk of suffering substantial bodily harm or of inflicting substantial bodily harm to others.

(h) In making a decision under this section regarding whether a foster child has the capacity to consent to medical care, the court shall consider:

(1) the maturity of the child;

(2) whether the child is sufficiently well informed to make a decision regarding the medical care; and

(3) the child's intellectual functioning.

(i) In determining whether the medical care is in the best interest of the foster child, the court shall consider:

(1) the foster child's expressed preference regarding the medical care, including perceived risks and benefits of the medical care;

(2) likely consequences to the foster child if the child does not receive the medical care;

(3) the foster child's prognosis, if the child does receive the medical care;
and

(4) whether there are alternative, less intrusive treatments that are likely to reach the same result as provision of the medical care.

(j) This section does not apply to emergency medical care. An emergency relating to a foster child who is at least 16 years of age, other than a child in an inpatient mental health facility, is governed by Section 266.009.

(k) This section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

(l) Before a foster child reaches the age of 16, the department or the private agency providing substitute care or case management services to the foster child shall advise the foster child of the right to a hearing under this section to determine whether the foster child may consent to medical care.

(b) The Health and Human Services Commission is required to develop and implement the passport programs required by Sections 266.006 and 266.008, Family Code, as added by this section, if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, develop and implement the passport programs using other appropriations available for that purpose. In addition, the commission may develop and implement the passport programs required by Sections 266.006 and 266.008, Family Code, as added by this section, only if technology necessary to ensure privacy is available.

(c) If the Health and Human Services Commission develops and implements the passport programs required by Sections 266.006 and 266.008, Family Code, as added by this section, the commission shall:

(1) finalize the form and content of the passports not later than March 1, 2006;

(2) make the health passport required by Section 266.006, Family Code, as added by this section, available in an electronic format not later than September 1, 2007; and

(3) ensure, not later than September 1, 2008, that the health passport required by Section 266.006, Family Code, as added by this section, can interface directly with other electronic health record systems that contain information that impacts the health care of the child.

Floor Amendment No. 8

Amend Floor Amendment No. 7 by Naishtat to **CSSB 6** as follows:

(1) Strike page 5, line 30 through page 6, line 13 of the amendment and substitute the following:

Sec. 266.006. HEALTH PASSPORT. (a) The commission, in conjunction with the department, and with the assistance of physicians and other health care providers experienced in the care of foster children and children with disabilities and with the use of electronic health records, shall develop and provide a health passport for each foster child. The passport must be maintained in an electronic format and use the commission's and the department's existing computer resources to the greatest extent possible.

(b) The executive commissioner of the commission shall adopt rules specifying the information required to be included in the passport. The required information may include:

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

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

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

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

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

(6) any other available health history that physicians and other health care providers who provide care for the child determine is important.

(c) The system used to access the health passport must be secure and maintain the confidentiality of the child's health records.

(d) Health passport information shall be part of the department's record for the child as long as the child remains in foster care.

(e) The commission shall provide training or instructional materials to foster parents, physicians, and other health care providers regarding use of the health passport.

(f) The department shall make health passport information available in printed and electronic formats to the following individuals when a child is discharged from foster care:

(1) the child's legal guardian, managing conservator, or parent; or

(2) the child, if the child is at least 18 years of age or has had the disabilities of minority removed.

(2) Strike page 12, lines 4-28 of the amendment, and substitute the following:

(b) Not later than September 1, 2007, the Department of Family and Protective Services shall implement the health passport required by Section 266.006, Family Code, as added by this section.

(c) The Health and Human Services Commission is required to develop and implement the education passport program required by Section 266.008, Family Code, as added by this section, if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, develop and implement the education passport program using other appropriations available for that purpose. In addition, the commission may develop and implement the education passport program required by Section 266.008, Family Code, as added by this section, only if technology necessary to ensure privacy is available.

(d) If the Health and Human Services Commission develops and implements the education passport program required by Section 266.008, Family Code, as added by this section, the commission shall finalize the form and content of the passport not later than March 1, 2006.

Floor Amendment No. 9

Amend Floor Amendment No. 5 to **CSSB 6** as follows:

On page 8, line 19, after "child" and before ", including", add "or others

On page 8, line 22, after "cause" and before "serious", strike "self-inflicted"

On page 8, line 23, after "harm" and before ";", add to self or others

Floor Amendment No. 10

Amend **CSSB 6** in SECTION 1.05 of the bill, in proposed Section 107.004(c), Family Code (House committee printing page 4, lines 25-26), by striking Subdivision (1) and substituting the following:

"(1) be low-cost and available to persons throughout this state, including on the Internet provided through the State Bar of Texas; and".

Floor Amendment No. 11

Amend **CSSB 6** as follows:

(1) In Section 1.09 of the bill, strike the recital to that section and substitute "Sections 261.001(2) and (4), Family Code, are amended to read as follows:"

(2) On page 7, between lines 21 and 22, insert the following:

(4) "Neglect" includes:

(A) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

(B) the following acts or omissions by a person:

(i) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(ii) failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

(iii) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused; ~~or~~

(iv) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(v) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child; or

(C) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

(3) In Article 1 of the bill, insert the following appropriately numbered sections and renumber the sections in that article accordingly:

SECTION ____. The heading to Section 261.105, Family Code, is amended to read as follows:

Sec. 261.105. REFERRAL OF REPORT BY DEPARTMENT, ~~OR~~ LAW ENFORCEMENT, OR ATTORNEY GENERAL.

SECTION ____. Section 261.105(a), Family Code, is amended to read as follows:

(a) All reports received by a local or state law enforcement agency or the office of the attorney general that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to the department or the designated agency.

SECTION ____. Section 21.01, Penal Code, is amended by adding Subdivision (4) to read as follows:

(4) "Spouse" means a person to whom a person is legally married under Subtitle A, Title 1, Family Code, or a comparable law of another jurisdiction.

Floor Amendment No. 13

Amend **CSSB 6** as follows:

(1) In SECTION 1.17 of the bill, in proposed Section 261.3031, Family Code (House committee report page 14, line 12), between the period and "If", insert "(a)".

(2) In SECTION 1.17 of the bill, in proposed Section 261.3031, Family Code (House committee report page 14, between lines 19 and 20), insert the following:

(b) For purposes of Subsection (a), a parent or other person who, in response to the department's investigation, seeks an evaluation of the child by a credible third-party professional, including a licensed physician or a licensed counselor, is considered to be cooperating with the investigation.

Floor Amendment No. 14

Amend **CSSB 6** in SECTION 1.14 of the bill, in added Section 261.3011(b), Family Code (House committee report page 12, line 17), between "investigations" and the period, by inserting ", as well as instruction on rights provided by the Fourth Amendment to the United States Constitution".

Floor Amendment No. 15

Amend **CSSB 6** as follows:

(1) In SECTION 1.19(a) of the bill, in amended Section 261.307, Family Code (House committee report page 16, lines 8-14), strike added Subdivision (2) and substitute the following:

(2) if the department determines that removal of the child may be warranted, a proposed child placement resources form that:

(A) instructs the parent or other person having legal custody of the child to:

(i) complete and return the form to the department or agency; and

(ii) identify in the form three individuals who could be relative caregivers or designated caregivers, as those terms are defined by Section 264.751; and

(B) informs the parent or other person of a location that is available to the parent or other person to submit the information in the form 24 hours a day either in person or by facsimile machine or e-mail; and

(2) In SECTION 1.25(a) of the bill, in the introductory language (House committee report page 21, line 3), strike "Section 262.201(c), Family Code, is" and substitute "Sections 262.201(c) and (e), Family Code, are".

(3) In SECTION 1.25(a) of the bill (House committee report page 21, between lines 24 and 25), insert the following:

(e) The court shall place a child removed from the child's custodial parent with the child's noncustodial parent or with a relative of the child if placement with the noncustodial parent is inappropriate, unless the department overcomes the presumption that placement with the noncustodial parent or a relative is [not] in the best interest of the child.

(4) Immediately following SECTION 1.25 of the bill (House committee report page 22, between lines 3 and 4), insert the following and renumber the SECTIONS of the bill accordingly:

(c) The change in law made by this section to Section 262.201(e), Family Code, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this section. A suit affecting the parent-child relationship filed before the effective date of this section is governed by the law in effect on the date suit was filed, and the former law is continued in effect for that purpose.

SECTION 1.____. (a) Section 262.205(e), Family Code, is amended to read as follows:

(e) Unless the department overcomes the presumption that the placement [it] is [not] in the best interest of the child, the court shall place a child who has been removed under this section with:

(1) the child's noncustodial parent; or

(2) another relative of the child if placement with the noncustodial parent is inappropriate.

(b) The change in law made by this section to Section 262.205(e), Family Code, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this section. A suit affecting the parent-child relationship filed before the effective date of this section is governed by the law in effect on the date suit was filed, and the former law is continued in effect for that purpose.

(5) In Article 1 of the bill (House committee report page 24, between lines 21 and 22), insert the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION 1. ____. (a) Section 263.404(a), Family Code, is amended to read as follows:

(a) The court may render a final order appointing the department as managing conservator of the child without terminating the rights of the parent of the child if the court finds that:

(1) appointment of a parent as managing conservator would not be in the best interest of the child because the appointment would significantly impair the child's physical health or emotional development; and

(2) the department has overcome the presumption that it would [not] be in the best interest of the child to appoint a relative of the child or another person as managing conservator.

(b) The change in law made by this section to Section 263.404(a), Family Code, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this section. A suit affecting the parent-child relationship filed before the effective date of this section is governed by the law in effect on the date suit was filed, and the former law is continued in effect for that purpose.

(6) In SECTION 1.44 of the bill, in added Section 264.751(1), Family Code (House committee report page 55, line 13), between "conservator" and "and", insert "or with the child's family".

Floor Amendment No. 16

Amend **CSSB 6** in SECTION 1.30 of the bill by striking added Section 45.003, Human Resources Code (House committee printing, page 29, lines 12-19), and substituting the following:

Sec. 45.003. HIRING PREFERENCE. A substitute care or case management services provider that contracts with the department to provide substitute care or case management services shall:

(1) give a preference in hiring to qualified department employees in good standing with the department who provide substitute care or case management services and whose positions with the department may be eliminated as a result of the privatization of substitute care and case management services; and

(2) ensure that each subcontractor with whom the substitute care or case management services provider contracts for the provision of substitute care or case management services also gives a preference in hiring to current and former qualified department employees whose positions with the department may be or were eliminated as a result of the privatization of substitute care and case management services.

Floor Amendment No. 17

Amend **CSSB 6** as follows:

(1) In Section 1.30 of the bill, in added Section 45.052, Human Resources Code (House committee printing page 31, line 19), strike "its subcontract" and substitute "substitute care and case management".

(2) In Section 1.30 of the bill, in added Section 45.054(c), Human Resources Code (House committee printing page 34, line 4), between "services" and the period, insert ", including an evaluation of the department's monitoring and oversight activities".

(3) In Section 1.33 of the bill, strike amended Section 264.106(b)(2), Family Code (House committee printing page 40, lines 14-18), and substitute:

"(2) either contract directly with private agencies as part of regional community-centered networks for the provision of all necessary substitute care and case management [substitute care providers only to the extent necessary to meet the need for those] services or use an independent administrator to contract for those services."

(4) In Section 1.33 of the bill, in added Section 264.106(b)(3), Family Code (House committee printing page 40, line 19), between "administrator" and "to", insert ", if cost beneficial".

(5) In Section 1.33 of the bill, in added Section 264.106(d)(1), Family Code (House committee printing page 41, line 11), between "care" and "providers", insert "and case management".

(6) In Section 1.33 of the bill, in added Section 264.106(f), Family Code (House committee printing page 42, line 24), between "services" and "must", insert "under Subsection (b)(2)".

(7) In Section 1.35 of the bill, in added Section 264.1063(a), Family Code (House committee printing page 45, lines 19 and 20), strike "contract with an independent administrator" and substitute "contract with either an independent administrator or the department".

(8) In Section 1.35 of the bill, in added Section 264.1063(b), Family Code (House committee printing page 46, line 4), between "and" and "independent", insert ", if applicable, the".

(9) In Section 1.44 of the bill, in added Section 264.752(a), Family Code (House committee printing page 56, line 8), strike "administer" and substitute "procure".

(10) In Section 1.44 of the bill, in added Section 264.753, Family Code (House committee printing page 56, line 20), between "department" and "shall", insert "or other authorized entity".

(11) In Section 3.08(a)(5) of the bill (House committee printing page 136, line 13), strike "Commission".

Floor Amendment No. 20

Amend **CSSB 6**, in Section 1.33 of the bill, by striking amended Section 264.106(c), Family Code (House committee printing page 41, lines 3-7), and substituting:

(c) An independent administrator may not:

(1) directly provide substitute care services; or

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

Floor Amendment No. 23

Amend **CSSB 6**, in Section 1.36 of the bill, in added Section 264.107(c), Family Code (House committee printing page 46, line 10), by striking "2012" and substituting "2009".

Floor Amendment No. 24

Amend **CSSB 6** (House committee printing) as follows:

(1) In Section 264.752, Family Code, as added in SECTION 1.44(a) of the bill (page 56, between lines 15 and 16), insert the following:

(b) To the extent permitted by federal law, the department shall use federal funds available under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), to administer the program under this subchapter.

(2) In Section 264.752(b), Family Code, as added in SECTION 1.44(a) of the bill (page 56, line 16), strike "(b)" and substitute "(c)".

(3) In SECTION 1.44 of the bill, immediately following Subsection (c) of that SECTION (page 59, between lines 8 and 9), insert the following:

(d) As soon as possible after the effective date of this Act, the Department of Family and Protective Services shall take all necessary actions to apply for a federal waiver under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), to use federal funds available under that title to implement the relative and other designated caregiver placement program under Subchapter I, Chapter 264, Family Code, as added by this section.

Floor Amendment No. 26

Amend **CSSB 6** as follows:

(1) On page 99, line 16, between "(b)" and "Section" insert "Except as provided by Subsection (c) of this section,".

(2) On page 99, between lines 18-19, insert the following:

(c) A person who is qualified for a license under Section 43.004(4)(C) or (D), Human Resources Code, as it existed prior to the effective date of this section and who is licensed or has applied for a license as a child-care administrator prior to the effective date of this section is eligible for a child-care administrator license under Section 43.004(a), Human Resources Code, as amended by this section or license renewal.

