

1-1 By: Zaffirini S.B. No. 1880
 1-2 (In the Senate - Filed March 13, 2015; March 25, 2015, read
 1-3 first time and referred to Committee on Health and Human Services;
 1-4 April 23, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 23, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1880 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the authority of the Department of Family and
 1-22 Protective Services to investigate abuse, neglect, or exploitation
 1-23 of individuals receiving services from certain providers.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 48.002(a), Human Resources Code, is
 1-26 amended by adding Subdivision (11) to read as follows:

1-27 (11) "Home and community-based services" has the
 1-28 meaning assigned by Section 48.251.

1-29 SECTION 2. Section 48.002(b), Human Resources Code, as
 1-30 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 1-31 Session, 2015, is amended to read as follows:

1-32 (b) The definitions of "abuse," "neglect," ~~and~~
 1-33 "exploitation," and "an individual receiving services" adopted by
 1-34 the executive commissioner as prescribed by Section 48.251(b)
 1-35 [48.251] apply to an investigation of abuse, neglect, or
 1-36 exploitation conducted under Subchapter F ~~or H~~.

1-37 SECTION 3. Section 48.003, Human Resources Code, is amended
 1-38 to read as follows:

1-39 Sec. 48.003. INVESTIGATIONS IN NURSING FACILITIES ~~[HOMES]~~,
 1-40 ASSISTED LIVING FACILITIES, AND SIMILAR FACILITIES. (a) Except as
 1-41 provided by Subsection (c), this [This] chapter does not apply if
 1-42 the alleged or suspected abuse, neglect, or exploitation occurs in
 1-43 a facility licensed under Chapter 242 or 247, Health and Safety
 1-44 Code.

1-45 (b) Alleged or suspected abuse, neglect, or exploitation
 1-46 that occurs in a facility licensed under Chapter 242 or 247, Health
 1-47 and Safety Code, is governed by Chapter 260A, Health and Safety
 1-48 Code, except as otherwise provided by Subsection (c).

1-49 (c) Subchapter F applies to an investigation of alleged or
 1-50 suspected abuse, neglect, or exploitation in which a provider of
 1-51 home and community-based services is or may be alleged to have
 1-52 committed the abuse, neglect, or exploitation, regardless of
 1-53 whether the facility in which those services were provided is
 1-54 licensed under Chapter 242 or 247, Health and Safety Code.

1-55 SECTION 4. Sections 48.051(a) and (b), Human Resources
 1-56 Code, as amended by S.B. No. 219, Acts of the 84th Legislature,
 1-57 Regular Session, 2015, are amended to read as follows:

1-58 (a) Except as prescribed by Subsection (b), a person having
 1-59 cause to believe that an elderly person, a ~~or~~ person with a
 1-60 disability, or an individual receiving services from a provider as

2-1 described by Subchapter F is in the state of abuse, neglect, or
2-2 exploitation~~[, including a person with a disability who is~~
2-3 ~~receiving services as described by Section 48.252,]~~ shall report
2-4 the information required by Subsection (d) immediately to the
2-5 department.

2-6 (b) If a person has cause to believe that an elderly person
2-7 or a person with a disability, other than an individual ~~[a person~~
2-8 ~~with a disability]~~ receiving services from a provider as described
2-9 by Subchapter F ~~[Section 48.252]~~, has been abused, neglected, or
2-10 exploited in a facility operated, licensed, certified, or
2-11 registered by a state agency, the person shall report the
2-12 information to the state agency that operates, licenses, certifies,
2-13 or registers the facility for investigation by that agency.

