

1-1 By: Hernandez, et al. H.B. No. 249
 1-2 (Senate Sponsor - Taylor of Collin)
 1-3 (In the Senate - Received from the House May 1, 2017;
 1-4 May 8, 2017, read first time and referred to Committee on Health &
 1-5 Human Services; May 22, 2017, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 8, Nays 0;
 1-7 May 22, 2017, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
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	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 249 By: Taylor of Collin

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to investigations of child abuse, neglect, or exploitation
 1-23 and to child protective services functions of the Department of
 1-24 Family and Protective Services.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 71.004, Family Code, is amended to read
 1-27 as follows:

1-28 Sec. 71.004. FAMILY VIOLENCE. "Family violence" means:

1-29 (1) an act by a member of a family or household against
 1-30 another member of the family or household that is intended to result
 1-31 in physical harm, bodily injury, assault, or sexual assault or that
 1-32 is a threat that reasonably places the member in fear of imminent
 1-33 physical harm, bodily injury, assault, or sexual assault, but does
 1-34 not include defensive measures to protect oneself;

1-35 (2) abuse, as that term is defined by Sections
 1-36 261.001(1)(C), (E), (G), (H), (I), (J), ~~and~~ (K), and (M), by a
 1-37 member of a family or household toward a child of the family or
 1-38 household; or

1-39 (3) dating violence, as that term is defined by
 1-40 Section 71.0021.

1-41 SECTION 2. Section 261.001, Family Code, is amended by
 1-42 amending Subdivisions (1), (4), and (5) and adding Subdivision (3)
 1-43 to read as follows:

1-44 (1) "Abuse" includes the following acts or omissions
 1-45 by a person:

1-46 (A) mental or emotional injury to a child that
 1-47 results in an observable and material impairment in the child's
 1-48 growth, development, or psychological functioning;

1-49 (B) causing or permitting the child to be in a
 1-50 situation in which the child sustains a mental or emotional injury
 1-51 that results in an observable and material impairment in the
 1-52 child's growth, development, or psychological functioning;

1-53 (C) physical injury that results in substantial
 1-54 harm to the child, or the genuine threat of substantial harm from
 1-55 physical injury to the child, including an injury that is at
 1-56 variance with the history or explanation given and excluding an
 1-57 accident or reasonable discipline by a parent, guardian, or
 1-58 managing or possessory conservator that does not expose the child
 1-59 to a substantial risk of harm;

1-60 (D) failure to make a reasonable effort to

2-1 prevent an action by another person that results in physical injury
2-2 that results in substantial harm to the child;

2-3 (E) sexual conduct harmful to a child's mental,
2-4 emotional, or physical welfare, including conduct that constitutes
2-5 the offense of continuous sexual abuse of young child or children
2-6 under Section 21.02, Penal Code, indecency with a child under
2-7 Section 21.11, Penal Code, sexual assault under Section 22.011,
2-8 Penal Code, or aggravated sexual assault under Section 22.021,
2-9 Penal Code;

2-10 (F) failure to make a reasonable effort to
2-11 prevent sexual conduct harmful to a child;

2-12 (G) compelling or encouraging the child to engage
2-13 in sexual conduct as defined by Section 43.01, Penal Code,
2-14 including compelling or encouraging the child in a manner that
2-15 constitutes an offense of trafficking of persons under Section
2-16 20A.02(a)(7) or (8), Penal Code, prostitution under Section
2-17 43.02(b), Penal Code, or compelling prostitution under Section
2-18 43.05(a)(2), Penal Code;

2-19 (H) causing, permitting, encouraging, engaging
2-20 in, or allowing the photographing, filming, or depicting of the
2-21 child if the person knew or should have known that the resulting
2-22 photograph, film, or depiction of the child is obscene as defined by
2-23 Section 43.21, Penal Code, or pornographic;

2-24 (I) the current use by a person of a controlled
2-25 substance as defined by Chapter 481, Health and Safety Code, in a
2-26 manner or to the extent that the use results in physical, mental, or
2-27 emotional injury to a child;

2-28 (J) causing, expressly permitting, or
2-29 encouraging a child to use a controlled substance as defined by
2-30 Chapter 481, Health and Safety Code;

2-31 (K) causing, permitting, encouraging, engaging
2-32 in, or allowing a sexual performance by a child as defined by
2-33 Section 43.25, Penal Code; [~~or~~]

2-34 (L) knowingly causing, permitting, encouraging,
2-35 engaging in, or allowing a child to be trafficked in a manner
2-36 punishable as an offense under Section 20A.02(a)(5), (6), (7), or
2-37 (8), Penal Code, or the failure to make a reasonable effort to
2-38 prevent a child from being trafficked in a manner punishable as an
2-39 offense under any of those sections; or

2-40 (M) forcing or coercing a child to enter into a
2-41 marriage.