Floor Amendment No. 28

Amend **CSSB 6** in Article 1 of the bill, by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS in that article accordingly:

SECTION __. Section 261.302(e), Family Code, is amended to read as follows:

(e) An interview with a child conducted by the department during the investigation stage shall be audiotaped or videotaped. An interview with a child alleged to be a victim of physical abuse or sexual abuse conducted by an investigating agency other than the department shall be audiotaped or videotaped unless the investigating agency determines that good cause exists for not audiotaping or videotaping the interview in accordance with rules of the agency. Good cause may include, but is not limited to, such considerations as the age of the child and the nature and seriousness of the allegations under investigation. Nothing in this subsection shall be construed as prohibiting the investigating agency from audiotaping or videotaping an interview of a child on any case for which such audiotaping or videotaping is not required under this subsection. The fact that the investigating agency failed to audiotape or videotape an interview is admissible at the trial of the offense that is the subject of the interview.

SECTION __. Sections 261.310(a) and (d), Family Code, are amended to read as follows:

(a) The department shall by rule develop and adopt [~~voluntary~~] standards for persons who investigate suspected child abuse or neglect at the state or local level. The standards shall encourage professionalism and consistency in the investigation of suspected child abuse or neglect.

(d) The standards shall [~~recommend~~]:

(1) recommend that videotaped and audiotaped interviews [~~with a suspected victim~~] be uninterrupted;

(2) recommend a maximum number of interviews with and examinations of a suspected victim;

(3) provide procedures to preserve evidence, including the original recordings of the intake telephone calls, original notes, videotapes, and audiotapes, for one year; and

(4) provide that an investigator of suspected child abuse or neglect make a reasonable effort to locate and inform each parent of a child of any report of abuse or neglect relating to the child.

Floor Amendment No. 29

Amend **CSSB 6** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3012 to read as follows:

Sec. 261.3012. COMPLETION OF PAPERWORK. An employee of the department who responds to a report that is assigned the highest priority in accordance with department rules adopted under Section 261.301(d) shall identify, to the extent reasonable under the circumstances, forms and other paperwork that can be completed by members of the family of the child who is the subject of the report. The department

employee shall request the assistance of the child's family members in completing that documentation but remains responsible for ensuring that the documentation is completed in an appropriate manner.

Floor Amendment No. 30

Amend **CSSB 6** by adding the following appropriately numbered sections to Article 1 of the bill and renumbering the remaining sections of the article as appropriate:

SECTION _____. Section 261.302, Family Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Except as provided by this subsection, the department may transport a child as provided by Subsection (b)(3) only if the department makes a reasonable documented effort to notify the parent or other person having custody of the child of the transport before the child is transported. The department may transport a child without giving prior notice if the department:

(1) determines and documents, based on the department's preliminary investigation, that the notification would place another child at risk of harm;

(2) obtains an emergency order under Section 262.102; or

(3) takes possession of the child without a court order under Section 262.104.

SECTION _____. Section 262.105(a), Family Code, is amended to read as follows:

(a) Except as provided by Section 262.1051, when [When] a child is taken into possession without a court order, the person taking the child into possession, without unnecessary delay, shall:

(1) file a suit affecting the parent-child relationship;

(2) request the court to appoint an attorney ad litem for the child; and

(3) request an initial hearing to be held by no later than the first working day after the date the child is taken into possession.

SECTION _____. Subchapter B, Chapter 262, Family Code, is amended by adding Sections 262.1051 and 262.1052 to read as follows:

Sec. 262.1051. RETURN OF CHILD AFTER TAKING POSSESSION WITHOUT COURT ORDER. If the Department of Family and Protective Services takes possession of a child under Section 262.104, the department is not required to file suit under Section 262.105 if:

(1) based on further investigation, the department determines that the child's safety can be assured without court intervention;

(2) the child is returned to a parent or placed with another person determined to be suitable by the department and agreed to by a parent not later than the first day after the date the child is taken into possession; and

(3) the department prepares a report describing in detail:

(A) the facts that warranted taking possession of the child without a court order;

(B) the results of the department's investigation; and

(C) the basis for the department's determination that the child's safety can be assured without court intervention.

Sec. 262.1052. REVIEW OF EMERGENCY REMOVALS BY DEPARTMENT WITHOUT COURT INTERVENTION. The Department of Family and Protective Services shall:

(1) file the report required by Section 262.1051 with the Health and Human Services Commission's office of inspector general;

(2) compile and maintain separate statistical information, on both regional and statewide bases, with regard to:

(A) all cases in which a child is transported without prior notification to a parent or other person having custody of the child as provided by Section 261.302(b-1); and

(B) all cases in which a child is returned or placed without court intervention as provided by Section 262.1051; and

(3) on request by a committee of the legislature, prepare an analysis of the reports and information required by this section in the manner specified by the committee.

SECTION _____. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.073 to read as follows:

Sec. 40.073. PARENTAL ADVISORY COMMITTEE. (a) The Parental Advisory Committee shall advise the department on policies affecting parents and their involvement with the department, including:

(1) investigations of allegations of abuse or neglect;

(2) designations of alternative placements for children; and

(3) standards for persons who investigate reports of abuse or neglect on the state or local level.

(b) The Parental Advisory Committee consists of members appointed by the governor. The governor shall establish:

(1) the qualifications for committee members;

(2) the terms for committee members; and

(3) the number of committee members.

(c) Chapter 2110, Government Code, does not apply to the committee.

(d) A committee member may not receive compensation for serving on the committee but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

Floor Amendment No. 31

Amend **CSSB 6** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill as appropriate:

SECTION _____. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3016 to read as follows:

Sec. 261.3016. TRAINING OF PERSONNEL RECEIVING REPORTS OF ABUSE AND NEGLECT. The department shall develop, in cooperation with local law enforcement officials and the Commission on State Emergency Communications, a training program for department personnel who receive reports of abuse and neglect. The training program must include information on:

(1) the proper methods of screening reports of abuse and neglect; and

(2) ways to determine the seriousness of a report, including determining whether a report alleges circumstances that could result in the death of or serious harm to a child or whether the report is less serious in nature.

Floor Amendment No. 33

Amend **CSSB 6** as follows:

(1) On page 15, line 8, between "PROCEDURE." and "As", insert "(a)".

(2) On page 16, between lines 16 and 17, insert the following:

(b) The child placement resources form described by Subsection (a)(2) must include information on the periods of time by which the department must complete a background check subject to the requirements of Section 262.1002 and place the child with the designated person subject to the requirements of Section 262.1001.

(3) In Article 1 of the bill, insert the following appropriately numbered SECTION and renumber the SECTIONS of the article accordingly:

SECTION __. (a) Subchapter B, Chapter 262, Family Code, is amended by adding Sections 262.1001 and 262.1002 to read as follows:

Sec. 262.1001. DESIGNATION OF ALTERNATIVE PLACEMENT OF CHILD. (a) Because placing a child in the care of a person designated by the child's parent, conservator, or legal guardian is in the child's best interest, a governmental entity that determines after an investigation that a child should be removed from the child's home and that a suit affecting the parent-child relationship has been or will be filed by the entity as provided by this chapter with regard to the child shall inform the child's parent, conservator, or legal guardian that the person may designate another person who is related to the child by blood, adoption, or marriage or who has a significant, long-standing relationship with the child or the child's family to care for the child preceding the filing of and during the pendency of a suit affecting the parent-child relationship.

(b) A governmental entity that places a child with a person designated by the child's parent, conservator, or legal guardian as provided by this section shall:

(1) develop a written child protection plan for the child as provided by Subsection (c);

(2) provide to the person designated by the child's parent, conservator, or legal guardian a copy of the child protection plan in a language understandable by the person and explain the plan to the person in that language; and

(3) if the child is being regularly breast-fed, to the extent possible, provide to the child's mother scheduled visitation periods at appropriate intervals to allow the mother to continue breast-feeding the child, unless the court finds after a hearing that the mother is not fit for these visitation periods.

(c) The child protection plan required by Subsection (b) must include reasonable restrictions on contacts with the child and other terms designed to reasonably ensure the safety of the child. The plan must be signed by the department, the designated person, each member of the designated person's household who is at least 18 years of age, and the child's parent, conservator, or legal guardian. Each person who signs the plan must agree that if there is an alleged violation of the plan, all parties will attend a court hearing to be held not later than the date of the next review hearing or as soon as

practicable. At the conclusion of the hearing, the court shall determine whether a violation of the plan has occurred and issue necessary orders to restore compliance with the plan or place the child in the custody of the department.

(d) Each party to the plan must agree to the plan before the department may release the child to the designated person.

Sec. 262.1002. LIMITATION ON PLACEMENT WITH DESIGNATED PERSON. (a) Except as provided by Subsection (c), the department may not place a child with a person designated by the child's parent, conservator, or legal guardian under Section 262.1001 if the department determines that the designated person or another person in the designated person's household:

(1) is registered in the department's statewide central registry system with a finding that the department confirmed or had reason to believe that the parent abused or neglected a child;

(2) is the subject of a report of abuse or neglect of a child being investigated by the department;

(3) has been convicted of a felony; or

(4) has previously voluntarily relinquished parental rights as the result of an allegation of child abuse or neglect.

(b) A law enforcement agency in this state on the request of the department shall assist in conducting a criminal background check on the designated person or any other person in the designated person's household.

(c) The department may place a child with a designated person prohibited from placement under Subsection (a) if the department determines that placement of the child with the designated person will not endanger the child. The child protection plan under Section 262.1001 must address any issues with regard to the placement of the child under this subsection.

(b) Section 262.109, Family Code, is amended by adding Subsection (e) to read as follows:

(e) In addition to the notice required by Subsection (c), the department must provide to the child's parent, conservator, or legal guardian the standard child placement resources form to be completed by the parent, conservator, or legal guardian as provided by Section 262.1001. The department shall inform the parent, conservator, or legal guardian of a location that is available to the person to submit the information in the form 24 hours a day either in person or by facsimile machine or by e-mail.

(c) Sections 262.1001, 262.1002, and 262.109(e), Family Code, as added by this article, apply only to the removal of a child from the child's residence that occurs on or after the effective date of this Act. The removal of a child from the child's residence that occurred before the effective date of this Act is governed by the law in effect on the date the child was removed, and the former law is continued in effect for that purpose.

Floor Amendment No. 34

Amend **CSSB 6** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 262, Family Code, is amended by adding Section 262.1041 to read as follows:

Sec. 262.1041. RELEASE OF CHILD BY LAW ENFORCEMENT OR JUVENILE PROBATION OFFICER. (a) A law enforcement or juvenile probation officer who takes possession of a child under this chapter may release the child to:

(1) a child-placing agency licensed by the Department of Family and Protective Services under Chapter 42, Human Resources Code, if the agency is authorized by the department to take possession of the child;

(2) the Department of Family and Protective Services; or

(3) any other person authorized by law to take possession of the child.

(b) A child-placing agency or other authorized person who takes possession of a child under this section shall:

(1) immediately notify the Department of Family and Protective Services that the agency or other authorized person has taken possession of the child; and

(2) with the assistance of the law enforcement or juvenile probation officer who releases the child to the agency or other authorized person, complete a form prescribed by the Department of Family and Protective Services that contains basic information regarding the child and the circumstances under which the officer took possession of the child and promptly submit the completed form to the department.

Floor Amendment No. 35

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered section to the article and renumbering the remaining sections of the article as appropriate:

SECTION 1. __. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.013 to read as follows:

Sec. 264.013. EXCHANGE OF INFORMATION WITH OTHER STATES. The department shall enter into agreements with other states to allow for the exchange of information relating to a child for whom the department is or was the managing conservator. The information may include the child's health passport and education passport.

Floor Amendment No. 36

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered section to the article and renumbering the remaining sections of the article as appropriate:

SECTION 1. ____. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.117 to read as follows:

Sec. 264.117. NOTICE TO ATTORNEY AD LITEM. (a) The department shall notify the attorney ad litem for a child in the conservatorship of the department about each event involving the child that the department reports in the child's case file.

(b) The department shall give a child's attorney ad litem written notice at least 48 hours before the date the department changes the child's residential care provider. The department may change the child's residential care provider without notice if the department determines that an immediate change is necessary to protect the child.

Floor Amendment No. 37

Amend **CSSB 6** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION __. Subtitle E, Title 5, Family Code, is amended by adding Chapter 267 to read as follows:

CHAPTER 267. CHILD ABUSE PREVENTION PILOT PROJECT
AND TASK FORCE

Sec. 267.001. DEFINITION. In this chapter, "department" means the Department of Family and Protective Services.

Sec. 267.002. ESTABLISHMENT OF CHILD ABUSE PREVENTION PILOT PROJECT. The department, in consultation with the child abuse prevention services task force established under Section 267.006, shall establish the child abuse prevention pilot project under this chapter to reduce the increasing incidences and financial and emotional costs of child abuse and neglect in this state by:

(1) developing intervention programs in different geographic regions of this state; and

(2) evaluating the success of those programs.

Sec. 267.003. MEMORANDUM OF UNDERSTANDING WITH INSTITUTION OF HIGHER EDUCATION. The department shall enter into a memorandum of understanding with an institution of higher education in this state to monitor the implementation and effectiveness of the pilot project. The memorandum of understanding must require the institution to:

(1) track the number of abuse allegations, confirmed victims, and child deaths in the communities served by the pilot project programs before, during, and after the implementation of the pilot project programs; and

(2) report to the department and the child abuse prevention services task force established under Section 267.006 regarding the results of the pilot project programs every six months following the date on which the pilot project programs are implemented or at any other time required by the task force.

Sec. 267.004. PILOT PROJECT PROGRAM LOCATIONS. (a) The department shall establish programs under the pilot project in four locations. Two of the locations must be urban areas and two of the locations must be rural areas.

(b) Within each location, the department shall:

(1) engage and build trust with the communities in which programs are established using a locality development approach; and

(2) gather community-specific data on gaps and overlaps in services currently offered in the location.

Sec. 267.005. PILOT PROJECT INTERVENTION PROGRAMS. (a) The pilot project programs shall use intervention methods that in studies conducted in this state or nationwide have been shown to be the most effective in reducing child abuse and neglect.

(b) The intervention methods used in the pilot project programs may include methods that have been shown to be successful at:

(1) detecting risks of child abuse;

(2) decreasing:

(A) child maltreatment;

(B) child sexual abuse;

(C) substance abuse by parents;

(D) domestic violence;

- (E) subsequent pregnancies;
- (F) parental depression and stress; and
- (G) reliance on public assistance;

- (3) enhancing parenting skills; and
- (4) increasing the cognitive development of children.