2-14 SECTION 5. Section 48.103, Human Resources Code, is amended
2-15 by amending Subsection (a), as amended by S.B. No. 219, Acts of the
2-16 84th Legislature, Regular Session, 2015, and adding Subsection (c)
2-17 to read as follows:

2-18 (a) Except as otherwise provided by Subsection (c), on ~~[On]~~
2-19 determining after an investigation that an elderly person or a
2-20 person with a disability has been abused, exploited, or neglected
2-21 by an employee of a home and community support services agency
2-22 licensed under Chapter 142, Health and Safety Code, the department
2-23 shall:

2-24 (1) notify the state agency responsible for licensing
2-25 the home and community support services agency of the department's
2-26 determination;

2-27 (2) notify any health and human services agency, as
2-28 defined by Section 531.001, Government Code, that contracts with
2-29 the home and community support services agency for the delivery of
2-30 health care services of the department's determination; and

2-31 (3) provide to the licensing state agency and any
2-32 contracting health and human services agency access to the
2-33 department's records or documents relating to the department's
2-34 investigation.

2-35 (c) This section does not apply to an investigation of
2-36 alleged or suspected abuse, neglect, or exploitation in which a
2-37 provider, as defined by Section 48.251, is or may be alleged to have
2-38 committed the abuse, neglect, or exploitation. An investigation
2-39 described by this subsection is governed by Subchapter F.

2-40 SECTION 6. Section 48.151(e), Human Resources Code, is
2-41 amended to read as follows:

2-42 (e) This section does not apply to investigations conducted
2-43 under Subchapter F ~~[or H]~~.

2-44 SECTION 7. Section 48.201, Human Resources Code, as amended
2-45 by S.B. No. 219, Acts of the 84th Legislature, Regular Session,
2-46 2015, is amended to read as follows:

2-47 Sec. 48.201. APPLICATION OF SUBCHAPTER. Except as
2-48 otherwise provided, this subchapter does not apply to an
2-49 investigation conducted under Subchapter F ~~[or H]~~.

2-50 SECTION 8. Subchapter F, Chapter 48, Human Resources Code,
2-51 as amended by S.B. No. 219, Acts of the 84th Legislature, Regular
2-52 Session, 2015, is amended to read as follows:

2-53 SUBCHAPTER F. INVESTIGATIONS OF ABUSE, NEGLECT, OR EXPLOITATION OF
2-54 INDIVIDUALS RECEIVING SERVICES FROM CERTAIN PROVIDERS ~~[IN CERTAIN~~
2-55 ~~FACILITIES, COMMUNITY CENTERS, AND LOCAL MENTAL HEALTH AND~~
2-56 ~~INTELLECTUAL AND DEVELOPMENTAL DISABILITY AUTHORITIES]~~

2-57 Sec. 48.251. DEFINITIONS. (a) In this subchapter:

2-58 (1) "Behavioral health services" means:

2-59 (A) mental health services, as defined by Section
2-60 531.002, Health and Safety Code; and

2-61 (B) interventions provided to treat chemical
2-62 dependency, as defined by Section 461A.002, Health and Safety Code.

2-63 (2) "Community center" has the meaning assigned by
2-64 Section 531.002, Health and Safety Code.

2-65 (3) "Facility" means:

2-66 (A) a facility listed in Section 532.001(b) or
2-67 532A.001(b), Health and Safety Code, including community services
2-68 operated by the Department of State Health Services or Department
2-69 of Aging and Disability Services, as described by those sections,