2-42 (3) "Exploitation" means the illegal or improper use
2-43 of a child or of the resources of a child for monetary or personal
2-44 benefit, profit, or gain by an employee, volunteer, or other
2-45 individual working under the auspices of a facility or program as
2-46 further described by rule or policy.

2-47 (4) "Neglect":

2-48 (A) includes:

2-49 (i) the leaving of a child in a situation
2-50 where the child would be exposed to a substantial risk of physical
2-51 or mental harm, without arranging for necessary care for the child,
2-52 and the demonstration of an intent not to return by a parent,
2-53 guardian, or managing or possessory conservator of the child;

2-54 (ii) the following acts or omissions by a
2-55 person:

2-56 (a) placing a child in or failing to
2-57 remove a child from a situation that a reasonable person would
2-58 realize requires judgment or actions beyond the child's level of
2-59 maturity, physical condition, or mental abilities and that results
2-60 in bodily injury or a substantial risk of immediate harm to the
2-61 child;

2-62 (b) failing to seek, obtain, or follow
2-63 through with medical care for a child, with the failure resulting in
2-64 or presenting a substantial risk of death, disfigurement, or bodily
2-65 injury or with the failure resulting in an observable and material
2-66 impairment to the growth, development, or functioning of the child;

2-67 (c) the failure to provide a child
2-68 with food, clothing, or shelter necessary to sustain the life or
2-69 health of the child, excluding failure caused primarily by

3-1 financial inability unless relief services had been offered and
 3-2 refused;

3-3 (d) placing a child in or failing to
 3-4 remove the child from a situation in which the child would be
 3-5 exposed to a substantial risk of sexual conduct harmful to the
 3-6 child; or

3-7 (e) placing a child in or failing to
 3-8 remove the child from a situation in which the child would be
 3-9 exposed to acts or omissions that constitute abuse under
 3-10 Subdivision (1)(E), (F), (G), (H), or (K) committed against another
 3-11 child; ~~[or]~~

3-12 (iii) the failure by the person responsible
 3-13 for a child's care, custody, or welfare to permit the child to
 3-14 return to the child's home without arranging for the necessary care
 3-15 for the child after the child has been absent from the home for any
 3-16 reason, including having been in residential placement or having
 3-17 run away; or

3-18 (iv) a negligent act or omission by an
 3-19 employee, volunteer, or other individual working under the auspices
 3-20 of a facility or program, including failure to comply with an
 3-21 individual treatment plan, plan of care, or individualized service
 3-22 plan, that causes or may cause substantial emotional harm or
 3-23 physical injury to, or the death of, a child served by the facility
 3-24 or program as further described by rule or policy; and

3-25 (B) does not include the refusal by a person
 3-26 responsible for a child's care, custody, or welfare to permit the
 3-27 child to remain in or return to the child's home resulting in the
 3-28 placement of the child in the conservatorship of the department if:

3-29 (i) the child has a severe emotional
 3-30 disturbance;

3-31 (ii) the person's refusal is based solely on
 3-32 the person's inability to obtain mental health services necessary
 3-33 to protect the safety and well-being of the child; and

3-34 (iii) the person has exhausted all
 3-35 reasonable means available to the person to obtain the mental
 3-36 health services described by Subparagraph (ii).

