

By: Wu

H.B. No. 39

Substitute the following for H.B. No. 39:

By: Minjarez

C.S.H.B. No. 39

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the child protective service functions of the
3 Department of Family and Protective Services.

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

5 SECTION 1. Section 264.1075, Family Code, is amended by
6 amending Subsection (b) and adding Subsection (c) to read as
7 follows:

8 (b) As soon as possible after a child is placed in the
9 managing conservatorship of the department [~~begins receiving~~
10 ~~foster care under this subchapter~~], the department shall assess
11 whether the child has a developmental or intellectual disability.

12 (c) If the assessment required by Subsection (b) indicates
13 that the child might have an intellectual disability, the
14 department shall ensure that a referral for a determination of
15 intellectual disability is made as soon as possible and that the
16 determination is conducted by an authorized provider before the
17 date of the child's 16th birthday, if practicable. If the child is
18 placed in the managing conservatorship of the department after the
19 child's 16th birthday, the determination of intellectual
20 disability must be conducted as soon as possible after the
21 assessment required by Subsection (b). In this subsection,
22 "authorized provider" has the meaning assigned by Section 593.004,
23 Health and Safety Code.

24 SECTION 2. Subchapter B, Chapter 264, Family Code, is

1 amended by adding Section 264.1076 to read as follows:

2 Sec. 264.1076. MEDICAL EXAMINATION REQUIRED. (a) This
3 section applies only to a child who has been taken into the
4 conservatorship of the department and remains in the
5 conservatorship of the department for more than three business days
6 other than a child admitted to an inpatient medical facility.

7 (b) The department shall ensure that each child described by
8 Subsection (a) is examined by and receives an initial medical
9 examination and a mental health screening from a physician or other
10 health care provider authorized under state law to conduct medical
11 examinations not later than the end of the third business day after
12 the date the child enters the conservatorship of the department or
13 not later than the seventh business day after the date the child
14 enters the conservatorship of the department, if the child is
15 located in a rural area, as that term is defined by Section 845.002,
16 Insurance Code.

17 (c) The department shall collaborate with the commission
18 and relevant medical practitioners to develop guidelines for the
19 medical examination conducted under this section, including
20 guidelines on the components to be included in the examination.

21 (d) Not later than December 31, 2019, the department shall
22 submit a report to the standing committees of the house of
23 representatives and the senate with primary jurisdiction over child
24 protective services and foster care evaluating the statewide
25 implementation of the medical examination required by this section.
26 The report must include the level of compliance with the
27 requirements of this section in each region of the state. This

1 subsection expires September 1, 2021.

2 SECTION 3. Subchapter B, Chapter 264, Family Code, is
3 amended by adding Section 264.1131 to read as follows:

4 Sec. 264.1131. FOSTER CARE PROVIDER RECRUITMENT PLAN. In
5 addition to foster parent recruitment from nonprofit organizations
6 and from organizations under Section 264.113, the department shall,
7 subject to the availability of funds, collaborate with current
8 foster and adoptive parents to develop and implement a foster care
9 provider recruitment plan. The plan must:

10 (1) use data analysis, social media, partnerships with
11 faith-based and volunteer organizations, and other strategies for
12 recruitment, including targeted and child-focused recruitment;

13 (2) identify the number of available foster care
14 providers for children with high needs in order to expand the use of
15 therapeutic or treatment foster care for children in those
16 placements;

17 (3) require the provision of:

18 (A) quality customer service to prospective and
19 current foster and adoptive parents; and

20 (B) assistance to prospective foster parents
21 with the certification and placement process;

22 (4) include strategies for increasing the number of
23 kinship providers;

24 (5) include strategies to ensure that children in
25 foster care do not have to transfer schools after entering foster
26 care, unless transferring is in the child's best interest; and

27 (6) include programs to support foster and adoptive

1 families, including programs that provide training, respite care,
2 and peer assistance.