3-1 or a person contracting with a health and human services agency to
 3-2 provide inpatient mental health services; and
 3-3 (B) a facility licensed under Chapter 252, Health
 3-4 and Safety Code.
 3-5 (4) "Health and human services agency" has the meaning
 3-6 assigned by Section 531.001, Government Code.
 3-7 (5) "Home and community-based services" means
 3-8 services provided in the home or community in accordance with 42
 3-9 U.S.C. Section 1315, 42 U.S.C. Section 1315a, 42 U.S.C. Section
 3-10 1396a, or 42 U.S.C. Section 1396n, and as otherwise provided by
 3-11 department rule.
 3-12 (6) "Local intellectual and developmental disability
 3-13 authority" has the meaning assigned by Section 531.002, Health and
 3-14 Safety Code.
 3-15 (7) "Local mental health authority" has the meaning
 3-16 assigned by Section 531.002, Health and Safety Code.
 3-17 (8) "Managed care organization" has the meaning
 3-18 assigned by Section 533.001, Government Code.
 3-19 (9) "Provider" means:
 3-20 (A) a facility;
 3-21 (B) a community center, local mental health
 3-22 authority, and local intellectual and developmental disability
 3-23 authority;
 3-24 (C) a person who contracts with a health and
 3-25 human services agency or managed care organization to provide home
 3-26 and community-based services;
 3-27 (D) a person who contracts with a Medicaid
 3-28 managed care organization to provide behavioral health services;
 3-29 (E) a managed care organization;
 3-30 (F) an officer, employee, agent, contractor, or
 3-31 subcontractor of a person or entity listed in Paragraphs (A)-(E);
 3-32 and
 3-33 (G) an employee, fiscal agent, case manager, or
 3-34 service coordinator of an individual employer participating in the
 3-35 consumer-directed service option, as defined by Section 531.051,
 3-36 Government Code.
 3-37 (b) The executive commissioner by rule shall adopt
 3-38 definitions of "abuse," "neglect," "exploitation," and "an
 3-39 individual receiving services" for purposes of this subchapter and
 3-40 ["exploitation to govern] investigations conducted under this
 3-41 subchapter [and Subchapter H].
 3-42 Sec. 48.252. INVESTIGATION OF REPORTS OF ABUSE, NEGLECT, OR
 3-43 EXPLOITATION BY PROVIDER [IN CERTAIN FACILITIES AND IN COMMUNITY
 3-44 CENTERS]. (a) The department shall receive and, except as
 3-45 provided by Subsection (b), shall investigate under this subchapter
 3-46 reports of the abuse, neglect, or exploitation of an individual
 3-47 [with a disability] receiving services if the person alleged or
 3-48 suspected to have committed the abuse, neglect, or exploitation is
 3-49 a provider [+
 3-50 (1) in:
 3-51 [(A) a mental health facility operated by the
 3-52 Department of State Health Services; or
 3-53 [(B) a facility licensed under Chapter 252,
 3-54 Health and Safety Code;
 3-55 (2) in or from a community center, a local mental
 3-56 health authority, or a local intellectual and developmental
 3-57 disability authority; or
 3-58 (3) through a program providing services to that
 3-59 person by contract with a mental health facility operated by the
 3-60 Department of State Health Services, a community center, a local
 3-61 mental health authority, or a local intellectual and developmental
 3-62 disability authority].
 3-63 (b) The department may not [shall receive and shall]
 3-64 investigate under this subchapter reports of [the] abuse, neglect,
 3-65 or exploitation alleged or suspected to have been committed by a
 3-66 provider that is operated, licensed, certified, or registered by a
 3-67 state agency that has authority under this chapter or other law to
 3-68 investigate reports of abuse, neglect, or exploitation of an
 3-69 individual by the provider. The department shall forward any

4-1 report of abuse, neglect, or exploitation alleged or suspected to
4-2 have been committed by a provider described by this subsection to
4-3 the appropriate state agency for investigation [of an individual
4-4 with a disability receiving services.

4-5 ~~[(1) in a state supported living center or the ICF-IID~~
4-6 ~~component of the Rio Grande State Center, or~~

4-7 ~~[(2) through a program providing services to that~~
4-8 ~~person by contract with a state supported living center or the~~
4-9 ~~ICF-IID component of the Rio Grande State Center].~~

4-10 (c) The department shall receive and investigate under this
4-11 subchapter reports of abuse, neglect, or exploitation of an
4-12 individual who lives in a residence that is owned, operated, or
4-13 controlled by a provider who provides home and community-based
4-14 services under the home and community-based services waiver program
4-15 described by Section 534.001(11)(B), Government Code, regardless
4-16 of whether the individual is receiving services under that waiver
4-17 program from the provider. [The executive commissioner by rule
4-18 shall define who is "an individual with a disability receiving
4-19 services."