3-37 (5) "Person responsible for a child's care, custody,
 3-38 or welfare" means a person who traditionally is responsible for a
 3-39 child's care, custody, or welfare, including:

3-40 (A) a parent, guardian, managing or possessory
 3-41 conservator, or foster parent of the child;

3-42 (B) a member of the child's family or household
 3-43 as defined by Chapter 71;

3-44 (C) a person with whom the child's parent
 3-45 cohabits;

3-46 (D) school personnel or a volunteer at the
 3-47 child's school; ~~[or]~~

3-48 (E) personnel or a volunteer at a public or
 3-49 private child-care facility that provides services for the child or
 3-50 at a public or private residential institution or facility where
 3-51 the child resides; or

3-52 (F) an employee, volunteer, or other person
 3-53 working under the supervision of a licensed or unlicensed
 3-54 child-care facility, including a family home, residential
 3-55 child-care facility, employer-based day-care facility, or shelter
 3-56 day-care facility, as those terms are defined in Chapter 42, Human
 3-57 Resources Code.

3-58 SECTION 3. Section 261.101(b), Family Code, is amended to
 3-59 read as follows:

3-60 (b) If a professional has cause to believe that a child has
 3-61 been abused or neglected or may be abused or neglected, or that a
 3-62 child is a victim of an offense under Section 21.11, Penal Code, and
 3-63 the professional has cause to believe that the child has been abused
 3-64 as defined by Section 261.001 ~~[or 261.401]~~, the professional shall
 3-65 make a report not later than the 48th hour after the hour the
 3-66 professional first suspects that the child has been or may be abused
 3-67 or neglected or is a victim of an offense under Section 21.11, Penal
 3-68 Code. A professional may not delegate to or rely on another person
 3-69 to make the report. In this subsection, "professional" means an

4-1 individual who is licensed or certified by the state or who is an
 4-2 employee of a facility licensed, certified, or operated by the
 4-3 state and who, in the normal course of official duties or duties for
 4-4 which a license or certification is required, has direct contact
 4-5 with children. The term includes teachers, nurses, doctors,
 4-6 day-care employees, employees of a clinic or health care facility
 4-7 that provides reproductive services, juvenile probation officers,
 4-8 and juvenile detention or correctional officers.

4-9 SECTION 4. Sections 261.301(b) and (c), Family Code, are
 4-10 amended to read as follows:

4-11 (b) A state agency shall investigate a report that alleges
 4-12 abuse, ~~or~~ neglect, or exploitation occurred in a facility
 4-13 operated, licensed, certified, or registered by that agency as
 4-14 provided by Subchapter E. In conducting an investigation for a
 4-15 facility operated, licensed, certified, registered, or listed by
 4-16 the department, the department shall perform the investigation as
 4-17 provided by:

- 4-18 (1) Subchapter E; and
 4-19 (2) the Human Resources Code.

4-20 (c) The department is not required to investigate a report
 4-21 that alleges child abuse, ~~or~~ neglect, or exploitation by a person
 4-22 other than a person responsible for a child's care, custody, or
 4-23 welfare. The appropriate state or local law enforcement agency
 4-24 shall investigate that report if the agency determines an
 4-25 investigation should be conducted.

4-26 SECTION 5. Section 261.401(b), Family Code, is amended to
 4-27 read as follows:

4-28 (b) Except as provided by Section 261.404 and Section
 4-29 531.02013(1)(D), Government Code, a state agency that operates,
 4-30 licenses, certifies, registers, or lists a facility in which
 4-31 children are located or provides oversight of a program that serves
 4-32 children shall make a prompt, thorough investigation of a report
 4-33 that a child has been or may be abused, neglected, or exploited in
 4-34 the facility or program. The primary purpose of the investigation
 4-35 shall be the protection of the child.

4-36 SECTION 6. Sections 261.405(a) and (c), Family Code, are
 4-37 amended to read as follows:

4-38 (a) Notwithstanding Section 261.001, in ~~in~~ this section:

4-39 (1) "Abuse" means an intentional, knowing, or reckless
 4-40 act or omission by an employee, volunteer, or other individual
 4-41 working under the auspices of a facility or program that causes or
 4-42 may cause emotional harm or physical injury to, or the death of, a
 4-43 child served by the facility or program as further described by rule
 4-44 or policy.

4-45 (2) "Exploitation" means the illegal or improper use
 4-46 of a child or of the resources of a child for monetary or personal
 4-47 benefit, profit, or gain by an employee, volunteer, or other
 4-48 individual working under the auspices of a facility or program as
 4-49 further described by rule or policy.