(c) One of the pilot project programs must be a voluntary in-home visitation program that incorporates the following best practices components:

(1) comprehensive multiple interventions addressing behavior in multiple settings, including school, home, and community;

(2) varied teaching methods involving interactive and hands-on experiences;

(3) sufficient intervention to prevent the dissipation of its effects over time;

(4) a theory-driven and scientific justification for interventions;

(5) positive relationships developed between the participants and the

providers;

(6) prevention measures designed to target the community and tailored to the community's needs;

(7) clear and realistic goals and documented results;

(8) professional and well-trained staff;

(9) a focus on both the child and the parent; and

(10) links to quality child care and other services.

(d) One of the pilot project programs must be a parent support group, a crisis nursery, or another intervention program that the task force established under Section 267.006 determines to have shown the most promise and potential for cost-effectiveness.

Sec. 267.006. CHILD ABUSE PREVENTION SERVICES TASK FORCE. (a) In this section, "task force" means the child abuse prevention services task force established under this section.

(b) The child abuse prevention services task force shall create a strategic plan to improve the availability of child abuse prevention services in this state and to advise the department on the implementation of the child abuse prevention pilot project.

(c) The task force is composed of an odd number of members jointly nominated by the presiding officer of each house of representatives and senate standing committee having jurisdiction over family protective services and approved by the governor.

(d) Each member of the task force must have demonstrated experience regarding the prevention of child abuse or neglect.

(e) Membership on the task force must include:

(1) two researchers from nationally or state-recognized child abuse prevention programs at institutions of higher education;

(2) two researchers from nationally or state-recognized health care programs at institutions of higher education;

(3) two representatives of child advocacy organizations in this state;

(4) two members of the legislature; and

(5) two providers of recognized child abuse and neglect prevention programs.

(f) The task force shall:

(1) examine the provision of child abuse prevention services in this state and identify opportunities to coordinate and consolidate the delivery of those services;

(2) identify federal, state, and community sources of funding for child abuse prevention services;

(3) create a strategic plan that would result in the extension of child abuse prevention services to more at-risk families in this state; and

(4) regarding the pilot project established under this chapter, advise the department on the:

(A) locations for the pilot project programs;

(B) intervention models to be used in the pilot project programs;

(C) development of the request for proposal process to be used for participation in the pilot project;

(D) selection of an institution of higher education to measure the outcomes of the pilot project programs; and

(E) expansion of or a change in a particular intervention method used under a pilot project program.

(g) The department shall provide administrative support and services to the task force.

(h) Not later than September 1, 2006, the task force shall present to the department the strategic plan created under Subsection (f)(3).

Sec. 267.007. REPORT ON STRATEGIC PLAN BY DEPARTMENT. (a) Not later than the 90th day after the date on which the task force presents to the department its strategic plan under Section 267.006(h), the department shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each house of representatives and senate standing committee having jurisdiction over family protective services a written report concerning the strategic plan of the task force. The report must include recommendations for:

(1) implementing the strategic plan of the task force, if appropriate;

(2) modifications to the strategic plan of the task force; and

(3) legislation that the task force considers necessary to implement the strategic plan.

(b) This section expires September 1, 2007.

Floor Amendment No. 38

Amend **CSSB 6** (House committee printing) as follows:

(1) On page 38, between lines 4 and 5, insert:

Sec. 45.151. PROHIBITION ON CERTAIN CONTRACTS. (a) The department may not accept a bid under this chapter from a person or award to a person a contract under this chapter that includes proposed financial participation by the person if:

(1) the person participated in preparing the bid specifications or request for proposals on which the bid or contract is based; and

(2) the bid specifications or request for proposals on which the bid or contract is based:

(A) requires a work plan, project design, or other criteria for participation in the contract that is specific to that person or likely to limit or exclude competitors who provide similar goods or services; or

(B) includes a scope of required goods or services that is so narrowly defined that it is specific to that person or likely to limit or exclude competitors who provide similar goods or services.

(b) The department may not accept a bid under this chapter from or award a contract under this chapter to an individual or business entity that is barred from participating in state contracts under Section 2155.077.

(c) The department may not accept a bid under this chapter from or award a contract under this chapter to an individual or business entity that was awarded a contract valued at \$1 billion dollars or more during the four year period immediately before the date of the issuance of relevant requests for proposals under Section 45.054, Human Resources Code.

(d) If the department determines that an individual or business entity holding a contract under this chapter was ineligible to have the contract accepted or awarded under Subsection (a), (b), or (c), the department may immediately terminate the contract without further obligation to the vendor.

Sec. 45.152. SUBCONTRACTOR PAYMENT. The existence of a dispute between the department and a contractor regarding a contract under this chapter does not justify nonpayment of a subcontractor for work completed by the subcontractor under the contract if the subcontractor has completed the work in a satisfactory manner and the work has been approved by the department and the contractor.

(2) On page 38, line 5, strike "45.151" and substitute "45.153".

Floor Amendment No. 39

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered section to the article and renumbering the remaining sections of the article as appropriate:

SECTION 1. ____. Chapter 264, Family Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. FAMILY DRUG COURT PROGRAM

Sec. 264.801. FAMILY DRUG COURT PROGRAM DEFINED. In this subchapter, "family drug court program" means a program that has the following essential characteristics:

(1) the integration of substance abuse treatment services in the processing of civil cases in the child welfare system with the goal of family reunification;

(2) the use of a comprehensive case management approach involving department caseworkers, court-appointed case managers, and court-appointed special advocates to rehabilitate a parent who has had a child removed from the parent's care by the department because of suspected child abuse or neglect and who is suspected of substance abuse;

(3) early identification and prompt placement of eligible parents who volunteer to participate in the program;

(4) comprehensive substance abuse needs assessment and referral to an appropriate substance abuse treatment agency;

(5) a progressive treatment approach with specific requirements that a parent must meet to advance to the next phase of the program;

(6) monitoring of abstinence through periodic alcohol or other drug testing;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(10) development of partnerships with public agencies and community organizations.

Sec. 264.802. AUTHORITY TO ESTABLISH PROGRAM. The commissioner's court of a county may establish a family drug court program for persons who:

(1) have had a child removed from their care by the department; and

(2) are suspected by the department or a court of having a substance abuse problem.

Sec. 264.803. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of family drug court programs established under this subchapter.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a family drug court program established under this subchapter.

Sec. 264.804. PARTICIPANT PAYMENT FOR TREATMENT AND SERVICES. A family drug court program may require a participant to pay the cost of all treatment and services received while participating in the program, based on the participant's ability to pay.

Sec. 264.805. FUNDING. A county creating a family drug court under this chapter shall explore the possibility of using court improvement project funds to finance the family drug court in the county. The county shall also explore the availability of federal and state matching funds to finance the court.

Floor Amendment No. 40

Amend **CSSB 6** (House committee report) by adding the following appropriately numbered SECTIONS to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of ARTICLE 1 of the bill appropriately:

SECTION ____. Chapter 61, Education Code, is amended by adding Subchapter EE to read as follows:

SUBCHAPTER EE. REPAYMENT OF CERTAIN SOCIAL WORKER EDUCATION LOANS IN CERTAIN COUNTIES; PILOT PROGRAM

Sec. 61.9741. APPLICABILITY. This subchapter applies only to a county with a population of less than two million in which a municipality with a population of more than one million is located.

Sec. 61.9742. REPAYMENT ASSISTANCE AUTHORIZED. (a) The board shall establish a pilot program under which the board provides, in accordance with this subchapter and board rules, assistance in the repayment of education loans for social workers who apply and qualify for the assistance.

(b) The provision of financial assistance in the repayment of education loans under this subchapter promotes a public purpose.

Sec. 61.9743. ELIGIBILITY. To be eligible to receive repayment assistance, a person:

(1) must apply to the board;

(2) must have graduated from an accredited public or private institution of higher education in or outside this state with a baccalaureate or graduate degree in social work;

(3) must currently work as an entry-level investigator for the Department of Family and Protective Services and have worked in that position for at least one year; and

(4) may not have received any funds from the Department of Family and Protective Services available under Title IV-D, federal Social Security Act (42 U.S.C. Section 670 et seq.).

Sec. 61.9744. LIMITATIONS. The amount of loan repayment assistance received by a social worker under this subchapter in one year may not exceed the lesser of \$3,300 or 20 percent of the total amount of the social worker's outstanding education loans, including scheduled interest payments that would become due if the loan is not prepaid, when the social worker enters into the agreement.

Sec. 61.9745. ELIGIBLE LOANS. (a) The board may provide repayment assistance for the repayment of any education loan received by the social worker through any lender for education while enrolled at an institution of higher education described by Section 61.9743(2) in a baccalaureate or graduate degree program in social work.

(b) The board may not provide repayment assistance for an education loan that is in default at the time of the social worker's application.

Sec. 61.9746. REPAYMENT. (a) The board shall deliver any repayment assistance made under this subchapter in a lump sum payable to the lender and the social worker and in accordance with any applicable federal law.

(b) Loan repayment assistance received under this subchapter may be applied to the principal amount of the loan and to interest that accrues.

Sec. 61.9747. ADVISORY COMMITTEE. The board may appoint an advisory committee from outside the board's membership to assist the board in performing the board's duties under this subchapter.

Sec. 61.9748. ACCEPTANCE OF GIFTS. The board may solicit and accept gifts, grants, and donations for the purposes of this subchapter.

Sec. 61.9749. RULES. The board shall adopt rules necessary for the administration of this subchapter.

Sec. 61.9750. REPORT TO LEGISLATURE. Not later than December 1, 2008, the board shall submit to the legislature a report regarding the loan repayment assistance pilot program administered by the board under this subchapter. The report must include:

(1) the number of persons receiving loan repayment assistance under this subchapter;

(2) an evaluation of the effectiveness of the pilot program in encouraging social workers to maintain employment with the Department of Family and Protective Services and any other benefits or problems that result from the pilot program; and

(3) the board's recommendations regarding the elimination, continuation, or expansion of the pilot program.

Sec. 61.9751. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2009.

SECTION ____ . The Texas Higher Education Coordinating Board shall adopt the rules for the repayment assistance pilot program under Subchapter EE, Chapter 61, Education Code, as added by this Act, not later than December 1, 2005.

Floor Amendment No. 42

Amend **CSSB 6** as follows:

(1) In SECTION 1.13(a) of the bill, in the introductory language (House committee report page 9, line 14), between "(d)," and "(f)", insert "(e),".

(2) In SECTION 1.13(a) of the bill, in amended Section 261.301, Family Code (House committee report page 10, between lines 5 and 6), insert the following:

(e) As necessary to provide for the protection of the child, the department or designated agency shall determine:

(1) the nature, extent, and cause of the abuse or neglect;

(2) the identity of the person responsible for the abuse or neglect;

(3) the names and conditions of the other children in the home;

(4) an evaluation of the parents or persons responsible for the care of the child;

(5) the adequacy of the home environment, including whether illegal drugs are being used or sold in the home;

(6) the relationship of the child to the persons responsible for the care, custody, or welfare of the child; and

(7) all other pertinent data.

Floor Amendment No. 43

Amend Floor Amendment No. 42 by Farabee to **CSSB 6** on page 1, line 19, by striking "illegal drugs are" and substituting "there is observable evidence of illegal drugs".

Floor Amendment No. 44

Amend **CSSB 6** on page 28, by inserting the following subsection after line 22 and appropriately renumbering the remaining subsections:

(2) All substitute care and case management services shall, to the best extent possible, honor the cultural and religious affiliations of the child placed in their care regardless of the religious affiliation of the agency.

Floor Amendment No. 45

Amend **CSSB 6** as follows:

(1) In SECTION 1.11(a) of the bill, in the introductory language (House committee printing page 7, line 27), strike "(d) and (e)" and substitute "(a-1), (d), and (e)".

(2) In SECTION 1.11(a) of the bill, in amended Section 261.107, Family Code (House committee printing page 8, between lines 8 and 9), insert the following:

(a-1) In addition to any other person, Subsection (a) applies to a medical professional who knowingly or intentionally makes a report as provided in this chapter based on a claim that the child is the subject of medical neglect if the professional knows that the claim is false or lacks factual foundation. This subsection shall be construed and enforced in a manner that discourages medical professionals from making or threatening to make reports based on claims of medical neglect in circumstances in which reasonable persons could disagree regarding the best medical treatment for a child.

(3) In SECTION 1.11(b) of the bill, in the transition language (House committee printing page 8, line 18), strike "Section 261.107(d)" and substitute "Sections 261.107(a-1) and (d)".

Floor Amendment No. 46

Amend Floor Amendment No. 45 by Van Arsdale to **CSSB 6** as follows:

(1) Strike page 1, lines 8-17, of the amendment and substitute the following:

(a-1) A medical professional commits an offense if the professional knowingly or intentionally threatens a child's parent or managing conservator with making a report as provided in this chapter on the basis of a claim that the child is the subject of medical neglect if the professional knows that the claim is false, lacks factual foundation, or is based on circumstances in which reasonable persons could disagree regarding the best medical treatment for a child. An offense under this subsection is a Class A misdemeanor.

(2) Add the following appropriately numbered items to the amendment:

() On page 8, line 5 of the bill, strike "section" and substitute "subsection [section]".

() On page 8, line 10 of the bill, strike "this section" and substitute "Subsection (a)".

Floor Amendment No. 47

Amend **CSSB 6** as follows:

(1) In ARTICLE 1 of the bill (House committee printing, page 82, between lines 19 and 20), add the following appropriately numbered SECTION and renumber subsequent SECTIONS of ARTICLE 1 accordingly:

SECTION 1.__. Subchapter B, Chapter 42, Human Resources Code, is amended by adding Section 42.025 to read as follows:

Sec. 42.025. STATE ADVISORY COMMITTEE ON LICENSING. (a) The executive commissioner shall establish a State Advisory Committee on Licensing.

(b) The advisory committee shall be composed of members from the public and private sectors, including:

(1) representatives of each type of licensed residential child-care facility;

(2) a department employee who performs functions relating to licensing;

and

(3) a representative of the community.

(c) The department shall provide staff necessary for the advisory committee.

(d) The advisory committee shall meet at least annually.

(e) The advisory committee shall receive and review the annual report required under Section 42.023 and make recommendations to the department with respect to:

(1) improving consistency in the enforcement of licensing requirements;

(2) the provision of advanced training;

(3) the revision of licensing standards; and

(4) technical assistance necessary to improve the quality of care based on the information reported regarding violations of licensing standards.

(f) Chapter 2110, Government Code, does not apply to the committee.

(g) This section expires and the advisory committee is abolished September 1, 2009.