3 SECTION 4. Subchapter B, Chapter 264, Family Code, is
4 amended by adding Section 264.1211 to read as follows:

5 Sec. 264.1211. CAREER DEVELOPMENT AND EDUCATION PROGRAM.

6 The department shall collaborate with foster care youth and local
7 workforce development boards, foster care transition centers,
8 community and technical colleges, schools, and any other
9 appropriate workforce industry resource to create a program that:

10 (1) assists foster care youth and former foster care
11 youth in obtaining:

12 (A) a high school diploma or a high school
13 equivalency certificate; and

14 (B) industry certifications necessary for high
15 demand occupations;

16 (2) provides career guidance to foster care youth and
17 former foster care youth; and

18 (3) informs foster care youth and former foster care
19 youth about:

20 (A) the tuition and fee waivers for institutions
21 of higher education that are available under Section 54.366,
22 Education Code; and

23 (B) available programs that provide housing
24 assistance, educational assistance, and any other service to assist
25 foster care youth and former foster care youth with transitioning
26 to independent living.

27 SECTION 5. Section 264.903, Family Code, is amended by

1 adding Subsection (a-1) to read as follows:

2 (a-1) The department shall expedite the evaluation of a
3 potential caregiver under this section to ensure that the child is
4 placed with a caregiver who has the ability to protect the child
5 from the alleged perpetrator of abuse or neglect against the child.

6 SECTION 6. Subchapter B, Chapter 402, Government Code, is
7 amended by adding Section 402.040 to read as follows:

8 Sec. 402.040. CHILD PROTECTIVE SERVICES LIAISON. For each
9 regional office of the Department of Family and Protective Services
10 that provides child protective services, the attorney general shall
11 appoint an employee to serve as a liaison to the department for that
12 regional office. The department is not required to provide the
13 liaison with an office in the department's regional office. The
14 liaison shall:

15 (1) serve as a point of contact for the attorney
16 general's office to increase communication between the regional
17 office and the attorney general's office;

18 (2) provide assistance to the regional office in
19 locating absent parents of children in the managing conservatorship
20 of the department; and

21 (3) provide to the regional office information in the
22 attorney general's child support database that will enable the
23 regional office to locate absent parents of children in the
24 managing conservatorship of the department.

25 SECTION 7. Sections 531.055(a), (b), and (e), Government
26 Code, are amended to read as follows:

27 (a) The Health and Human Services Commission, the

1 Department of Family and Protective Services, the Department of
2 State Health Services, the Texas Education Agency [~~Each health and~~
3 ~~human services agency~~], the Texas Correctional Office on Offenders
4 with Medical or Mental Impairments, the Texas Department of
5 Criminal Justice, the Texas Department of Housing and Community
6 Affairs, the Texas Workforce Commission, and the Texas Juvenile
7 Justice Department shall enter into a joint memorandum of
8 understanding to promote a system of local-level interagency
9 staffing groups to identify and coordinate services for persons
10 needing multiagency services. The division within the Health and
11 Human Services Commission that coordinates the policy and delivery
12 of mental health services shall oversee the development and
13 implementation of the joint memorandum of understanding.

14 (b) The memorandum must:

15 (1) clarify the statutory responsibilities of each
16 agency in relation to persons needing multiagency services,
17 including subcategories for different services such as:

18 (A) [~~prevention,~~] family preservation and
19 strengthening;

20 (B) physical and behavioral health care;

21 (C) prevention and early intervention services,
22 including services designed to prevent:

23 (i) child abuse;

24 (ii) neglect; or

25 (iii) delinquency, truancy, or school
26 dropout;