4-50 (3) "Juvenile justice facility" means a facility
 4-51 operated wholly or partly by the juvenile board, by another
 4-52 governmental unit, or by a private vendor under a contract with the
 4-53 juvenile board, county, or other governmental unit that serves
 4-54 juveniles under juvenile court jurisdiction. The term includes:

4-55 (A) a public or private juvenile
 4-56 pre-adjudication secure detention facility, including a holdover
 4-57 facility;

4-58 (B) a public or private juvenile
 4-59 post-adjudication secure correctional facility except for a
 4-60 facility operated solely for children committed to the Texas
 4-61 Juvenile Justice Department; and

4-62 (C) a public or private non-secure juvenile
 4-63 post-adjudication residential treatment facility that is not
 4-64 licensed by the Department of Family and Protective Services or the
 4-65 Department of State Health Services.

4-66 (4) ~~(2)~~ "Juvenile justice program" means a program
 4-67 or department operated wholly or partly by the juvenile board or by
 4-68 a private vendor under a contract with a juvenile board that serves
 4-69 juveniles under juvenile court jurisdiction. The term includes:

5-1 (A) a juvenile justice alternative education
5-2 program;

5-3 (B) a non-residential program that serves
5-4 juvenile offenders under the jurisdiction of the juvenile court;
5-5 and

5-6 (C) a juvenile probation department.

5-7 (5) "Neglect" means a negligent act or omission by an
5-8 employee, volunteer, or other individual working under the auspices
5-9 of a facility or program, including failure to comply with an
5-10 individual treatment plan, plan of care, or individualized service
5-11 plan, that causes or may cause substantial emotional harm or
5-12 physical injury to, or the death of, a child served by the facility
5-13 or program as further described by rule or policy.

5-14 (c) The Texas Juvenile Justice Department shall make a
5-15 prompt, thorough [conduct an] investigation as provided by this
5-16 chapter if that department receives a report of alleged abuse,
5-17 neglect, or exploitation in any juvenile justice program or
5-18 facility. The primary purpose of the investigation shall be the
5-19 protection of the child.

5-20 SECTION 7. Section 531.02013, Government Code, is amended
5-21 to read as follows:

5-22 Sec. 531.02013. FUNCTIONS REMAINING WITH CERTAIN
5-23 AGENCIES. The following functions are not subject to transfer
5-24 under Sections 531.0201 and 531.02011:

5-25 (1) the functions of the Department of Family and
5-26 Protective Services, including the statewide intake of reports and
5-27 other information, related to the following:

5-28 (A) child protective services, including
5-29 services that are required by federal law to be provided by this
5-30 state's child welfare agency;

5-31 (B) adult protective services, other than
5-32 investigations of the alleged abuse, neglect, or exploitation of an
5-33 elderly person or person with a disability:

5-34 (i) in a facility operated, or in a facility
5-35 or by a person licensed, certified, or registered, by a state
5-36 agency; or

5-37 (ii) by a provider that has contracted to
5-38 provide home and community-based services; ~~and~~

5-39 (C) prevention and early intervention services;
5-40 and

5-41 (D) investigations of alleged abuse, neglect, or
5-42 exploitation occurring at a child-care facility, as that term is
5-43 defined in Section 40.042, Human Resources Code; and

5-44 (2) the public health functions of the Department of
5-45 State Health Services, including health care data collection and
5-46 maintenance of the Texas Health Care Information Collection
5-47 program.

5-48 SECTION 8. (a) Subchapter B, Chapter 40, Human Resources
5-49 Code, is amended by adding Sections 40.039, 40.040, 40.041, and
5-50 40.042 to read as follows:

5-51 Sec. 40.039. REVIEW OF RECORDS RETENTION POLICY. The
5-52 department shall periodically review the department's records
5-53 retention policy with respect to case and intake records relating
5-54 to department functions. The department shall make changes to the
5-55 policy consistent with the records retention schedule submitted
5-56 under Section 441.185, Government Code, that are necessary to
5-57 improve case prioritization and the routing of cases to the
5-58 appropriate division of the department. The department may adopt
5-59 rules necessary to implement this section.

5-60 Sec. 40.040. CASE MANAGEMENT VENDOR QUALITY OVERSIGHT AND
5-61 ASSURANCE DIVISION; MONITORING OF CONTRACT ADHERENCE. (a) In this
5-62 section, "case management," "catchment area," and "community-based
5-63 care" have the meanings assigned by Section 264.151, Family Code.