4-20 ~~[(d) In this section, "community center," "local mental~~
4-21 ~~health authority," and "local intellectual and developmental~~
4-22 ~~disability authority" have the meanings assigned by Section~~
4-23 ~~531.002, Health and Safety Code.]~~

4-24 Sec. 48.253. ACTION ON REPORT. (a) On receipt by the
4-25 department of a report of alleged abuse, neglect, or exploitation
4-26 under this subchapter, the department shall initiate a prompt and
4-27 thorough investigation as needed to evaluate the accuracy of the
4-28 report and to assess the need for emergency protective services,
4-29 unless the department, in accordance with rules adopted under this
4-30 subchapter, determines that the report:

4-31 (1) is frivolous or patently without a factual basis;
4-32 or

4-33 (2) does not concern abuse, neglect, or exploitation.

4-34 (b) After receiving a report that alleges that a provider is
4-35 or may be the person who committed the alleged abuse, neglect, or
4-36 exploitation, the department shall notify the provider and the
4-37 appropriate health and human services agency in accordance with
4-38 rules adopted by the executive commissioner.

4-39 (c) The provider identified under Subsection (b) shall:

4-40 (1) cooperate completely with an investigation
4-41 conducted under this subchapter; and

4-42 (2) provide the department complete access during an
4-43 investigation to:

4-44 (A) all sites owned, operated, or controlled by
4-45 the provider; and

4-46 (B) clients and client records.

4-47 (d) The executive commissioner shall adopt rules governing
4-48 investigations conducted under this subchapter.

4-49 Sec. 48.254. FORWARDING OF CERTAIN REPORTS. (a) The
4-50 executive commissioner by rule shall establish procedures for the
4-51 department to use to [In accordance with department rules, the
4-52 department shall] forward a copy of the initial intake report and a
4-53 copy of the completed provider investigation report relating to
4-54 alleged or suspected abuse, neglect, or exploitation to the
4-55 appropriate provider and health and human services agency
4-56 [facility, community center, local mental health authority, local
4-57 intellectual and developmental disability authority, or program
4-58 providing mental health or intellectual disability services under
4-59 contract with the facility, community center, or authority].

4-60 (b) The department shall redact from an initial intake
4-61 report and from the copy of the completed provider investigation
4-62 report any identifying information contained in the report relating
4-63 to the person who reported the alleged or suspected abuse, neglect,
4-64 or exploitation under Section 48.051.

4-65 (c) A provider that receives a completed investigation
4-66 report under Subsection (a) shall forward the report to the managed
4-67 care organization with which the provider contracts for services
4-68 for the alleged victim.

4-69 Sec. 48.255. RULES FOR INVESTIGATIONS UNDER THIS

5-1 SUBCHAPTER. (a) The executive commissioner [~~department, the~~
5-2 ~~Department of Aging and Disability Services, and the Department of~~
5-3 ~~State Health Services]~~ shall adopt [~~develop~~] rules to:

5-4 (1) prioritize investigations conducted under this
5-5 subchapter with the primary criterion being whether there is a risk
5-6 that a delay in the investigation will impede the collection of
5-7 evidence in that investigation;

5-8 (2) [~~facilitate investigations in state mental health~~
5-9 ~~facilities and state supported living centers.~~

5-10 [~~(b) The executive commissioner by rule shall]~~ establish
5-11 procedures for resolving disagreements between the department and
5-12 health and human services agencies [~~the Department of Aging and~~
5-13 ~~Disability Services or the Department of State Health Services]~~
5-14 concerning the department's investigation findings; and

5-15 (3) provide for an appeals process by the department
5-16 for the alleged victim of abuse, neglect, or exploitation.