27 (D) diversion from juvenile or criminal justice

- 1 involvement;
2 (E) housing;
3 (F) [] aging in place;
4 (G) [] emergency shelter;
5 (H) [~~diagnosis and evaluation~~] residential
6 care;
7 (I) [] after-care;
8 (J) [] information and referral; [~~medical~~
9 ~~care~~] and
10 (K) investigation services;
11 (2) include a functional definition of "persons
12 needing multiagency services";
13 (3) outline membership, officers, and necessary
14 standing committees of local-level interagency staffing groups;
15 (4) define procedures aimed at eliminating
16 duplication of services relating to assessment and diagnosis,
17 treatment, residential placement and care, and case management of
18 persons needing multiagency services;
19 (5) define procedures for addressing disputes between
20 the agencies that relate to the agencies' areas of service
21 responsibilities;
22 (6) provide that each local-level interagency
23 staffing group includes:
24 (A) a local representative of each agency;
25 (B) representatives of local private sector
26 agencies; and
27 (C) family members or caregivers of persons

1 needing multiagency services or other current or previous consumers
2 of multiagency services acting as general consumer advocates;

3 (7) provide that the local representative of each
4 agency has authority to contribute agency resources to solving
5 problems identified by the local-level interagency staffing group;

6 (8) provide that if a person's needs exceed the
7 resources of an agency, the agency may, with the consent of the
8 person's legal guardian, if applicable, submit a referral on behalf
9 of the person to the local-level interagency staffing group for
10 consideration;

11 (9) provide that a local-level interagency staffing
12 group may be called together by a representative of any member
13 agency;

14 (10) provide that an agency representative may be
15 excused from attending a meeting if the staffing group determines
16 that the age or needs of the person to be considered are clearly not
17 within the agency's service responsibilities, provided that each
18 agency representative is encouraged to attend all meetings to
19 contribute to the collective ability of the staffing group to solve
20 a person's need for multiagency services;

21 (11) define the relationship between state-level
22 interagency staffing groups and local-level interagency staffing
23 groups in a manner that defines, supports, and maintains local
24 autonomy;

25 (12) provide that records that are used or developed
26 by a local-level interagency staffing group or its members that
27 relate to a particular person are confidential and may not be

1 released to any other person or agency except as provided by this
2 section or by other law; and

3 (13) provide a procedure that permits the agencies to
4 share confidential information while preserving the confidential
5 nature of the information.

6 (e) The agencies shall ensure that a state-level
7 interagency staffing group provides:

8 (1) information and guidance to local-level
9 interagency staffing groups regarding:

10 (A) the availability of programs and resources in
11 the community; and

12 (B) best practices for addressing the needs of
13 persons with complex needs; and

14 (2) a biennial report to the administrative head of
15 each agency, the legislature, and the governor that includes:

16 (A) [~~(1)~~] the number of persons served through
17 the local-level interagency staffing groups and the outcomes of the
18 services provided;

19 (B) [~~(2)~~] a description of any barriers
20 identified to the state's ability to provide effective services to
21 persons needing multiagency services; and

22 (C) [~~(3)~~] any other information relevant to
23 improving the delivery of services to persons needing multiagency
24 services.

25 SECTION 8. Section 552.117(a), Government Code, is amended
26 to read as follows:

27 (a) Information is excepted from the requirements of

1 Section 552.021 if it is information that relates to the home
2 address, home telephone number, emergency contact information, or
3 social security number of the following person or that reveals
4 whether the person has family members:

5 (1) a current or former official or employee of a
6 governmental body, except as otherwise provided by Section 552.024;

7 (2) a peace officer as defined by Article 2.12, Code of
8 Criminal Procedure, or a security officer commissioned under
9 Section 51.212, Education Code, regardless of whether the officer
10 complies with Section 552.024 or 552.1175, as applicable;

11 (3) a current or former employee of the Texas
12 Department of Criminal Justice or of the predecessor in function of
13 the department or any division of the department, regardless of
14 whether the current or former employee complies with Section
15 552.1175;

16 (4) a peace officer as defined by Article 2.12, Code of
17 Criminal Procedure, or other law, a reserve law enforcement
18 officer, a commissioned deputy game warden, or a corrections
19 officer in a municipal, county, or state penal institution in this
20 state who was killed in the line of duty, regardless of whether the
21 deceased complied with Section 552.024 or 552.1175;