5-64 (b) The department shall create within the department the
5-65 case management services vendor quality oversight and assurance
5-66 division. The division shall:

5-67 (1) oversee quality and ensure accountability of any
5-68 vendor that provides community-based care and full case management
5-69 services for the department under community-based care; and

6-1 (2) monitor the transfer from the department to a
 6-2 vendor of full case management services for children and families
 6-3 receiving services from the vendor, including any transfer
 6-4 occurring under a pilot program.

6-5 (c) The commission shall contract with an outside vendor
 6-6 with expertise in quality assurance to develop, in coordination
 6-7 with the department, a contract monitoring system and standards for
 6-8 the continuous monitoring of the adherence of a vendor providing
 6-9 foster care services under community-based care to the terms of the
 6-10 contract entered into by the vendor and the commission. The
 6-11 standards must include performance benchmarks relating to the
 6-12 provision of case management services in the catchment area where
 6-13 the vendor operates.

6-14 (d) The division shall collect and analyze data comparing
 6-15 outcomes on performance measures between catchment areas where
 6-16 community-based care has been implemented and regions where
 6-17 community-based care has not been implemented.

6-18 Sec. 40.041. OFFICE OF DATA ANALYTICS. The department
 6-19 shall create an office of data analytics. The office shall report
 6-20 to the deputy commissioner and may perform any of the following
 6-21 functions, as determined by the department:

6-22 (1) monitor management trends;
 6-23 (2) analyze employee exit surveys and interviews;
 6-24 (3) evaluate the effectiveness of employee retention
 6-25 efforts, including merit pay;

6-26 (4) create and manage a system for handling employee
 6-27 complaints submitted by the employee outside of an employee's
 6-28 direct chain of command, including anonymous complaints;

6-29 (5) monitor and provide reports to department
 6-30 management personnel on:

6-31 (A) employee complaint data and trends in
 6-32 employee complaints;

6-33 (B) compliance with annual department
 6-34 performance evaluation requirements; and

6-35 (C) the department's use of positive performance
 6-36 levels for employees;

6-37 (6) track employee tenure and internal employee
 6-38 transfers within both the child protective services division and
 6-39 the department;

6-40 (7) use data analytics to predict workforce shortages
 6-41 and identify areas of the department with high rates of employee
 6-42 turnover, and develop a process to inform the deputy commissioner
 6-43 and other appropriate staff regarding the office's findings;

6-44 (8) create and monitor reports on key metrics of
 6-45 agency performance;

6-46 (9) analyze available data, including data on employee
 6-47 training, for historical and predictive department trends; and

6-48 (10) conduct any other data analysis the department
 6-49 determines to be appropriate for improving performance, meeting the
 6-50 department's current business needs, or fulfilling the powers and
 6-51 duties of the department.

6-52 Sec. 40.042. INVESTIGATIONS OF CHILD ABUSE, NEGLECT, AND
 6-53 EXPLOITATION. (a) In this section, "child-care facility" includes
 6-54 a facility, licensed or unlicensed child-care facility, family
 6-55 home, residential child-care facility, employer-based day-care
 6-56 facility, or shelter day-care facility, as those terms are defined
 6-57 in Chapter 42.

6-58 (b) For all investigations of child abuse, neglect, or
 6-59 exploitation conducted by the child protective services division of
 6-60 the department, the department shall adopt the definitions of
 6-61 abuse, neglect, and exploitation provided in Section 261.001,
 6-62 Family Code.

6-63 (c) The department shall establish standardized policies to
 6-64 be used during investigations.

6-65 (d) The commissioner shall establish units within the child
 6-66 protective services division of the department to specialize in
 6-67 investigating allegations of child abuse, neglect, or exploitation
 6-68 occurring at a child-care facility.

6-69 (e) The department may require that investigators who

7-1 specialize in allegations of child abuse, neglect, and exploitation
 7-2 occurring at child-care facilities receive ongoing training on the
 7-3 minimum licensing standards for any facilities that are applicable
 7-4 to the investigator's specialization.

7-5 (f) After an investigation of abuse, neglect, or
 7-6 exploitation occurring at a child-care facility, the department
 7-7 shall provide the state agency responsible for regulating the
 7-8 facility with access to any information relating to the
 7-9 department's investigation. Providing access to confidential
 7-10 information under this subsection does not constitute a waiver of
 7-11 confidentiality.