(2) In SECTION 1.70(a) of the bill, in the introductory language (House committee printing, page 83, line 9), between "(g-1)," and "(h-1)", insert "(g-2),".

(3) In Section 1.70(a) of the bill, strike added Section 42.042(g-1), Human Resources Code (House committee printing, page 83, lines 14-21), and substitute the following:

(g-1) In promulgating minimum standards under this section, the department shall assign a tested weighted value for each standard that correlates to that standard's potential impact on the health and safety of children.

(g-2) In developing a methodology to classify and assign weighted values to designate the risk associated with each minimum standard under Subsection (g-1), the department shall consult with the State Advisory Committee on Licensing established under Section 42.025. This subsection expires September 1, 2009.

Floor Amendment No. 48

Amend **CSSB 6** (House committee printing) in Article 2 of the bill by adding the following appropriately numbered SECTIONS to the article and renumbering subsequent SECTIONS of the article accordingly:

SECTION 2. __. Subchapter D, Chapter 48, Human Resources Code, is amended by adding Section 48.1521 to read as follows:

Sec. 48.1521. REPORTS OF CRIMINAL CONDUCT TO LAW ENFORCEMENT AGENCY. If during the course of the department's or another state agency's investigation of reported abuse, neglect, or exploitation a caseworker of the department or other state agency, as applicable, or the caseworker's supervisor has cause to believe that the elderly or disabled person has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, the caseworker or supervisor shall:

(1) immediately notify an appropriate law enforcement agency; and

(2) provide the law enforcement agency with a copy of the investigation report of the department or other state agency, as applicable, in a timely manner.

SECTION 2. __. Section 48.157, Human Resources Code, is repealed.

Floor Amendment No. 49

Amend **CSSB 6** (House committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill appropriately:

ARTICLE __. CERTAIN REQUIREMENTS AND LIMITATIONS RELATING TO MARRIAGE; PROVIDING CRIMINAL PENALTIES

SECTION __.01. Article 38.10, Code of Criminal Procedure, is amended to read as follows:

Art. 38.10. EXCEPTIONS TO THE SPOUSAL ADVERSE TESTIMONY PRIVILEGE. The privilege of a person's spouse not to be called as a witness for the state does not apply in any proceeding in which the person is charged with:

(1) a crime committed against the person's spouse, a minor child, or a member of the household of either spouse; or

(2) an offense under Section 25.01, Penal Code (Bigamy).

SECTION __.02. Sections 22.011(e) and (f), Penal Code, are amended to read as follows:

(e) It is an affirmative defense to prosecution under Subsection (a)(2) that:

(1) the actor was not more than three years older than the victim and at the time of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, ~~[as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997,]~~ to register for life as a sex offender; or

(B) was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section; and

(2) the victim:

(A) was a child of 14 years of age or older; and

(B) was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) An offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

SECTION __.03. Sections 25.01(c) and (e), Penal Code, are amended to read as follows:

(c) It is a defense to prosecution under Subsection (a)(1) that the actor reasonably believed at the time of the commission of the offense that the actor and the person whom the actor married or purported to marry or with whom the actor lived under the appearance of being married were legally eligible to be married because the actor's prior [his] marriage was void or had been dissolved by death, divorce, or annulment. For purposes of this subsection, an actor's belief is reasonable if the belief is substantiated by a certified copy of a death certificate or other signed document issued by a court.

(e) An offense under this section is a felony of the third degree, except that if at the time of the commission of the offense, the person whom the actor marries or purports to marry or with whom the actor lives under the appearance of being married is:

(1) 16 years of age, the offense is a felony of the second degree; or

(2) younger than 16 years of age, the offense is a felony of the first degree

~~[Class A misdemeanor].~~

SECTION __.04. Sections 25.02(a) and (c), Penal Code, are amended to read as follows:

(a) A person ~~[An individual]~~ commits an offense if the person ~~[he]~~ engages in sexual intercourse or deviate sexual intercourse with another ~~[a]~~ person the actor ~~[he]~~ knows to be, without regard to legitimacy:

(1) the actor's ~~[his]~~ ancestor or descendant by blood or adoption;

(2) the actor's current or former ~~[his]~~ stepchild or stepparent ~~[, while the marriage creating that relationship exists];~~

(3) the actor's ~~[his]~~ parent's brother or sister of the whole or half blood;

(4) the actor's ~~[his]~~ brother or sister of the whole or half blood or by adoption; ~~[or]~~

(5) the children of the actor's ~~[his]~~ brother or sister of the whole or half blood or by adoption; or

(6) the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption.

(c) An offense under this section is a felony of the third degree, unless the offense is committed under Subsection (a)(6), in which event the offense is a felony of the second degree.

SECTION __.05. Section 2.004, Family Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The application form must contain:

(1) a heading entitled "Application for Marriage License, _____ County, Texas";

(2) spaces for each applicant's full name, including the woman's maiden surname, address, social security number, if any, date of birth, and place of birth, including city, county, and state;

(3) a space for indicating the document tendered by each applicant as proof of identity and age;

(4) spaces for indicating whether each applicant has been divorced within the last 30 days;

(5) printed boxes for each applicant to check "true" or "false" in response to the following statement: "I am not presently married and the other applicant is not presently married.";

(6) printed boxes for each applicant to check "true" or "false" in response to the following statement: "The other applicant is not related to me as:

(A) an ancestor or descendant, by blood or adoption;

(B) a brother or sister, of the whole or half blood or by adoption;

(C) a parent's brother or sister, of the whole or half blood or by adoption; ~~[or]~~

(D) a son or daughter of a brother or sister, of the whole or half blood or by adoption;

(E) a current or former stepchild or stepparent; or

(F) a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption.";

(7) printed boxes for each applicant to check "true" or "false" in response to the following statement: "I am not presently delinquent in the payment of court-ordered child support.";

(8) a printed oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS CORRECT.";

(9) spaces immediately below the printed oath for the applicants' signatures;

(10) a certificate of the county clerk that:

(A) each applicant made the oath and the date and place that it was made; or

(B) an applicant did not appear personally but the prerequisites for the license have been fulfilled as provided by this chapter;

(11) spaces for indicating the date of the marriage and the county in which the marriage is performed; and

(12) a space for the address to which the applicants desire the completed license to be mailed.

(c) An applicant commits an offense if the applicant knowingly provides false information under Subsection (b)(1), (2), (3), or (4). An offense under this subsection is a Class C misdemeanor.

(d) An applicant commits an offense if the applicant knowingly provides false information under Subsection (b)(5) or (6). An offense under this subsection is a Class A misdemeanor.

SECTION __.06. Section 2.005, Family Code, is amended by adding Subsection (c) to read as follows:

(c) A person commits an offense if the person knowingly provides false, fraudulent, or otherwise inaccurate proof of an applicant's identity or age under this section. An offense under this subsection is a Class A misdemeanor.

SECTION __.07. Section 2.007, Family Code, is amended to read as follows:

Sec. 2.007. AFFIDAVIT OF ABSENT APPLICANT. The affidavit of an absent applicant must include:

(1) the absent applicant's full name, including the maiden surname of a female applicant, address, date of birth, place of birth, including city, county, and state, citizenship, and social security number, if any;

(2) a declaration that the absent applicant has not been divorced within the last 30 days;

(3) a declaration that the absent applicant is:

(A) not presently married; or

(B) married to the other applicant and they wish to marry again;

(4) a declaration that the other applicant is not presently married and is not related to the absent applicant as:

(A) an ancestor or descendant, by blood or adoption;

(B) a brother or sister, of the whole or half blood or by adoption;

(C) a parent's brother or sister, of the whole or half blood or by adoption; [✗]

(D) a son or daughter of a brother or sister, of the whole or half blood or by adoption;

(E) a current or former stepchild or stepparent; or

(F) a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption;

(5) a declaration that the absent applicant desires to marry and the name, age, and address of the person to whom the absent applicant desires to be married;

(6) the approximate date on which the marriage is to occur;

(7) the reason the absent applicant is unable to appear personally before the county clerk for the issuance of the license; and

(8) if the absent applicant will be unable to attend the ceremony, the appointment of any adult, other than the other applicant, to act as proxy for the purpose of participating in the ceremony.

SECTION __.08. Sections 2.009(a) and (b), Family Code, are amended to read as follows:

(a) Except as provided by Subsections (b) and (d), the county clerk may not issue a license if either applicant:

(1) fails to provide the information required by this subchapter;

(2) fails to submit proof of age and identity;

(3) is under 16 [~~14~~] years of age and has not been granted a court order as provided by Section 2.103;

(4) is 16 [~~14~~] years of age or older but under 18 years of age and has not presented at least one of the following:

(A) parental consent as provided by Section 2.102;

(B) documents establishing that a prior marriage of the applicant has been dissolved; or

(C) a court order as provided by Section 2.103;

(5) checks "false" in response to a statement in the application, except as provided by Subsection (b) or (d), or fails to make a required declaration in an affidavit required of an absent applicant; or

(6) indicates that the applicant has been divorced by a decree of a court of this state within the last 30 days, unless:

(A) the applicants were divorced from each other; or

(B) the prohibition against remarriage is waived as provided by Section

6.802.

(b) If an applicant checks "false" in response to the statement "I am not presently married and the other applicant is not presently married," the county clerk shall inquire as to whether the applicant is presently married to the other applicant. If the applicant states that the applicant is currently married to the other applicant, the county clerk shall record that statement on the license before the administration of the oath. The county clerk may not refuse to issue a license on the ground that the applicants are already married to each other.

SECTION __.09. Section 2.102, Family Code, is amended by amending Subsection (a) and adding Subsections (g) and (h) to read as follows:

(a) If an applicant is 16 [~~14~~] years of age or older but under 18 years of age, the county clerk shall issue the license if parental consent is given as provided by this section.

(g) A person commits an offense if the person knowingly provides parental consent for an underage applicant under this section and the person is not a parent or a judicially designated managing conservator or guardian of the applicant. An offense under this subsection is a Class A misdemeanor.

(h) A parent or judicially designated managing conservator or guardian of an applicant commits an offense if the parent, managing conservator, or guardian knowingly provides parental consent under this section for an applicant who is younger than 16 years of age or who is presently married to a person other than the person the applicant desires to marry. An offense under this subsection is a felony of the third degree.

SECTION __.10. Section 2.202, Family Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) Except as provided by Subsection (d), a person commits an offense if the person knowingly conducts a marriage ceremony without authorization under this section. An offense under this subsection is a Class A misdemeanor.

(d) A person commits an offense if the person knowingly conducts a marriage ceremony of a minor whose marriage is prohibited by law or of a person who by marrying commits an offense under Section 25.01, Penal Code. An offense under this subsection is a felony of the third degree.

SECTION __.11. Section 2.302, Family Code, is amended to read as follows:

Sec. 2.302. CEREMONY CONDUCTED BY UNAUTHORIZED PERSON.

The validity of a marriage is not affected by the lack of authority of the person conducting the marriage ceremony if:

- (1) there was a reasonable appearance of authority by that person; ~~and~~
- (2) at least one party to the marriage participated in the ceremony in good faith and that party treats the marriage as valid; and
- (3) neither party to the marriage:
 - (A) is a minor whose marriage is prohibited by law; or
 - (B) by marrying commits an offense under Section 25.01, Penal Code.

SECTION __.12. Section 2.401, Family Code, is amended by adding Subsection (d) to read as follows:

(d) A person may not be a party to an informal marriage or execute a declaration of an informal marriage if the person is presently married to a person who is not the other party to the informal marriage or declaration of an informal marriage, as applicable.

SECTION __.13. Section 2.402(b), Family Code, is amended to read as follows:

(b) The declaration form must contain:

- (1) a heading entitled "Declaration and Registration of Informal Marriage, _____ County, Texas";
- (2) spaces for each party's full name, including the woman's maiden surname, address, date of birth, place of birth, including city, county, and state, and social security number, if any;

(3) a space for indicating the type of document tendered by each party as proof of age and identity;

(4) printed boxes for each party to check "true" or "false" in response to the following statement: "The other party is not related to me as:

(A) an ancestor or descendant, by blood or adoption;

(B) a brother or sister, of the whole or half blood or by adoption;

(C) a parent's brother or sister, of the whole or half blood or by adoption; ~~or~~

(D) a son or daughter of a brother or sister, of the whole or half blood or by adoption;

(E) a current or former stepchild or stepparent; or

(F) a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption.";

(5) a printed declaration and oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT (DATE) WE AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS HUSBAND AND WIFE AND IN THIS STATE WE REPRESENTED TO OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN IS CORRECT.";

(6) spaces immediately below the printed declaration and oath for the parties' signatures; and

(7) a certificate of the county clerk that the parties made the declaration and oath and the place and date it was made.

SECTION __.14. Section 2.403, Family Code, is amended to read as follows:

Sec. 2.403. PROOF OF IDENTITY AND AGE; OFFENSE. (a) The county clerk shall require proof of the identity and age of each party to the declaration of informal marriage to be established by a certified copy of the party's birth certificate or by some certificate, license, or document issued by this state or another state, the United States, or a foreign government.

(b) A person commits an offense if the person knowingly provides false, fraudulent, or otherwise inaccurate proof of the person's identity or age under this section. An offense under this subsection is a Class A misdemeanor.

SECTION __.15. Section 6.101, Family Code, is amended to read as follows:

Sec. 6.101. ANNULMENT OF MARRIAGE OF PERSON UNDER AGE 16 ~~[14]~~. (a) The court may grant an annulment of a licensed marriage of a person under 16 ~~[14]~~ years of age unless a court order has been obtained as provided in Subchapter B, Chapter 2.

(b) A petition for annulment under this section may be filed by a next friend for the benefit of a person under 16 ~~[14]~~ years of age or on the petition of the parent or the judicially designated managing conservator or guardian, whether an individual, authorized agency, or court, of the person.

(c) A suit by a parent, managing conservator, or guardian of the person may be brought at any time before the person is 16 ~~[14]~~ years of age.

(d) A suit under this section to annul the marriage of a person 16 [~~14~~] years of age or older that was entered into before the person was 16 [~~14~~] years of age is barred unless the suit is filed within the later of:

(1) 90 days after the date the petitioner knew or should have known of the marriage; or

(2) 90 days after the date of the 16th [~~14th~~] birthday of the underage party.

SECTION __.16. Section 6.102(a), Family Code, is amended to read as follows:

(a) The court may grant an annulment of a licensed or informal marriage of a person 16 [~~14~~] years of age or older but under 18 years of age that occurred without parental consent or without a court order as provided by Subchapters B and E, Chapter 2.