22 (5) a commissioned security officer as defined by
23 Section 1702.002, Occupations Code, regardless of whether the
24 officer complies with Section 552.024 or 552.1175, as applicable;

25 (6) an officer or employee of a community supervision
26 and corrections department established under Chapter 76 who
27 performs a duty described by Section 76.004(b), regardless of

1 whether the officer or employee complies with Section 552.024 or
2 552.1175;

3 (7) a current or former employee of the office of the
4 attorney general who is or was assigned to a division of that office
5 the duties of which involve law enforcement, regardless of whether
6 the current or former employee complies with Section 552.024 or
7 552.1175;

8 (8) a current or former employee of the Texas Juvenile
9 Justice Department or of the predecessors in function of the
10 department, regardless of whether the current or former employee
11 complies with Section 552.024 or 552.1175;

12 (9) a current or former juvenile probation or
13 supervision officer certified by the Texas Juvenile Justice
14 Department, or the predecessors in function of the department,
15 under Title 12, Human Resources Code, regardless of whether the
16 current or former officer complies with Section 552.024 or
17 552.1175;

18 (10) a current or former employee of a juvenile
19 justice program or facility, as those terms are defined by Section
20 261.405, Family Code, regardless of whether the current or former
21 employee complies with Section 552.024 or 552.1175; ~~or~~

22 (11) a current or former member of the Texas military
23 forces, as that term is defined by Section 437.001; or

24 (12) a current or former employee of the Department of
25 Family and Protective Services, regardless of whether the employee
26 complies with Section 552.024 or 552.1175, or a current or former
27 employee of a department contractor performing services for the

1 contractor on behalf of the department.

2 SECTION 9. The heading to Section 552.1175, Government
3 Code, is amended to read as follows:

4 Sec. 552.1175. EXCEPTION: CONFIDENTIALITY OF CERTAIN
5 PERSONAL IDENTIFYING INFORMATION OF PEACE OFFICERS AND OTHER
6 OFFICIALS PERFORMING SENSITIVE GOVERNMENTAL FUNCTIONS [~~COUNTY~~
7 ~~JAILERS, SECURITY OFFICERS, EMPLOYEES OF CERTAIN CRIMINAL OR~~
8 ~~JUVENILE JUSTICE AGENCIES OR OFFICES, AND FEDERAL AND STATE~~
9 ~~JUDGES~~].

10 SECTION 10. Section 552.1175(a), Government Code, is
11 amended to read as follows:

12 (a) This section applies only to:

13 (1) peace officers as defined by Article 2.12, Code of
14 Criminal Procedure;

15 (2) county jailers as defined by Section 1701.001,
16 Occupations Code;

17 (3) current or former employees of the Texas
18 Department of Criminal Justice or of the predecessor in function of
19 the department or any division of the department;

20 (4) commissioned security officers as defined by
21 Section 1702.002, Occupations Code;

22 (5) employees of a district attorney, criminal
23 district attorney, or county or municipal attorney whose
24 jurisdiction includes any criminal law or child protective services
25 matters;

26 (6) officers and employees of a community supervision
27 and corrections department established under Chapter 76 who perform

1 a duty described by Section 76.004(b);

2 (7) criminal investigators of the United States as
3 described by Article 2.122(a), Code of Criminal Procedure;

4 (8) police officers and inspectors of the United
5 States Federal Protective Service;

6 (9) current and former employees of the office of the
7 attorney general who are or were assigned to a division of that
8 office the duties of which involve law enforcement;

9 (10) current or former juvenile probation and
10 detention officers certified by the Texas Juvenile Justice
11 Department, or the predecessors in function of the department,
12 under Title 12, Human Resources Code;

13 (11) current or former employees of a juvenile justice
14 program or facility, as those terms are defined by Section 261.405,
15 Family Code;

16 (12) current or former employees of the Texas Juvenile
17 Justice Department or the predecessors in function of the
18 department; ~~and~~

19 (13) federal judges and state judges as defined by
20 Section 13.0021, Election Code; and

21 (14) a current or former employee of the Department of
22 Family and Protective Services or a current or former employee of a
23 department contractor performing services for the contractor on
24 behalf of the department.