7-12 (g) The executive commissioner or the commissioner of the
 7-13 department, as appropriate, may adopt rules to implement this
 7-14 section.

7-15 (b) As soon as possible after the effective date of this
 7-16 Act, the commissioner of the Department of Family and Protective
 7-17 Services shall establish the office of data analytics required by
 7-18 Section 40.041, Human Resources Code, as added by this section. The
 7-19 commissioner and the executive commissioner of the Health and Human
 7-20 Services Commission shall transfer appropriate staff as necessary
 7-21 to conduct the duties of the office.

7-22 SECTION 9. Section 40.051, Human Resources Code, is amended
 7-23 to read as follows:

7-24 Sec. 40.051. STRATEGIC PLAN FOR DEPARTMENT. The department
 7-25 shall develop a departmental strategic plan based on the goals and
 7-26 priorities stated in the commission's coordinated strategic plan
 7-27 for health and human services. The department shall also develop
 7-28 its plan based on:

7-29 (1) furthering the policy of family preservation;
 7-30 (2) the goal of ending the abuse and neglect of
 7-31 children in the conservatorship of the department; and
 7-32 (3) the goal of increasing the capacity and
 7-33 availability of foster, relative, and kinship placements in this
 7-34 state.

7-35 SECTION 10. (a) Section 40.058(f), Human Resources Code,
 7-36 is amended to read as follows:

7-37 (f) A contract for residential child-care services provided
 7-38 by a general residential operation or by a child-placing agency
 7-39 must include provisions that:

7-40 (1) enable the department and commission to monitor
 7-41 the effectiveness of the services;

7-42 (2) specify performance outcomes, financial penalties
 7-43 for failing to meet any specified performance outcomes, and
 7-44 financial incentives for exceeding any specified performance
 7-45 outcomes;

7-46 (3) authorize the department or commission to
 7-47 terminate the contract or impose monetary sanctions for a violation
 7-48 of a provision of the contract that specifies performance criteria
 7-49 or for underperformance in meeting any specified performance
 7-50 outcomes;

7-51 (4) authorize the department or commission, an agent
 7-52 of the department or commission, and the state auditor to inspect
 7-53 all books, records, and files maintained by a contractor relating
 7-54 to the contract; and

7-55 (5) are necessary, as determined by the department or
 7-56 commission, to ensure accountability for the delivery of services
 7-57 and for the expenditure of public funds.

7-58 (b) The Health and Human Services Commission shall, in a
 7-59 contract for residential child-care services between the
 7-60 commission and a general residential operation or child-placing
 7-61 agency that is entered into on or after the effective date of this
 7-62 section, including a renewal contract, include the provisions
 7-63 required by Section 40.058(f), Human Resources Code, as amended by
 7-64 this section.

7-65 (c) The Health and Human Services Commission shall seek to
 7-66 amend contracts for residential child-care services entered into
 7-67 with general residential operations or child-placing agencies
 7-68 before the effective date of this section to include the provisions
 7-69 required by Section 40.058(f), Human Resources Code, as amended by

8-1 this section.

8-2 (d) The Department of Family and Protective Services and the
8-3 Health and Human Services Commission may not impose a financial
8-4 penalty against a general residential operation or child-placing
8-5 agency under a contract provision described by Section 40.058(f)(2)
8-6 or (3), Human Resources Code, as amended by this section, until
8-7 September 1, 2018.

8-8 SECTION 11. (a) Subchapter C, Chapter 40, Human Resources
8-9 Code, is amended by adding Section 40.0581 to read as follows:

8-10 Sec. 40.0581. PERFORMANCE MEASURES FOR CERTAIN SERVICE
8-11 PROVIDER CONTRACTS. (a) The commission, in collaboration with the
8-12 department, shall contract with a vendor or enter into an agreement
8-13 with an institution of higher education to develop, in coordination
8-14 with the department, performance quality metrics for family-based
8-15 safety services and post-adoption support services providers. The
8-16 quality metrics must be included in each contract with those
8-17 providers.