SECTION __.17. Subchapter C, Chapter 6, Family Code, is amended by adding Sections 6.205 and 6.206 to read as follows:

Sec. 6.205. MARRIAGE TO MINOR. A marriage is void if either party to the marriage is younger than 16 years of age.

Sec. 6.206. MARRIAGE TO STEPCCHILD OR STEPPARENT. A marriage is void if a party is a current or former stepchild or stepparent of the other party.

SECTION __.18. Under the terms of Section 22.109(b), Government Code, Rule 504(b)(1), Texas Rules of Evidence, is disapproved to the extent that the rule conflicts with Article 38.10, Code of Criminal Procedure, as amended by this article.

SECTION __.19. The changes in law made by this article in amending Article 38.10, Code of Criminal Procedure, and Sections 22.011, 25.01, and 25.02, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION __.20. The changes in law made by this article to Sections 2.004, 2.005, 2.007, 2.009, and 2.102, Family Code, apply only to an application for a marriage license filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION __.21. The changes in law made by this article to Sections 2.202 and 2.302, Family Code, apply only to a marriage ceremony that is conducted on or after the effective date of this Act. A marriage ceremony conducted before the effective date of this Act is governed by the law in effect on the date the ceremony was conducted, and the former law is continued in effect for that purpose.

SECTION __.22. Section 2.401(d), Family Code, as added by this article, applies to an informal marriage or a declaration of an informal marriage regardless of when the informal marriage was entered into or the declaration was executed.

SECTION __.23. The changes in law made by this article to Sections 2.402(b) and 2.403, Family Code, apply to a declaration of an informal marriage executed on or after the effective date of this Act. A declaration executed before the effective date of this Act is governed by the law in effect on the date the declaration was executed, and the former law is continued in effect for that purpose.

SECTION __.24. The changes in law made by this article by the amendment of Sections 6.101 and 6.102(a), Family Code, and the enactment of Sections 6.205 and 6.206, Family Code, apply only to a marriage entered into on or after the effective date of this Act. A marriage entered into before the effective date of this Act is governed by the law in effect on the date the marriage was entered into, and the former law is continued in effect for that purpose.

Floor Amendment No. 50

Amend the Hilderbran Amendment No. 49 to **CSSB 6** as follows:

On page 2, line 28, after the word (age), and before the (.), insert the words "or older"

Floor Amendment No. 51

Amend **CSSB 6** as follows:

(1) In Article 3 of the bill, strike the recital to SECTION 3.07 (House committee report, page 135, lines 4 and 5) and substitute the following:

SECTION 3.07. Sections 875(c) and (j), Texas Probate Code, are amended to read as follows:

(c) A sworn, written application for the appointment of a temporary guardian shall be filed before the court appoints a temporary guardian. The application must state:

(1) the name and address of the person who is the subject of the guardianship proceeding;

(2) the danger to the person or property alleged to be imminent;

(3) the type of appointment and the particular protection and assistance being requested;

(4) the facts and reasons supporting the allegations and requests;

(5) the name, address, and qualification of the proposed temporary guardian;

(6) the name, address, and interest of the applicant; and

(7) if applicable, that the proposed temporary guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, and has complied with the requirements of Section 697 of this code.

(2) In Article 3 of the bill, add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the article accordingly:

SECTION 3.____. Sections 531.121(3) and (5), Government Code, are amended to read as follows:

(3) "Guardianship program" has the meaning assigned by Section 111.001 [~~601, Texas Probate Code~~].

(5) "Private professional guardian" has the meaning assigned by Section 111.001 [~~601, Texas Probate Code~~].

SECTION 3.____. The heading to Section 531.122, Government Code, is amended to read as follows:

Sec. 531.122. ADVISORY BOARD; MEMBERSHIP [~~AND DUTIES~~].

SECTION 3.____. Sections 531.122(a), (b), and (d), Government Code, are amended to read as follows:

(a) The Guardianship Advisory Board ~~[shall advise the commission in adopting standards under Section 531.124 and in administering the commission's duties under this subchapter.~~

~~[(b) The advisory board]~~ is composed of one representative from each of the health and human services regions, as defined by the commission, three public representatives, and one representative of the Department of Aging and Disability ~~[Protective and Regulatory]~~ Services. The representatives of the health and human services regions are appointed by a majority vote of the judges of the statutory probate courts in each region. If a health and human services region does not contain a statutory probate court, the representative shall be appointed by a majority vote of the judges of the statutory probate courts in the state. The public representatives are appointed by the executive commissioner and the representative of the Department of Aging and Disability ~~[Protective and Regulatory]~~ Services is appointed by the commissioner of aging and disability services ~~[Board of Protective and Regulatory Services]~~.

(d) A member of the advisory board serves at the pleasure of a majority of the judges of the statutory probate courts that appointed the member, of the executive commissioner, or of the commissioner of aging and disability services ~~[Board of Protective and Regulatory Services]~~, as appropriate.

SECTION 3. _____. Section 531.1235, Government Code, is amended to read as follows:

Sec. 531.1235. ADVISORY BOARD; ~~[ADDITIONAL]~~ DUTIES; STATEWIDE GUARDIANSHIP SYSTEM. (a) The advisory board shall advise the commission in administering the commission's duties under this subchapter. In addition ~~[to performing the duties described by Section 531.122]~~, the advisory board shall:

(1) advise the commission and the Department of Aging and Disability ~~[Protective and Regulatory]~~ Services with respect to a statewide guardianship program and develop a proposal for a statewide guardianship program; and

(2) review and comment on the guardianship policies of all health and human services agencies and recommend changes to the policies the advisory board considers necessary or advisable.

(b) The advisory board shall prepare an annual report with respect to the recommendations of the advisory board under Subsection (a). The advisory board shall file the report with the commission, the Department of Aging and Disability ~~[Protective and Regulatory]~~ Services, the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 15 of each year.

SECTION 3. _____. Section 531.124, Government Code, is amended to read as follows:

Sec. 531.124. COMMISSION DUTIES. (a) With the advice of the advisory board, the commission shall[=

~~[(1) adopt minimum standards for the provision of guardianship and related services by:~~

~~[(A) a guardianship program;~~

~~[(B) a person who provides guardianship and related services on behalf of a guardianship program or local guardianship center, including a person who serves as a volunteer guardian; and~~

~~[(C) a person who serves as a private professional guardian; and~~

~~[(2)] develop and, subject to appropriations, implement a plan to:~~

~~(1) [(A)] ensure that each incapacitated individual in this state who needs a guardianship or another less restrictive type of assistance to make decisions concerning the incapacitated individual's own welfare and financial affairs receives that assistance; and~~

~~(2) [(B)] foster the establishment and growth of local volunteer guardianship programs.~~

~~(b) [The commission shall design the standards under Subsection (a)(1) to protect the interests of an incapacitated individual or other individual who needs assistance in making decisions concerning the individual's own welfare or financial affairs.~~

~~[(e)] The advisory board shall annually review and comment on the minimum standards adopted under Section 111.041 [~~Subsection (a)(1)~~] and the plan implemented under Subsection (a)[~~(2)~~] and shall include its conclusions in the report submitted under Section 531.1235.~~

SECTION 3. _____. Section 601, Texas Probate Code, is amended by adding Subdivision (12-a) and amending Subdivisions (13) and (24) to read as follows:

(12-a) "Guardianship Certification Board" means the Guardianship Certification Board established under Chapter 111, Government Code.

(13) "Guardianship program" has the meaning assigned by Section 111.001, Government Code ~~[means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs].~~

(24) "Private professional guardian" has the meaning assigned by Section 111.001, Government Code ~~[means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services].~~

SECTION 3. _____. Section 682, Texas Probate Code, is amended to read as follows:

Sec. 682. APPLICATION; CONTENTS. Any person may commence a proceeding for the appointment of a guardian by filing a written application in a court having jurisdiction and venue. The application must be sworn to by the applicant and state:

- (1) the name, sex, date of birth, and address of the proposed ward;
- (2) the name, relationship, and address of the person the applicant desires to have appointed as guardian;
- (3) whether guardianship of the person or estate, or both, is sought;
- (4) the nature and degree of the alleged incapacity, the specific areas of protection and assistance requested, and the limitation of rights requested to be included in the court's order of appointment;
- (5) the facts requiring that a guardian be appointed and the interest of the applicant in the appointment;

(6) the nature and description of any guardianship of any kind existing for the proposed ward in any other state;

(7) the name and address of any person or institution having the care and custody of the proposed ward;

(8) the approximate value and description of the proposed ward's property, including any compensation, pension, insurance, or allowance to which the proposed ward may be entitled;

(9) the name and address of any person whom the applicant knows to hold a power of attorney signed by the proposed ward and a description of the type of power of attorney;

(10) if the proposed ward is a minor and if known by the applicant:

(A) the name of each parent of the proposed ward and state the parent's address or that the parent is deceased;

(B) the name and age of each sibling, if any, of the proposed ward and state the sibling's address or that the sibling is deceased; and

(C) if each of the proposed ward's parents and siblings are deceased, the names and addresses of the proposed ward's next of kin who are adults;

(11) if the proposed ward is a minor, whether the minor was the subject of a legal or conservatorship proceeding within the preceding two-year period and, if so, the court involved, the nature of the proceeding, and the final disposition, if any, of the proceeding;

(12) if the proposed ward is an adult and if known by the applicant:

(A) the name of the proposed ward's spouse, if any, and state the spouse's address or that the spouse is deceased;

(B) the name of each of the proposed ward's parents and state the parent's address or that the parent is deceased;

(C) the name and age of each of the proposed ward's siblings, if any, and state the sibling's address or that the sibling is deceased;

(D) the name and age of each of the proposed ward's children, if any, and state the child's address or that the child is deceased; and

(E) if the proposed ward's spouse and each of the proposed ward's parents, siblings, and children are deceased, or, if there is no spouse, parent, adult sibling, or adult child, the names and addresses of the proposed ward's next of kin who are adults;

(13) facts showing that the court has venue over the proceeding; and

(14) if applicable, that the person whom the applicant desires to have appointed as a guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, and has complied with the requirements of Section 697 of this code.

SECTION 3.____. Section 696, Texas Probate Code, is amended to read as follows:

Sec. 696. APPOINTMENT OF PRIVATE PROFESSIONAL GUARDIANS. A court may not appoint a private professional guardian to serve as a guardian or permit a private professional guardian to continue to serve as a guardian under this code if the private professional guardian:

- (1) has not complied with the requirements of Section 697 of this code; or
(2) is not certified as provided by Section 697B of this code.

SECTION 3.____. Subpart A, Part 3, Texas Probate Code, is amended by adding Sections 696A and 696B to read as follows:

Sec. 696A. APPOINTMENT OF PUBLIC GUARDIANS. (a) An individual employed by or contracting with a guardianship program must be certified as provided by Section 697B of this code to provide guardianship services to a ward of the guardianship program.

(b) An employee of the Department of Aging and Disability Services must be certified as provided by Section 697B of this code to provide guardianship services to a ward of the department.

Sec. 696B. APPOINTMENT OF FAMILY MEMBERS OR FRIENDS. A family member or friend of an incapacitated person is not required to be certified under Subchapter C, Chapter 111, Government Code, or any other law to serve as the person's guardian.

SECTION 3.____. Subsections (a), (c), and (e), Section 697, Texas Probate Code, are amended to read as follows:

(a) A private professional guardian must apply annually to the clerk of the county having venue over the proceeding for the appointment of a guardian for a certificate of registration [~~certification~~]. The application must include a sworn statement containing the following information concerning a private professional guardian or each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian:

- (1) educational background and professional experience;
 - (2) three or more professional references;
 - (3) the names of all of the wards the private professional guardian or person is or will be serving as a guardian;
 - (4) the aggregate fair market value of the property of all wards that is being or will be managed by the private professional guardian or person;
 - (5) place of residence, business address, and business telephone number;
- and

(6) whether the private professional guardian or person has ever been removed as a guardian by the court or resigned as a guardian in a particular case, and, if so, a description of the circumstances causing the removal or resignation, and the style of the suit, the docket number, and the court having jurisdiction over the proceeding.

(c) The term of the registration [~~certification~~] begins on the date that the requirements are met and extends through December 31 of the initial year. After the initial year of registration [~~certification~~], the term of the registration [~~certification~~] begins on January 1 and ends on December 31 of each year. A renewal application must be completed during December of the year preceding the year for which the renewal is requested.

(e) Not later than February 1 of each year, the clerk shall submit to the Guardianship Certification Board and the Health and Human Services Commission the names and business addresses of private professional guardians who have satisfied the registration [certification] requirements under this section during the preceding year.

SECTION 3. _____. Subpart A, Part 3, Texas Probate Code, is amended by adding Sections 697A and 697B to read as follows:

Sec. 697A. LIST OF CERTAIN PUBLIC GUARDIANS MAINTAINED BY COUNTY CLERKS. (a) Each guardianship program operating in a county shall submit annually to the county clerk a statement containing the name, address, and telephone number of each individual employed by or volunteering or contracting with the program to provide guardianship services to a ward or proposed ward of the program.

(b) The Department of Aging and Disability Services, if the department files an application for and is appointed to serve as guardian for one or more incapacitated persons residing in the county as provided by Subchapter E, Chapter 161, Human Resources Code, shall submit annually to the county clerk the information required under Subsection (a) of this section for each department employee who is or will be providing guardianship services in the county on the department's behalf.

(c) Not later than February 1 of each year, the county clerk shall submit to the Guardianship Certification Board the information received under this section during the preceding year.

Sec. 697B. CERTIFICATION REQUIREMENT FOR PRIVATE PROFESSIONAL GUARDIANS AND PUBLIC GUARDIANS. (a) The following persons must be certified under Subchapter C, Chapter 111, Government Code:

(1) an individual who is a private professional guardian;

(2) an individual who will represent the interests of a ward as a guardian on behalf of a private professional guardian;

(3) an individual providing guardianship services to a ward of a guardianship program on the program's behalf, except as provided by Subsection (d) of this section; and

(4) an employee of the Department of Aging and Disability Services providing guardianship services to a ward of the department.

(b) A person whose certification has expired must obtain a new certification under Subchapter C, Chapter 111, Government Code, to be allowed to provide or continue to provide guardianship services to a ward under this code.

(c) The court shall notify the Guardianship Certification Board if the court becomes aware of a person who is not complying with the terms of a certification issued under Subchapter C, Chapter 111, Government Code, or with the standards and rules adopted under that subchapter.

(d) An individual volunteering with a guardianship program is not required to be certified as provided by this section to provide guardianship services on the program's behalf.