5-17 (b) [~~(c) The department, the Department of Aging and~~
5-18 ~~Disability Services, and the Department of State Health Services~~
5-19 ~~shall develop and propose to the executive commissioner rules to~~
5-20 ~~facilitate investigations in community centers, local mental~~
5-21 ~~health authorities, and local intellectual and developmental~~
5-22 ~~disability authorities.~~

5-23 [~~(c-1) The executive commissioner shall adopt rules~~
5-24 ~~regarding investigations in a facility licensed under Chapter 252,~~
5-25 ~~Health and Safety Code, to ensure that those investigations are as~~
5-26 ~~consistent as practicable with other investigations conducted~~
5-27 ~~under this subchapter.~~

5-28 [~~(d)] A confirmed investigation finding by the department~~
5-29 ~~may not be changed by the administrator [a superintendent] of a~~
5-30 ~~[state mental health] facility, [by a director of a state supported~~
5-31 ~~living center, by a director of] a community center, [or by] a local~~
5-32 ~~mental health authority, or a local intellectual and developmental~~
5-33 ~~disability authority.~~

5-34 [~~(e) The executive commissioner shall provide by rule for an~~
5-35 ~~appeals process by the alleged victim of abuse, neglect, or~~
5-36 ~~exploitation under this section.~~

5-37 [~~(f) The executive commissioner by rule may assign~~
5-38 ~~priorities to an investigation conducted by the department under~~
5-39 ~~this section. The primary criterion used by the executive~~
5-40 ~~commissioner in assigning a priority must be the risk that a delay~~
5-41 ~~in the investigation will impede the collection of evidence.]~~

5-42 Sec. 48.256. SHARING PROVIDER INFORMATION. (a) The
5-43 executive commissioner shall adopt rules that prescribe the
5-44 appropriate manner in which health and human services agencies and
5-45 managed care organizations provide the department with information
5-46 necessary to facilitate identification of individuals receiving
5-47 services from providers and to facilitate notification of providers
5-48 by the department.

5-49 (b) The executive commissioner shall adopt rules requiring
5-50 a provider to provide information to the administering health and
5-51 human services agency necessary to facilitate identification by the
5-52 department of individuals receiving services from providers and to
5-53 facilitate notification of providers by the department.

5-54 (c) A provider of home and community-based services under
5-55 the home and community-based services waiver program described by
5-56 Section 534.001(11)(B), Government Code, shall post in a
5-57 conspicuous location inside any residence owned, operated, or
5-58 controlled by the provider in which home and community-based waiver
5-59 services are provided, a sign that states:

5-60 (1) the name, address, and telephone number of the
5-61 provider;

5-62 (2) the effective date of the provider's contract with
5-63 the applicable health and human services agency to provide home and
5-64 community-based services; and

5-65 (3) the name of the legal entity that contracted with
5-66 the applicable health and human services agency to provide those
5-67 services.

5-68 Sec. 48.257. RETALIATION PROHIBITED. (a) A provider of
5-69 home and community-based services may not retaliate against a

6-1 person for filing a report or providing information in good faith
6-2 relating to the possible abuse, neglect, or exploitation of an
6-3 individual receiving services.

6-4 (b) This section does not prohibit a provider of home and
6-5 community-based services from terminating an employee for a reason
6-6 other than retaliation.

6-7 Sec. 48.258. [SINGLE] TRACKING SYSTEM FOR REPORTS AND
6-8 INVESTIGATIONS. (a) The health and human services agencies
6-9 [department, the Department of Aging and Disability Services, and
6-10 the Department of State Health Services] shall, at the direction of
6-11 the executive commissioner, jointly develop and implement a
6-12 [single] system to track reports and investigations under this
6-13 subchapter.

6-14 (b) To facilitate implementation of the system, the health
6-15 and human services agencies [department, the Department of Aging
6-16 and Disability Services, and the Department of State Health
6-17 Services] shall use appropriate methods of measuring the number and
6-18 outcome of reports and investigations under this subchapter.

6-19 SECTION 9. Section 48.301, Human Resources Code, is amended
6-20 by amending Subsection (a), as amended by S.B. No. 219, Acts of the
6-21 84th Legislature, Regular Session, 2015, and adding Subsection
6-22 (a-1) to read as follows:

6-23 (a) If the department receives a report of suspected abuse,
6-24 neglect, or exploitation of an elderly person or a person with a
6-25 disability~~[, other than a person with a disability who is]~~
6-26 ~~receiving services [as described by Section 48.252,]~~ in a facility
6-27 operated, licensed, certified, or registered by a state agency, the
6-28 department shall refer the report to that agency.