25 SECTION 11. Subchapter B, Chapter 40, Human Resources Code,
26 is amended by adding Sections 40.0327, 40.0328, and 40.036 to read
27 as follows:

1 Sec. 40.0327. NONPROFIT AGENCY SERVICES COORDINATOR. The
2 department shall designate an office as the nonprofit agency
3 services coordinator to serve as a liaison between the department
4 and nonprofit agencies that provide adoption services and
5 assistance to families in crisis and children in care.

6 Sec. 40.0328. CASEWORKER CASELOAD MANAGEMENT SYSTEM. (a)
7 The department shall manage the duties of caseworkers to maintain
8 the safety of children in child protective services by establishing
9 a caseload management system that:

10 (1) assesses the current and potential risk of harm
11 from abuse or neglect to each child in the department's care;

12 (2) determines the appropriate number of cases to be
13 assigned to a caseworker based on the risk assessment described by
14 Subdivision (1) for the children assigned to the caseworker; and

15 (3) limits the number of children with a higher risk
16 assessment that may be assigned to any one caseworker.

17 (b) The department shall:

18 (1) make risk assessment guidelines available to the
19 public and accessible on the department's Internet website; and

20 (2) disclose the results of the assessment for a child
21 to the court and each party to the case before the date the full
22 adversary hearing is held under Section 262.201, Family Code.

23 (c) Information relating to the assessment performed under
24 this section is inadmissible as evidence in a court.

25 Sec. 40.036. TRAUMA-BASED CARE TRAINING REQUIREMENT FOR
26 CASEWORKERS. The department shall ensure that each child
27 protective services caseworker who interacts with children on a

1 daily basis receives evidence-based training in trauma-based care.

2 SECTION 12. Subchapter C, Chapter 40, Human Resources Code,
3 is amended by adding Section 40.0523 to read as follows:

4 Sec. 40.0523. RESOURCES FOR CHILD PROTECTIVE SERVICES
5 CASES. The department shall collaborate with the Office of Court
6 Administration of the Texas Judicial System, the Supreme Court of
7 Texas Children's Commission, and any other appropriate interested
8 parties to compile and publish on the department's Internet website
9 resources, including links to other websites, for judges,
10 attorneys, and other persons involved in the child welfare system
11 to support consistent practices statewide.

12 SECTION 13. Subchapter C, Chapter 42, Human Resources Code,
13 is amended by adding Section 42.0533 to read as follows:

14 Sec. 42.0533. EMERGENCY PLACEMENT. The department, in
15 consultation with affected providers and other interested parties,
16 shall evaluate the need for and develop any necessary protocols and
17 any associated best practice standards for the temporary placement
18 of a child for not more than 30 days in a foster home, foster group
19 home, agency foster home, agency foster group home, or cottage home
20 to allow the child to remain in the child's community while the
21 department secures a safe and suitable long-term placement for the
22 child.

23 SECTION 14. Section 25.025(a), Tax Code, is amended to read
24 as follows:

- 25 (a) This section applies only to:
26 (1) a current or former peace officer as defined by
27 Article 2.12, Code of Criminal Procedure;