SECTION 3. _____. Sections 698(a) and (c), Texas Probate Code, are amended to read as follows:

(a) The clerk of the county having venue over the proceeding for the appointment of a guardian shall obtain criminal history record information that is maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division relating to:

- (1) a private professional guardian;
- (2) each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian; ~~or~~
- (3) each person employed by a private professional guardian who will:
 - (A) have personal contact with a ward or proposed ward;
 - (B) exercise control over and manage a ward's estate; or
 - (C) perform any duties with respect to the management of a ward's estate;

(4) each person employed by or volunteering or contracting with a guardianship program to provide guardianship services to a ward of the program on the program's behalf; or

(5) an employee of the Department of Aging and Disability Services who is or will be providing guardianship services to a ward of the department.

(c) The court shall use the information obtained under this section only in determining whether to appoint, remove, or continue the appointment of a private professional guardian, a guardianship program, or the Department of Aging and Disability Services.

SECTION 3.____. Title 2, Government Code, is amended by adding Subtitle J to read as follows:

SUBTITLE J. GUARDIANSHIPS

CHAPTER 111. GUARDIANSHIP CERTIFICATION BOARD

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Administrative director" means the administrative director of the courts as appointed by Chapter 72.

(2) "Board" means the Guardianship Certification Board.

(3) "Corporate fiduciary" has the meaning assigned by Section 601, Texas Probate Code.

(4) "Director" means the administrative officer of the board, as provided by Section 111.021.

(5) "Guardian" has the meaning assigned by Section 601, Texas Probate Code.

(6) "Guardianship program" means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs.

(7) "Incapacitated person" has the meaning assigned by Section 601, Texas Probate Code.

(8) "Office of Court Administration" means the Office of Court Administration of the Texas Judicial System.

(9) "Private professional guardian" means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services.

(10) "Statutory probate court" has the meaning assigned by Section 601, Texas Probate Code.

(11) "Ward" has the meaning assigned by Section 601, Texas Probate Code.

Sec. 111.002. RULES. The supreme court may adopt rules consistent with this chapter, including rules governing the certification of individuals providing guardianship services.

Sec. 111.003. SUNSET PROVISION. The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2015.

[Sections 111.004-111.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 111.011. BOARD. (a) The Guardianship Certification Board is composed of:

(1) 11 members appointed by the presiding judge of the statutory probate courts, elected as provided by Chapter 25; and

(2) four public members appointed by the supreme court from a list of nominees submitted by the governor.

(b) The presiding judge of the statutory probate courts shall appoint members under Subsection (a)(1) from the different geographical areas of this state.

(c) In making an appointment under Subsection (a)(2), the supreme court may reject one or more of the nominees on a list submitted by the governor and request a new list of different nominees.

(d) To be eligible for appointment to the board other than as a public member, an individual must have demonstrated experience working with:

(1) a guardianship program;

(2) an organization that advocates on behalf of or in the interest of elderly individuals;

(3) an organization that advocates on behalf of or in the interest of individuals with mental illness or mental retardation or individuals with physical disabilities; or

(4) incapacitated individuals.

(e) The public members of the board must be:

(1) caretakers of individuals with mental illness or mental retardation or individuals with physical disabilities; or

(2) persons who advocate on behalf of or in the interest of individuals with mental illness or mental retardation or individuals with physical disabilities.

(f) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(g) The members of the board serve for staggered six-year terms, with the terms of one-third of the members expiring on February 1 of each odd-numbered year. Board members receive no compensation but are entitled to reimbursement of actual and necessary expenses incurred in the performance of their duties.

(h) The board shall elect from among its members a presiding officer and other officers considered necessary.

(i) The board shall meet at least quarterly at the call of the presiding officer.

(j) Any action taken by the board must be approved by a majority vote of the members present.

Sec. 111.012. ADMINISTRATIVE ATTACHMENT. (a) The board is administratively attached to the Office of Court Administration.

(b) Notwithstanding any other law, the Office of Court Administration shall:

(1) provide administrative assistance, services, and materials to the board, including budget planning and purchasing;

(2) accept, deposit, and disburse money made available to the board;

(3) pay the salaries and benefits of the director and any employees employed under Section 111.021;

(4) reimburse the travel expenses and other actual and necessary expenses of the board, director, and employees employed under Section 111.021 incurred in the performance of a function of the board, as provided by the General Appropriations Act; and

(5) provide the board with adequate computer equipment and support.

Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is certified by the board;

(2) is registered, certified, or licensed by a regulatory agency in the field of guardianship;

(3) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving money from the Office of Court Administration;

(4) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving money from the Office of Court Administration; or

(5) uses or receives a substantial amount of tangible goods, services, or funds from the Office of Court Administration, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 111.014. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board or may not be the director or an employee employed under Section 111.021 in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of guardianship; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of guardianship.

(c) A person may not be a member of the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 111.015. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of appointment the qualifications required by Section 111.011;

(2) does not maintain during service on the board the qualifications required by Section 111.011;

(3) is ineligible for membership under Section 111.013 or 111.014;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the board, who shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court that a potential ground for removal exists.

Sec. 111.016. POWERS AND DUTIES OF BOARD. (a) The board is charged with the executive functions necessary to carry out the purposes of this chapter under rules adopted by the supreme court.

(b) The board shall:

(1) administer and enforce this chapter;

(2) develop and recommend proposed rules and procedures to the supreme court as necessary to implement this chapter;

(3) set the amount of each fee prescribed by Section 111.042, subject to the approval of the supreme court;

(4) establish the qualifications for obtaining certification or recertification under Section 111.042;

(5) issue certificates to individuals who meet the certification requirements of Section 111.042; and

(6) perform any other duty required by this chapter or other law.

(c) The board may appoint any necessary or proper subcommittee.

(d) The board shall maintain:

(1) a complete record of each board proceeding; and

(2) a complete record of each certification issued, renewed, suspended, or revoked under Section 111.042.

Sec. 111.017. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) this chapter;
- (2) the role and functions of the board;
- (3) the current budget for the board;
- (4) the results of the most recent formal audit of the board; and
- (5) any applicable ethics policies adopted by the board.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 111.018. USE OF TECHNOLOGY. The Office of Court Administration shall research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the board on the Internet;

(2) ensure that persons who want to use the board's services are able to:

(A) interact with the board through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the board's planning processes.

Sec. 111.019. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The procedures relating to alternative dispute resolution under this section must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

Sec. 111.020. PUBLIC ACCESS. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Sec. 111.021. DIRECTOR; EMPLOYEES FOR BOARD. (a) The administrative director shall employ a director from a list of candidates submitted by the board. The administrative director may request an additional list of candidates if the administrative director does not select any of the initial candidates recommended by the board.

(b) The list may contain the hiring preference of the board.

(c) The director is the administrative officer of the board and is charged with carrying out the duties and functions conferred on the director by the board, this subchapter, and other law.

(d) The director may hire employees as necessary to assist the board in performing its duties and functions.

Sec. 111.022. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the director and any employees employed under Section 111.021.

Sec. 111.023. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The director or the director's designee shall provide to members of the board and to any employees employed under Section 111.021, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

[Sections 111.024-111.040 reserved for expansion]

SUBCHAPTER C. REGULATION OF CERTAIN GUARDIANS

Sec. 111.041. STANDARDS FOR CERTAIN GUARDIANSHIPS AND ALTERNATIVES TO GUARDIANSHIP. (a) The board shall adopt minimum standards for:

(1) the provision of guardianship services or other similar but less restrictive types of assistance or services by:

(A) guardianship programs; and

(B) private professional guardians; and

(2) the provision of guardianship services by the Department of Aging and Disability Services.

(b) The board shall design the standards to protect the interests of an incapacitated person or other person needing assistance making decisions concerning the person's own welfare or financial affairs.

Sec. 111.042. CERTIFICATION REQUIRED FOR CERTAIN GUARDIANS.

(a) To provide guardianship services in this state, the following individuals must hold a certificate issued under this section:

(1) an individual who is a private professional guardian;

(2) an individual who will provide those services to a ward of a private professional guardian or the Department of Aging and Disability Services on the guardian's or department's behalf; and

(3) an individual, other than a volunteer, who will provide those services to a ward of a guardianship program on the program's behalf.

(b) An applicant for a certificate under this section must:

(1) apply to the board on a form prescribed by the board; and

(2) submit with the application a nonrefundable application fee in an amount determined by the board, subject to the approval of the supreme court.

(c) The supreme court may adopt rules and procedures for issuing a certificate and for renewing, suspending, or revoking a certificate issued under this section. Any rules adopted by the supreme court under this section must:

(1) ensure compliance with the standards adopted under Section 111.041;

(2) provide that the board establish qualifications for obtaining and maintaining certification;

(3) provide that the board issue certificates under this section;

(4) provide that a certificate expires on the second anniversary of the date the certificate is issued;

(5) prescribe procedures for accepting complaints and conducting investigations of alleged violations of the minimum standards adopted under Section 111.041 or other terms of the certification by certificate holders; and

(6) prescribe procedures by which the board, after notice and hearing, may suspend or revoke the certificate of a holder who fails to substantially comply with appropriate standards or other terms of the certification.

(d) If the requirements for issuing a certificate under this section include passage of an examination covering guardianship education requirements:

(1) the board shall develop and the director shall administer the examination; or

(2) the board shall direct the director to contract with another person or entity the board determines has the expertise and resources to develop and administer the examination.

(e) In lieu of the certification requirements imposed under this section, the board may issue a certificate to an individual to engage in business as a guardian or to provide guardianship services in this state if the individual:

(1) submits an application to the board in the form prescribed by the board;

(2) pays a fee in a reasonable amount determined by the board, subject to the approval of the supreme court;

(3) is certified, registered, or licensed as a guardian by a national organization or association the board determines has requirements at least as stringent as those prescribed by the board under this subchapter; and

(4) is in good standing with the organization or association with whom the person is licensed, certified, or registered.

(f) An application fee or other fee collected under this section shall be deposited to the credit of the guardianship certification account in the general revenue fund and may be appropriated only to the Office of Court Administration for the administration and enforcement of this chapter.

(g) The Texas Department of Licensing and Regulation shall advise and assist the board as necessary in administering the certification process established under this section.

Sec. 111.043. INFORMATION FROM PRIVATE PROFESSIONAL GUARDIANS. In addition to the information submitted under Section 697(e), Texas Probate Code, the director may require a private professional guardian or a person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian to submit information considered necessary to monitor the person's compliance with the applicable standards adopted under Section 111.041 or with the certification requirements of Section 111.042.

Sec. 111.044. ANNUAL DISCLOSURE. Not later than January 31 of each year, each guardianship program and private professional guardian shall provide to the board a report containing for the preceding year:

(1) the total number of wards served by the guardianship program or private professional guardian, as applicable;

(2) the total amount of money received from this state for the provision of guardianship services; and

(3) the total amount of money received from any other public source, including a county or the federal government, for the provision of guardianship services.

SECTION 3. _____. PROPOSED RULES AND PROCEDURES. Not later than March 1, 2006, the Guardianship Certification Board established under Chapter 111, Government Code, as added by this Act, shall develop rules and procedures for consideration by the supreme court as required by Chapter 111, Government Code, as added by this Act.

SECTION 3. _____. APPOINTMENT OF BOARD MEMBERS. (a) As soon as practicable after the effective date of this Act, the presiding judge of the statutory probate courts shall appoint 11 members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the presiding judge shall designate three members for terms expiring February 1, 2007, four members for terms expiring February 1, 2009, and four members for terms expiring February 1, 2011.

(b) As soon as practicable after the effective date of this Act, the supreme court shall appoint four members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the supreme court shall designate two members for terms expiring February 1, 2007, one member for a term expiring February 1, 2009, and one member for a term expiring February 1, 2011.

SECTION 3. _____. EFFECTIVE DATE OF CERTIFICATION. A person is not required to hold a certificate issued under Subchapter C, Chapter 111, Government Code, as added by this Act, to provide or continue to provide guardianship services to a ward before September 1, 2007.

Floor Amendment No. 52

Amend **CSSB 6** in SECTION 2.09 of the bill by striking added Section 48.208(e-1), Human Resources Code (House committee printing, page 115, lines 14-27, and page 116, lines 1-2), and substituting the following:

(e-1) The court may extend an emergency order issued under this section once for an additional period not to exceed 14 days and may extend an extension issued under this section for an additional period not to exceed an additional 14 days if the court receives a medical report signed by a physician stating that the person is physically or mentally incapable of consenting to services and the court, after a hearing, finds that the immediate danger to the health or safety of the elderly or disabled person continues to exist. The medical report must be based on an examination the physician performed not earlier than the date the court granted the initial emergency order. An extension order ~~may be removed for not more than 14 additional days. A renewal order~~ that ends on a Saturday, Sunday or legal holiday is automatically extended to 4 p.m. on the first succeeding business day. The court may shorten the term of ~~modify~~ or terminate the emergency order on petition of the department, the elderly or disabled ~~incapacitated~~ person, or any person interested in the elderly or disabled person's ~~his~~ welfare.

Amendment No. 54

Amend **CSSB 6** as follows.

SECTION 1. Section 42.073(c), Human Resources Code, is amended to read as follows:

(c) An order is valid for 30 days after the effective date of the order.

SECTION 2. Section 42.073(c), Human Resources Code, as amended by this Act, applies only to an order suspending a license, listing, or registration issued on or after the effective date of this Act. An order issued before the effective date of this Act is governed by law in effect on the date the order was issued, and the former law is continued in effect for that purpose.

Floor Amendment No. 55

Amend **CSSB 6** in Article 1 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION 1. (a) Section 42.052, Human Resources Code, is amended by adding Subsection (l) to read as follows:

(l) The department may create a tiered child-care licensing system that allows child-care facilities to voluntarily obtain licensure levels that require higher child-care quality than the department's minimum licensing standards. The executive commissioner shall adopt rules regarding the system. In adopting the rules, the executive commissioner may consider:

(1) standards used for determining reimbursement rates under the designated vendor program as provided by Section 2308.315, Government Code; and

(2) standards used in the quality rating system under Section 29.160, Education Code.

(b) The Department of Family and Protective Services shall develop recommendations regarding incentives for child-care facilities to voluntarily obtain higher levels of licensure created under Section 42.052(l), Human Resources Code, as added by this section. Not later than November 1, 2006, the department shall report those recommendations to the legislature.

Floor Amendment No. 56

Amend **CSSB 6** by adding to the transitional material the following appropriately numbered section and renumbering subsequent sections of the bill accordingly:

SECTION _____. (a) In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Health and human services agencies" has the meaning assigned by Section 531.001, Government Code.