8-18 (b) Each provider whose contract with the commission to
8-19 provide department services includes the quality metrics developed
8-20 under Subsection (a) must prepare and submit to the department a
8-21 report each calendar quarter regarding the provider's performance
8-22 based on the quality metrics.

8-23 (c) The commissioner shall compile a summary of all reports
8-24 prepared and submitted to the department by family-based safety
8-25 services providers as required by Subsection (b) and distribute the
8-26 summary to appropriate family-based safety services caseworkers
8-27 and child protective services region management once each calendar
8-28 quarter.

8-29 (d) The commissioner shall compile a summary of all reports
8-30 prepared and submitted to the department by post-adoption support
8-31 services providers as required by Subsection (b) and distribute the
8-32 summary to appropriate conservatorship and adoption caseworkers
8-33 and child protective services region management.

8-34 (e) The department shall make the summaries prepared under
8-35 Subsections (c) and (d) available to families that are receiving
8-36 family-based safety services and to adoptive families.

8-37 (f) This section does not apply to a provider that has
8-38 entered into a contract with the commission to provide family-based
8-39 safety services under Section 264.165, Family Code.

8-40 (b) The quality metrics required by Section 40.0581, Human
8-41 Resources Code, as added by this section, must be developed not
8-42 later than September 1, 2018, and included in any contract,
8-43 including a renewal contract, entered into by the Health and Human
8-44 Services Commission with a family-based safety services provider or
8-45 a post-adoption support services provider on or after January 1,
8-46 2019, except as provided by Section 40.0581(f), Human Resources
8-47 Code, as added by this section.

8-48 SECTION 12. Section 42.002(23), Human Resources Code, is
8-49 amended to read as follows:

8-50 (23) "Other maltreatment" means:

8-51 (A) abuse, as defined by Section 261.001 [~~or~~
8-52 ~~261.401~~], Family Code; or

8-53 (B) neglect, as defined by Section 261.001 [~~or~~
8-54 ~~261.401~~], Family Code.

8-55 SECTION 13. Section 42.044(c-1), Human Resources Code, is
8-56 amended to read as follows:

8-57 (c-1) The department:

8-58 (1) shall investigate a listed family home if the
8-59 department receives a complaint that:

8-60 (A) a child in the home has been abused or
8-61 neglected, as defined by Section 261.001 [~~261.401~~], Family Code; or

8-62 (B) otherwise alleges an immediate risk of danger
8-63 to the health or safety of a child being cared for in the home; and

8-64 (2) may investigate a listed family home to ensure
8-65 that the home is providing care for compensation to not more than
8-66 three children, excluding children who are related to the
8-67 caretaker.

8-68 SECTION 14. Section 261.401(a), Family Code, is repealed.

8-69 SECTION 15. (a) The changes in law made by this Act apply

9-1 only to a report of suspected abuse, neglect, or exploitation of a
9-2 child that is made on or after the effective date of this Act. A
9-3 report of suspected abuse, neglect, or exploitation that is made
9-4 before that date is governed by the law in effect on the date the
9-5 report was made, and that law is continued in effect for that
9-6 purpose.

9-7 (b) Notwithstanding any provision of Subchapter A-1,
9-8 Chapter 531, Government Code, or any other law, the responsibility
9-9 for conducting investigations of reports of abuse, neglect, or
9-10 exploitation occurring at a child-care facility, as that term is
9-11 defined in Section 40.042, Human Resources Code, as added by this
9-12 Act, may not be transferred to the Health and Human Services
9-13 Commission and remains the responsibility of the Department of
9-14 Family and Protective Services.

9-15 (c) As soon as possible after the effective date of this
9-16 Act, the commissioner of the Department of Family and Protective
9-17 Services shall transfer the responsibility for conducting
9-18 investigations of reports of abuse, neglect, or exploitation
9-19 occurring at a child-care facility, as that term is defined in
9-20 Section 40.042, Human Resources Code, as added by this Act, to the
9-21 child protective services division of the department. The
9-22 commissioner shall transfer appropriate investigators and staff as
9-23 necessary to implement this subsection.

9-24 (d) The Department of Family and Protective Services shall
9-25 implement the standardized definitions and policies required under
9-26 Sections 40.042(b) and (c), Human Resources Code, as added by this
9-27 Act, not later than December 1, 2017.

9-28 SECTION 16. This Act takes effect September 1, 2017.

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