6-29 (a-1) This subchapter does not apply to a report of
6-30 suspected abuse, neglect, or exploitation of an individual
6-31 receiving services from a provider as described by Subchapter F.

6-32 SECTION 10. Sections 48.401(1) and (3), Human Resources
6-33 Code, are amended to read as follows:

6-34 (1) "Agency" means:
6-35 (A) an entity licensed under Chapter 142, Health
6-36 and Safety Code;

6-37 (B) a person exempt from licensing under Section
6-38 142.003(a)(19), Health and Safety Code;

6-39 (C) a facility licensed under Chapter 252, Health
6-40 and Safety Code; or

6-41 (D) a provider [an entity] investigated by the
6-42 department under Subchapter F or under Section 261.404, Family
6-43 Code.

6-44 (3) "Employee" means a person who:
6-45 (A) works for:

6-46 (i) an agency; or
6-47 (ii) an individual employer participating

6-48 in the consumer-directed service option, as defined by Section
6-49 531.051, Government Code;

6-50 (B) provides personal care services, active
6-51 treatment, or any other ~~[personal]~~ services to an individual
6-52 receiving agency services, an individual who is a child for whom an
6-53 investigation is authorized under Section 261.404, Family Code, or
6-54 an individual receiving services through the consumer-directed
6-55 service option, as defined by Section 531.051, Government Code; and

6-56 (C) is not licensed by the state to perform the
6-57 services the person performs for the agency or the individual
6-58 employer participating in the consumer-directed service option, as
6-59 defined by Section 531.051, Government Code.

6-60 SECTION 11. The heading to Section 261.404, Family Code, as
6-61 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
6-62 Session, 2015, is amended to read as follows:

6-63 Sec. 261.404. INVESTIGATIONS REGARDING CERTAIN CHILDREN
6-64 RECEIVING SERVICES FROM CERTAIN PROVIDERS [WITH MENTAL ILLNESS OR
6-65 AN INTELLECTUAL DISABILITY].

6-66 SECTION 12. Section 261.404, Family Code, as amended by
6-67 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015,
6-68 is amended by amending Subsections (a) and (b) and adding
6-69 Subsections (a-1), (a-2), and (a-3) to read as follows:

7-1 (a) The department shall investigate a report of abuse,
 7-2 neglect, or exploitation of a child receiving services from a
 7-3 provider, as those terms are defined by Section 48.251, Human
 7-4 Resources Code, or as otherwise defined by rule. The department
 7-5 shall also investigate, under Subchapter F, Chapter 48, Human
 7-6 Resources Code, a report of abuse, neglect, or exploitation of a
 7-7 child receiving services from an officer, employee, agent,
 7-8 contractor, or subcontractor of a home and community support
 7-9 services agency licensed under Chapter 142, Health and Safety Code,
 7-10 if the officer, employee, agent, contractor, or subcontractor is or
 7-11 may be the person alleged to have committed the abuse, neglect, or
 7-12 exploitation[+]

7-13 ~~[(1) in a facility operated by the Department of Aging~~
 7-14 ~~and Disability Services or a mental health facility operated by the~~
 7-15 ~~Department of State Health Services;~~

7-16 ~~[(2) in or from a community center, a local mental~~
 7-17 ~~health authority, or a local intellectual and developmental~~
 7-18 ~~disability authority;~~

7-19 ~~[(3) through a program providing services to that~~
 7-20 ~~child by contract with a facility operated by the Department of~~
 7-21 ~~Aging and Disability Services, a mental health facility operated by~~
 7-22 ~~the Department of State Health Services, a community center, a~~
 7-23 ~~local mental health authority, or a local intellectual and~~
 7-24 ~~developmental disability authority;~~

7-25 ~~[(4) from a provider of home and community-based~~
 7-26 ~~services who contracts with the Department of Aging and Disability~~
 7-27 ~~Services; or~~