(3) "Training for child protective services" means training administered by a state agency or an institution of higher education that is provided to individuals working or interested in working in the field of child protective services and that is intended to assist the individuals in performing that work more effectively or efficiently.

(b) The commission shall study the feasibility of providing a financial incentive to individuals to assist the individuals in receiving training for child protective services.

(c) The study must:

(1) consider the feasibility of creating a private foundation to solicit and receive money that will be used to assist those individuals;

(2) consider possible means of providing a financial incentive, including educational or living stipends or reimbursement of tuition costs, to assist those individuals and determine the most effective means to deliver the incentives;

(3) suggest criteria that those individuals must meet to receive the financial incentives;

(4) estimate the initial cost and annual cost to this state of providing the financial incentives to those individuals; and

(5) estimate the savings and costs associated with improved training of those individuals that may result from providing the financial incentives.

(d) In conducting the study under Subsection (b) of this section, the commission may cooperate as necessary with any appropriate state agency.

(e) Not later than September 1, 2006, the commission shall report the results of the study to the standing committees of the senate and house of representatives with primary jurisdiction over health and human services programs or appropriations.

Floor Amendment No. 57

Amend **CSSB 6** in Article 1 of the bill, by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS in that article accordingly:

SECTION 1.__. Section 262.2015(b), Family Code, is amended to read as follows:

(b) The court may find under Subsection (a) that a parent has subjected the child to aggravated circumstances if:

(1) the parent abandoned the child without identification or a means for identifying the child;

(2) the child is a victim of serious bodily injury or sexual abuse inflicted by the parent or by another person with the parent's consent;

(3) the parent has engaged in conduct against the child that would constitute an offense under the following provisions of the Penal Code:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

(C) Section 19.04 (manslaughter);

(D) Section 21.11 (indecent with a child);

(E) Section 22.011 (sexual assault);

(F) Section 22.02 (aggravated assault);

(G) Section 22.021 (aggravated sexual assault);

(H) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(I) Section 22.041 (abandoning or endangering child);

(J) Section 25.02 (prohibited sexual conduct);

(K) Section 43.25 (sexual performance by a child); or

(L) Section 43.26 (possession or promotion of child pornography);

(4) the parent voluntarily left the child alone or in the possession of another person not the parent of the child for at least six months without expressing an intent to return and without providing adequate support for the child;

(5) the parent's parental rights with regard to another child have been involuntarily terminated based on a finding that the parent's conduct violated Section 161.001(1)(D) or (E) or a substantially equivalent provision of another state's law; ~~[or]~~

(6) the parent has been convicted for:

(A) the murder of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1111(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;

(B) the voluntary manslaughter of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1112(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;

(C) aiding or abetting, attempting, conspiring, or soliciting an offense under Subdivision (A) or (B); or

(D) the felony assault of the child or another child of the parent that resulted in serious bodily injury to the child or another child of the parent; or

(7) the parent's parental rights with regard to two other children have been involuntarily terminated.

Floor Amendment No. 58

Amend **CSSB 6** in Article 1 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION 1. __. (a) Section 42.056, Human Resources Code, is amended by adding Subsections (a-1), (d), (e), and (f) and amending Subsection (b) to read as follows:

(a-1) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a residential child-care facility shall submit to the department for use in conducting background and criminal history checks the name of each prospective employee who will provide direct care or have direct access to a child in the residential child-care facility.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsections [Subsection] (a) and (a-1);

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, and [or] by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) A person described by Subsection (a) or (a-1) may not provide direct care or have direct access to a child in a residential child-care facility before completion of the person's background check and criminal history check.

(e) The department shall provide the results of a background or criminal history check conducted under this section regarding a prospective employee to a director, owner, or operator of a residential child-care facility within 24 hours. If the residential

child-care facility does not receive the results of the background or criminal history check within that time, the facility may obtain that information for the facility's employee, subcontractor, or volunteer directly from the Department of Public Safety. If the information obtained verifies that the person does not have a criminal record, the facility may allow the person to have unsupervised client contact until the department has performed the department's own criminal history check and notified the facility.

(f) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a residential child-care facility to the person submitting the request.

(b) The director, owner, or operator of a residential child-care facility shall begin providing information to the Department of Family and Protective Services as required by Subsection (a-1), Section 42.056, Human Resources Code, as added by this section, as soon as possible after the effective date of this section and not later than January 1, 2006.

Floor Amendment No. 59

Amend **CSSB 6** in Article 1 of the bill (committee printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION 1. __. (a) Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0186 to read as follows:

Art. 102.0186. ADDITIONAL COSTS ATTENDANT TO CERTAIN CHILD SEXUAL ASSAULT AND RELATED CONVICTIONS. (a) A person convicted of an offense under Sections 21.11, 22.011(a)(2), 22.021(a)(1)(B), 43.25, 43.251, or 43.26, Penal Code, shall pay \$100 on conviction of the offense.

(b) Costs imposed under this article are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or receives deferred adjudication for the offense.

(c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county child abuse prevention fund. A fund designated by this subsection may be used only to fund child abuse prevention programs in the county where the court is located.

(d) The county child abuse prevention fund shall be administered by or under the direction of the commissioners court.

(b) The change in law made by this section applies only to an offense committed on or after the effective date of this section. An offense committed before the effective date of this section is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this section if any element of the offense was committed before that date.

SECTION 1. __. Section 102.021, Government Code, is amended to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION. A person convicted of an offense shall pay, in addition to all other costs:

- (1) court costs on conviction of a felony (Sec. 133.102, Local Government Code) ... \$133;
- (2) court costs on conviction of a Class A or Class B misdemeanor (Sec. 133.102, Local Government Code) ... \$83;
- (3) court costs on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.102, Local Government Code) ... \$40;
- (4) court costs on certain convictions in statutory county courts (Sec. 51.702, Government Code) ... \$15;
- (5) court costs on certain convictions in certain county courts (Sec. 51.703, Government Code) ... \$15;
- (6) a time payment fee if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Sec. 133.103, Local Government Code) ... \$25;
- (7) a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) ... \$25;
- (8) fees for services of peace officer:
 - (A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) ... \$5;
 - (B) executing or processing an issued arrest warrant or capias (Art. 102.011, Code of Criminal Procedure) ... \$50;
 - (C) summoning a witness (Art. 102.011, Code of Criminal Procedure) ... \$5;
 - (D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) ... \$35;
 - (E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) ... \$10;
 - (F) commitment or release (Art. 102.011, Code of Criminal Procedure) ... \$5;
 - (G) summoning a jury (Art. 102.011, Code of Criminal Procedure) ... \$5;
 - (H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) ... \$8 each day;
 - (I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) ... \$0.29 per mile; and
 - (J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) ... not to exceed \$5;
- (9) services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal Procedure) ... \$10 per day or part of a day, plus actual necessary travel expenses;

(10) overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) ... actual cost;

(11) court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) ... \$25;

(12) court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) ... \$25;

(13) court costs on an offense of truancy or contributing to truancy (Art. 102.014, Code of Criminal Procedure) ... \$20;

(14) cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) ... \$15;

(15) cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) ... actual cost;

(16) additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care systems (Art. 102.0185, Code of Criminal Procedure) ... \$100;

(16A) additional costs attendant to certain child sexual assault and related convictions, for child abuse prevention programs (Art. 102.0186, Code of Criminal Procedure) ... \$100;

(17) cost for DNA testing for certain felonies (Art. 102.020, Code of Criminal Procedure) ... \$250;

(18) court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) ... \$50;

(19) court cost on conviction of a misdemeanor under Subtitle C, Title 7, Transportation Code (Sec. 542.403, Transportation Code) ... \$3;

(20) cost for impoundment of vehicle (Sec. 601.263, Transportation Code) ... \$15 per day; and

(21) a civil and criminal enforcement cost on conviction of an offense of, or related to, the nonpayment of a toll in certain counties (Sec. 284.2031, Transportation Code) ... \$1.

Floor Amendment No. 60

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered SECTION to that article and renumbering the subsequent SECTIONS of that article as appropriate:

SECTION ____. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.1064 to read as follows:

Sec. 264.1064. FOSTER PARENT DISQUALIFICATION. (a) The department shall require an applicant who is applying to serve as a foster parent or a foster parent whose performance is being evaluated by the department to state whether the applicant or foster parent is homosexual or bisexual.

(b) If the applicant or foster parent states that the applicant or foster parent is homosexual or bisexual, the department may not:

(1) allow the applicant to serve as a foster parent;

(2) place a child with the foster parent; or

(3) allow a child to remain in foster care with the foster parent.

(c) Notwithstanding an applicant's or foster parent's statement that the applicant or foster parent is not homosexual or bisexual, if the department determines after a reasonable investigation that an applicant or a foster parent is homosexual or bisexual, the department may not:

- (1) allow the applicant to serve as a foster parent;
- (2) place a child with the foster parent; or
- (3) allow a child to remain in foster care with the foster parent.

Floor Amendment No. 62

Amend **CSSB 6** in SECTION 1.44(a) of the bill by striking Section 264.755, Family Code (page 57, line 4 through page 58, line 14), and substituting the following:

Sec. 264.755. CAREGIVER ASSISTANCE AGREEMENT. (a) The department shall, subject to the availability of funds, enter into a caregiver assistance agreement with each relative or other designated caregiver to provide monetary assistance and additional support services to the caregiver. The monetary assistance and support services shall be based on a family's need, as determined by rules adopted by the executive commissioner.

(b) Monetary assistance provided under this section must include a one-time cash payment of not more than \$1,000 for each child placed with a caregiver. The cash payment must be provided on the initial placement of each child with the caregiver and is provided to assist the caregiver in purchasing essential child-care items such as furniture and clothing.

(c) Monetary assistance and additional support services provided under this section may include:

(1) case management services and training and information about the child's needs until the caregiver is appointed permanent managing conservator;

(2) referrals to appropriate state agencies administering public benefits or assistance programs for which the child, the caregiver, or the caregiver's family may qualify;

(3) family counseling not provided under the Medicaid program for the caregiver's family for a period not to exceed two years from the date of initial placement;

(4) if the caregiver meets the eligibility criteria determined by rules adopted by the executive commissioner, reimbursement of all child-care expenses incurred while the child is under 13 years of age, or under 18 years of age if the child has a developmental disability, and while the department is the child's managing conservator;

(5) if the caregiver meets the eligibility criteria determined by rules adopted by the executive commissioner, reimbursement of 50 percent of child-care expenses incurred after the caregiver is appointed permanent managing conservator of the child while the child is under 13 years of age, or under 18 years of age if the child has a developmental disability; and

(6) reimbursement of other expenses, as determined by rules adopted by the executive commissioner, not to exceed \$500 per year for each child.

Floor Amendment No. 63

Amend **CSSB 6** in Article 1 of the bill by adding the following appropriately numbered SECTION to the article and renumbering subsequent SECTIONS of the article accordingly:

SECTION 1. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.072 to read as follows:

Sec. 40.072. CHILD PROTECTIVE SERVICES LOCAL OVERSIGHT COUNCIL PILOT PROGRAM. (a) The executive commissioner by rule shall develop and the department shall implement a pilot program to create a child protective services local oversight council in Bexar County.

(b) The executive commissioner and the department shall provide for the appointment of council members so that the council is an effective multidisciplinary team. The council must include:

(1) the director of the child protective services region that includes Bexar County;

(2) local judges;

(3) representatives of local law enforcement and human services agencies;

(4) community leaders;

(5) child protective services division staff members; and

(6) a director of a local public health region or district that includes Bexar County.

(c) The council shall:

(1) review local child protective services matters, including:

(A) local fiscal and personnel decisions;

(B) case management services; and

(C) community relations development;

(2) recommend to the director of the child protective services region policies designed to:

(A) address local concerns regarding child abuse and neglect; and

(B) provide more efficient and effective service delivery in Bexar County; and

(3) review the implementation of policies recommended by the council under Subdivision (2).

(d) Not later than January 1, 2007, the department shall submit to the legislature a report concerning the effectiveness of the pilot program in reducing the incidence of child abuse and neglect in Bexar County.

(e) This section expires and the council is abolished September 1, 2007.

Floor Amendment No. 64

Amendment to **CSSB 6**, Section 1.45, page 60, line 16

(5) development of protocols for use of psychotropic medications for foster children based on the recommendations and best practices manual developed by an ad hoc work group consisting of experts from the fields of pharmacy, psychiatry, pediatrics, family practice, and internal medicine and staff from the commission.

Is amended to read:

No ad hoc working group, or other group or team set up to develop protocols for the use of psychotropic medications in foster children shall receive donations, gifts, or other funding from pharmaceutical companies or other groups who could be understood to have a financial stake in the use of such medications. No member of any team for developing psychotropic drug protocols shall have:

(a) a history of employment by a pharmaceutical company in the past three years;

(b) a financial interest in a pharmaceutical company;

(c) or shall have conducted studies, clinical trials, or other activities funded by a pharmaceutical company for at least three years.

The amendments were read.

Senator Nelson moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 6** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Nelson, Chair; Janek, Shapleigh, Lindsay, and Zaffirini.

CONCLUSION OF MORNING CALL

The President at 11:46 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 1022 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1022** at this time on its second reading:

CSSB 1022, Relating to the creation of the Bee Cave Development District; providing authority to impose a tax and issue a bond or similar obligation.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1022** (committee printing) as follows:

(1) Strike added Section 3840.052, Special District Local Laws Code (page 2, line 64, through page 3, line 1), and substitute the following:

Sec. 3840.052. APPOINTMENT. (a) The governing body of the Village of Bee Cave shall appoint directors as provided by Subchapter D, Chapter 375, Local Government Code, except that to be qualified to serve as a director, a person must be at least 18 years of age and:

- (1) a resident of the Village of Bee Cave;
(2) an owner of property in the district;
(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;
(4) an owner of a beneficial interest in a trust that owns property in the district; or
(5) an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4).
(b) Sections 375.063 and 375.064(a)-(c) and (e), Local Government Code, do not apply to the district.

(2) Immediately following added Section 3840.105, Special District Local Laws Code (committee printing, page 4, between lines 26 and 27), insert the following:

Sec. 3840.106. HOTEL CONSTRUCTION PROHIBITED. (a) In this section, "hotel" has the meaning assigned by Section 156.001, Tax Code.

(b) The district may not build a hotel or finance or construct a facility or other improvement to enhance or benefit a hotel in the district. A hotel may not be connected to or use a facility or other improvement financed or constructed by the district.