- 1 (2) a county jailer as defined by Section 1701.001,
2 Occupations Code;
- 3 (3) an employee of the Texas Department of Criminal
4 Justice;
- 5 (4) a commissioned security officer as defined by
6 Section 1702.002, Occupations Code;
- 7 (5) a victim of family violence as defined by Section
8 71.004, Family Code, if as a result of the act of family violence
9 against the victim, the actor is convicted of a felony or a Class A
10 misdemeanor;
- 11 (6) a federal judge, a state judge, or the spouse of a
12 federal judge or state judge;
- 13 (7) a current or former employee of a district
14 attorney, criminal district attorney, or county or municipal
15 attorney whose jurisdiction includes any criminal law or child
16 protective services matters;
- 17 (8) an officer or employee of a community supervision
18 and corrections department established under Chapter 76,
19 Government Code, who performs a duty described by Section 76.004(b)
20 of that code;
- 21 (9) a criminal investigator of the United States as
22 described by Article 2.122(a), Code of Criminal Procedure;
- 23 (10) a police officer or inspector of the United
24 States Federal Protective Service;
- 25 (11) a current or former United States attorney or
26 assistant United States attorney and the spouse and child of the
27 attorney;

1 (12) a current or former employee of the office of the
2 attorney general who is or was assigned to a division of that office
3 the duties of which involve law enforcement;

4 (13) a medical examiner or person who performs
5 forensic analysis or testing who is employed by this state or one or
6 more political subdivisions of this state;

7 (14) a current or former member of the United States
8 armed forces who has served in an area that the president of the
9 United States by executive order designates for purposes of 26
10 U.S.C. Section 112 as an area in which armed forces of the United
11 States are or have engaged in combat;

12 (15) a current or former employee of the Texas
13 Juvenile Justice Department or of the predecessors in function of
14 the department;

15 (16) a current or former juvenile probation or
16 supervision officer certified by the Texas Juvenile Justice
17 Department, or the predecessors in function of the department,
18 under Title 12, Human Resources Code; ~~and~~

19 (17) a current or former employee of a juvenile
20 justice program or facility, as those terms are defined by Section
21 [261.405](#), Family Code; and

22 (18) a current or former employee of the Department of
23 Family and Protective Services or a current or former employee of a
24 department contractor performing services for the contractor on
25 behalf of the department.

26 SECTION 15. (a) The changes in law made by this Act apply to
27 a suit affecting the parent-child relationship filed on or after

1 the effective date of this Act. A suit affecting the parent-child
2 relationship filed before the effective date of this Act is
3 governed by the law in effect on the date the suit was filed, and the
4 former law is continued in effect for that purpose.

5 (b) Section 264.1076, Family Code, as added by this Act,
6 applies only to a child who enters the conservatorship of the
7 Department of Family and Protective Services on or after the
8 effective date of this Act. A child who enters the conservatorship
9 of the Department of Family and Protective Services before the
10 effective date of this Act is governed by the law in effect on the
11 date the child entered the conservatorship of the department, and
12 the former law is continued in effect for that purpose.

13 (c) The Department of Family and Protective Services shall
14 implement Section 264.1076, Family Code, as added by this Act, not
15 later than December 31, 2018.

16 (d) As soon as practicable after the effective date of this
17 Act, but not later than December 1, 2017, the Health and Human
18 Services Commission, the Department of Family and Protective
19 Services, the Department of State Health Services, the Texas
20 Education Agency, the Texas Correctional Office on Offenders with
21 Medical or Mental Impairments, the Texas Department of Criminal
22 Justice, the Texas Department of Housing and Community Affairs, the
23 Texas Workforce Commission, and the Texas Juvenile Justice
24 Department shall update the joint memorandum of understanding
25 required under Section 531.055, Government Code, as amended by this
26 Act.

27 (e) The changes in law made by this Act to Sections 552.117

1 and 552.1175, Government Code, and Section 25.025, Tax Code, apply
2 only to a request for information that is received by a governmental
3 body or an officer on or after the effective date of this Act. A
4 request for information that was received before the effective date
5 of this Act is governed by the law in effect on the date the request
6 was received, and the former law is continued in effect for that
7 purpose.

8 (f) As soon as practicable after the effective date of this
9 Act, the Department of Family and Protective Services shall
10 establish and implement the caseload management system as required
11 under Section 40.0328, Human Resources Code, as added by this Act.

12 SECTION 16. This Act takes effect September 1, 2017.