7-28 ~~[(5) in a facility licensed under Chapter 252, Health~~
 7-29 ~~and Safety Code].~~

7-30 (a-1) For an investigation of a child living in a residence
 7-31 owned, operated, or controlled by a provider of services under the
 7-32 home and community-based services waiver program described by
 7-33 Section 534.001(11)(B), Government Code, the department, in
 7-34 accordance with Subchapter E, Chapter 48, Human Resources Code, may
 7-35 provide emergency protective services necessary to immediately
 7-36 protect the child from serious physical harm or death and, if
 7-37 necessary, obtain an emergency order for protective services under
 7-38 Section 48.208, Human Resources Code.

7-39 (a-2) For an investigation of a child living in a residence
 7-40 owned, operated, or controlled by a provider of services under the
 7-41 home and community-based services waiver program described by
 7-42 Section 534.001(11)(B), Government Code, regardless of whether the
 7-43 child is receiving services under that waiver program from the
 7-44 provider, the department shall provide protective services to the
 7-45 child in accordance with Subchapter E, Chapter 48, Human Resources
 7-46 Code.

7-47 (a-3) For purposes of this section, Subchapters E and F,
 7-48 Chapter 48, Human Resources Code, apply to an investigation of a
 7-49 child and to the provision of protective services to that child in
 7-50 the same manner those subchapters apply to an investigation of an
 7-51 elderly person or person with a disability and the provision of
 7-52 protective services to that person.

7-53 (b) The department shall investigate the report under rules
 7-54 developed by the executive commissioner ~~[with the advice and~~
 7-55 ~~assistance of the department, the Department of Aging and~~
 7-56 ~~Disability Services, and the Department of State Health Services].~~

7-57 SECTION 13. Section 142.009(c), Health and Safety Code, is
 7-58 amended to read as follows:

7-59 (c) The department or its authorized representative shall
 7-60 investigate each complaint received regarding the provision of home
 7-61 health, hospice, or personal assistance services~~[, including any~~
 7-62 ~~allegation of abuse, neglect, or exploitation of a child under the~~
 7-63 ~~age of 18,]~~ and may, as a part of the investigation:

7-64 (1) conduct an unannounced survey of a place of
 7-65 business, including an inspection of medical and personnel records,
 7-66 if the department has reasonable cause to believe that the place of
 7-67 business is in violation of this chapter or a rule adopted under
 7-68 this chapter;

7-69 (2) conduct an interview with a recipient of home

8-1 health, hospice, or personal assistance services, which may be
8-2 conducted in the recipient's home if the recipient consents;

8-3 (3) conduct an interview with a family member of a
8-4 recipient of home health, hospice, or personal assistance services
8-5 who is deceased or other person who may have knowledge of the care
8-6 received by the deceased recipient of the home health, hospice, or
8-7 personal assistance services; or

8-8 (4) interview a physician or other health care
8-9 practitioner, including a member of the personnel of a home and
8-10 community support services agency, who cares for a recipient of
8-11 home health, hospice, or personal assistance services.

8-12 SECTION 14. Section 260A.002, Health and Safety Code, is
8-13 amended by adding Subsection (a-1) to read as follows:

8-14 (a-1) Notwithstanding any other provision of this chapter,
8-15 a report made under this section that a provider is or may be
8-16 alleged to have committed abuse, neglect, or exploitation of a
8-17 resident of a facility other than a prescribed pediatric extended
8-18 care center shall be investigated by the Department of Family and
8-19 Protective Services in accordance with Subchapter F, Chapter 48,
8-20 Human Resources Code, and this chapter does not apply to that
8-21 investigation. In this subsection, "facility" and "provider" have
8-22 the meanings assigned by Section 48.251, Human Resources Code.

8-23 SECTION 15. The following are repealed:

8-24 (1) Section 261.404(f), Family Code, as amended by
8-25 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015;
8-26 and

8-27 (2) Subchapter H, Chapter 48, Human Resources Code.

8-28 SECTION 16. This Act takes effect September 1, 2015.

8-29 * * * * *