(3) Immediately following added Section 3840.201, Special District Local Laws Code (committee printing, page 6, between lines 20 and 21), insert the following:

SUBCHAPTER F. ENFORCEMENT POWERS

Sec. 3840.251. INJUNCTIVE RELIEF. (a) If it appears that a person has violated or is violating or threatening to violate this chapter or a rule, permit, or other order of the district issued or adopted under this chapter, a resident of the Village of Bee Cave may institute an action in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation.

(b) On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter or a rule, permit, or other order of the district under this chapter, the district court shall grant injunctive relief as the facts warrant.

(c) Venue for an action seeking injunctive relief is in a district court in Travis County.

The amendment was read.

Senator Barrientos offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSSB 1022**, to read as follows:

- (1) On page 2, line 7, between "person" and "has" insert "or the district";
- (2) On page 2, line 11, between "person" and "from" insert "or the district" and
- (3) On page 2, line 14, between "person" and "is" insert "or the district".

The amendment to Floor Amendment No. 1 to **CSSB 1022** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 1022**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1022 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

COMMITTEE SUBSTITUTE SENATE BILL 1022 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1022** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

GUESTS PRESENTED

Senator Carona was recognized and introduced to the Senate a group of students from the Richardson Independent School District Capitol Scholars 2005 program.

The Senate welcomed its guests.

(Senator Armbrister in Chair)

SENATE BILL 1771 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1771** at this time on its second reading:

SB 1771, Relating to the voluntary regulation of persons providing certain ophthalmic goods and services.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1771** as follows:

(1) In SECTION 4 of the bill, in amended Section 352.153(b), Occupations Code (committee printing page 2, line 45), in Subsection (b)(1), strike "classroom" and substitute "[~~classroom~~]".

(2) In SECTION 4 of the bill, in amended Section 352.153(b), Occupations Code (committee printing page 2, line 48), in Subsection (b)(2), strike "classroom".

(3) In SECTION 4 of the bill, in amended Section 352.153(b), Occupations Code (committee printing page 2, line 51), in Subsection (b)(3), strike "classroom".

The amendment to **SB 1771** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 1771 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

SENATE BILL 1771 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1771** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

SENATE BILL 440 ON SECOND READING

Senator Ellis moved to suspend the regular order of business to take up for consideration **SB 440** at this time on its second reading:

SB 440, Relating to compensation for wrongful imprisonment.

The motion prevailed by the following vote: Yeas 19, Nays 8.

Yeas: Armbrister, Averitt, Barrientos, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hinojosa, Lucio, Madla, Seliger, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Nays: Brimer, Carona, Harris, Lindsay, Nelson, Ogden, Shapiro, Staples.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 440** on page 2 by striking lines 34-38 and substituting the following: "SECTION 8. This Act takes effect September 1, 2007."

The amendment to **SB 440** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 440 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Brimer, Carona, Fraser, Harris, Lindsay, Nelson, Ogden, Shapiro, Staples.

Absent-excused: Jackson, Janek, Wentworth, Williams.

MOTION TO PLACE SENATE BILL 440 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 440** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 18, Nays 9. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Averitt, Barrientos, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hinojosa, Lucio, Madla, Seliger, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Nays: Brimer, Carona, Fraser, Harris, Lindsay, Nelson, Ogden, Shapiro, Staples.

Absent-excused: Jackson, Janek, Wentworth, Williams.

SENATE BILL 867 ON SECOND READING

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 867** at this time on its second reading:

SB 867, Relating to the application of the motor vehicle sales tax emissions reduction surcharge on certain recreational vehicles.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

SENATE BILL 867 ON THIRD READING

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 867** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1740 ON SECOND READING**

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1740** at this time on its second reading:

CSSB 1740, Relating to construction activities allowed while an application is pending with the Texas Commission on Environmental Quality.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 1740 ON THIRD READING**

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1740** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 39 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 39** at this time on its second reading:

CSSB 39, Relating to continuing education in forensic evidence collection for certain physicians and nurses.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 39 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 39** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1130 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1130** at this time on its second reading:

CSSB 1130, Relating to a requirement that a common carrier or pipeline owner or operator report contamination.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1130** as follows:

(1) In SECTION 1 of the bill, at the end of proposed Subsection (b), Section 81.056, Natural Resources Code (committee printing page 1, line 29), add the following:

Petroleum-based contamination of soil or water that is observed or detected is required to be reported under this subsection if:

(1) hydrocarbons are present on the surface of the water;

(2) at least five linear yards of soil have been affected by hydrocarbons; or

(3) soil affected by hydrocarbons extends beyond the face of the excavation

in which the contamination is observed or detected.

(2) In SECTION 1 of the bill, in proposed Section 81.056, Natural Resources Code, strike Subsection (d) of that section (page 1, lines 38-42) and reletter the subsequent subsections of that section and cross-references to those subsections accordingly.

The amendment to **CSSB 1130** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1130**, committee printing, in SECTION 1 of the bill, Section 81.056(b), Natural Resources Code, on page 1, line 26, after "in proximity to the pipeline" and before ", the common carrier" by adding "and in an amount exceeding five barrels".

The amendment was read.

Senator Ogden withdrew Floor Amendment No. 2.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1130 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 1130 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1130** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

SENATE BILL 629 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **SB 629** at this time on its second reading:

SB 629, Relating to the rights of a purchaser under an executory contract for conveyance of real property.

The motion prevailed.

Senator Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 629** (Senate committee printing), by striking SECTION 2 of the bill (page 1, lines 25-37), and substituting the following:

SECTION 2. Section 5.062, Property Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) This subchapter applies only to a transaction involving an executory contract for conveyance of real property used or to be used as the purchaser's residence or as the residence of a person related to the purchaser within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code. For purposes of this subchapter, and only for the purposes of this subchapter:

(1) [·] a lot measuring one acre or less is presumed to be residential property; and

(2) an option to purchase real property that includes or is combined or executed concurrently with a residential lease agreement, together with the lease, is considered an executory contract for conveyance of real property.

(e) Sections 5.066, 5.067, 5.071, 5.075, 5.081, and 5.082 do not apply to an executory contract described by Subsection (a)(2).

The amendment to **SB 629** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 629** (Senate committee printing) as follows:

(1) In SECTION 5 of the bill, in added Subdivision (1), Subsection (b), Section 5.085, Property Code (page 4, line 7), strike "or".

(2) In SECTION 5 of the bill, in added Subdivision (2), Subsection (b), Section 5.085, Property Code (page 4, line 10), strike the period and substitute:

; or

(3) placed on the property by the seller prior to the execution of the contract in exchange for a loan used only to purchase the property if:

(A) the seller, not later than the third day before the date the contract is executed, notifies the purchaser in a separate written disclosure:

(i) of the name, address, and phone number of the lienholder or, if applicable, servicer of the loan;

(ii) of the loan number and outstanding balance of the loan;

(iii) of the monthly payments due on the loan and the due date of those payments; and

(iv) in 14-point type that, if the seller fails to make timely payments to the lienholder, the lienholder may attempt to collect the debt by foreclosing on the lien and selling the property at a foreclosure sale;

(B) the lien:

(i) is attached only to the property sold to the purchaser under the contract; and

(ii) secures indebtedness that, at no time, is or will be greater in amount than the amount of the total outstanding balance owed by the purchaser under the executory contract;

(C) the lienholder:

(i) does not prohibit the property from being encumbered by an executory contract; and

(ii) consents to verify the status of the loan on request of the purchaser and to accept payments directly from the purchaser if the seller defaults on the loan; and

(D) the following covenants are placed in the executory contract:

(i) a covenant that obligates the seller to make timely payments on the loan and to give monthly statements to the purchaser reflecting the amount paid to the lienholder, the date the lienholder receives the payment, and the information described by Paragraph (A);

(ii) a covenant that obligates the seller, not later than the third day the seller receives or has actual knowledge of a document or an event described by this subparagraph, to notify the purchaser in writing in 14-point type that the seller has been sent a notice of default, notice of acceleration, or notice of foreclosure or has been sued in connection with a lien on the property and to attach a copy of all related documents received to the written notice; and

(iii) a covenant that warrants that if the seller does not make timely payments on the loan or any other indebtedness secured by the property, the purchaser may, without notice, cure any deficiency with a lienholder directly and deduct from the total outstanding balance owed by the purchaser under the executory contract, without the necessity of judicial action, 150 percent of any amount paid to the lienholder.

The amendment to **SB 629** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **SB 629** (Senate committee printing) in Subsection (a), SECTION 6 of the bill (page 4, lines 28-30), by striking "in effect on the effective date of this Act, regardless of the date on which the purchaser and seller entered into the contract" and substituting "entered into on or after January 1, 2006".

The amendment to **SB 629** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 4

Amend **SB 629** (Senate committee printing) in SECTION 5 of the bill, in added Section 5.085, Property Code (page 4, between lines 25 and 26), by inserting the following new Subsection (d):

(d) A seller is not liable under this section if:

(1) a lien is placed on the property by a person other than the seller; and

(2) not later than the 30th day after the date the seller receives notice of the lien, the seller takes all steps necessary to remove the lien and has the lien removed from the property.

The amendment to **SB 629** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 629 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Nelson.

Absent-excused: Jackson, Janek, Wentworth, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 127 ON SECOND READING**

Senator Lindsay moved to suspend the regular order of business to take up for consideration **CSSB 127** at this time on its second reading:

CSSB 127, Relating to disease control programs to reduce the risk of certain communicable diseases.

The motion prevailed.

Senators Brimer, Carona, Estes, Fraser, Harris, Nelson, Ogden, Seliger, Shapiro, and Staples asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by the following vote: Yeas 17, Nays 10.

Yeas: Armbrister, Averitt, Barrientos, Deuell, Duncan, Ellis, Eltife, Gallegos, Hinojosa, Lindsay, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Nays: Brimer, Carona, Estes, Fraser, Harris, Nelson, Ogden, Seliger, Shapiro, Staples.

Absent-excused: Jackson, Janek, Wentworth, Williams.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 809 ON SECOND READING**

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 809** at this time on its second reading:

CSSB 809, Relating to the Texas Health Insurance Risk Pool.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 809 ON THIRD READING**

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 809** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 474 ON SECOND READING**

Senator Barrientos moved to suspend the regular order of business to take up for consideration **CSSB 474** at this time on its second reading:

CSSB 474, Relating to safety regulations for certain extracurricular school activities.

The motion prevailed.

Senators Brimer, Eltife, Ogden, and Seliger asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 474** in Section 1 of the bill, between proposed Sections 33.202 and 33.203, Education Code (committee printing, page 2, between lines 3 and 4), by inserting the following:

Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an extracurricular athletic activity must complete the University Interscholastic League forms entitled "Preparticipation Physical Evaluation–Medical History" and "Acknowledgment of Rules." Each form must be signed by both the student and the student's parent or guardian.

(b) Each form described by Subsection (a) must clearly state that failure to accurately and truthfully answer all questions on a form required by statute or by the University Interscholastic League as a condition for participation in an extracurricular athletic activity subjects a signer of the form to penalties determined by the University Interscholastic League.

(c) The "Preparticipation Physical Evaluation–Medical History" form described by Subsection (a) must contain the following statement:

"An individual answering in the affirmative to any question relating to a possible cardiovascular health issue, as identified on the form, should be restricted from further participation until the individual is examined by the individual's primary care physician. Ultimately, the individual may need to be evaluated by a cardiologist and/or undergo cardiac testing (including an echocardiogram and/or other heart-related examination) based on the assessment by the primary care physician."

The amendment to **CSSB 474** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 474**, on page 3, lines 5-14 by striking SECTION 2 and substituting new SECTION 2, to read as follows:

"SECTION 2. Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.087 to read as follows:

Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL DEFIBRILLATORS. (a) Using existing funds and other resources available for the purpose, the agency and the University Interscholastic League shall jointly investigate the availability of federal, state, local, and private funds for purchasing automated external defibrillators, as defined by Section 779.001, Health and Safety Code, for use by University Interscholastic League member schools, and the possibility of receiving a bulk discount on such purchases

(b) The agency and the University Interscholastic League shall submit a report describing the findings of the investigation to the legislature not later than June 1, 2006.

(c) This section expires July 1, 2006.

The amendment to **CSSB 474** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Jackson, Janek, Wentworth, Williams.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 474 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Brimer, Eltife, Ogden, Seliger.

Absent-excused: Jackson, Janek, Wentworth, Williams.

COMMITTEE SUBSTITUTE SENATE BILL 474 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 474** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Harris, Hinojosa, Lindsay, Lucio, Madla, Nelson, Shapiro, Shapleigh, Staples, Van de Putte, West, Whitmire, Zaffirini.

Nays: Brimer, Eltife, Ogden, Seliger.

Absent-excused: Jackson, Janek, Wentworth, Williams.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 4. (Same as previous roll call)

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator West and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Subcommittee on Higher Education might meet and consider the following bills today:

SB 1208, SB 1701, SB 1844.

SENATE RULE 11.10(a) SUSPENDED (Public Notice of Committee Meetings)

On motion of Senator Lindsay and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Nominations might meet today.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 667 by Van de Putte, In memory of June W. Settlemyer of San Antonio.

SR 668 by Van de Putte, In memory of Raleigh "Bo" Mull, Jr., of San Antonio.

Congratulatory Resolutions

SR 694 by Zaffirini, Commending the citizens of Laredo who are celebrating El Día de los Niños.

SR 695 by Lucio, Recognizing Rita K. Roney for receiving the Woman of Distinction Award from the Girl Scouts-Tip of Texas Council.

SR 696 by Brimer, Recognizing James P. Zitrick on the occasion of his retirement from the Texas Air National Guard.

HCR 9 (Eltife), Honoring Green Acres Baptist Church in Tyler on its 50th anniversary.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:54 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

April 26, 2005

JURISPRUDENCE — **CSSB 837, CSSB 1410, CSSB 1377**

INTERGOVERNMENTAL RELATIONS — **CSSB 628, SB 645** (Amended), **CSSB 723, CSSB 768, CSSB 833, CSSB 1050, CSSB 1370, CSSB 1433, CSSB 1579, CSSB 1659, CSSB 1673, SB 1742** (Amended), **CSSB 1786, CSHB 304, CSHB 937, CSHB 1007**

NATURAL RESOURCES — **CSSB 948, CSSB 1165, CSSB 1665, CSSB 1794, SB 1225, CSSB 1798, SB 1870**

INTERGOVERNMENTAL RELATIONS — **CSSB 447**

NATURAL RESOURCES — **CSSB 3**

SENT TO GOVERNOR

April 26, 2005

SB 217, SB 734, SB 848, SCR 31