

House Bill 5
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 58.0051(a)(2), Family Code, is amended to read as follows:

(2) "Juvenile service provider" means a governmental entity that provides juvenile justice or prevention, medical, educational, or other support services to a juvenile. The term includes:

- (A) a state or local juvenile justice agency as defined by Section 58.101;
- (B) health and human services agencies, as defined by Section 531.001, Government Code, and the Health and Human Services Commission;
- (C) the Department of Family and Protective Services;
- (D) the Department of Public Safety;
- (E) ~~(F)~~ the Texas Education Agency;
- (F) ~~(E)~~ an independent school district;
- (G) ~~(F)~~ a juvenile justice alternative education program;
- (H) ~~(G)~~ a charter school;
- (I) ~~(H)~~ a local mental health or mental retardation authority;
- (J) ~~(I)~~ a court with jurisdiction over juveniles;
- (K) ~~(J)~~ a district attorney's office;
- (L) ~~(K)~~ a county attorney's office; and
- (M) ~~(L)~~ a children's advocacy center established under Section 264.402.

SECTION 2. Section 58.0072(c), Family Code, is amended to read as follows:

- (c) The Texas Juvenile Justice Department may grant the following entities access to juvenile justice information for research and statistical purposes or for any other purpose approved by the department:
 - (1) criminal justice agencies as defined by Section 411.082, Government Code;

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- (2) the Texas Education Agency, as authorized under Section 37.084, Education Code;
- (3) any agency under the authority of the Health and Human Services Commission; ~~[or]~~
- (4) the Department of Family and Protective Services; or
- (5) a public or private university.

SECTION 3. Section 107.152(c), Family Code, is amended to read as follows:

(c) The pre-placement and post-placement parts of an adoption evaluation conducted by a licensed child-placing agency or the department are governed by rules adopted by the ~~executive~~ commissioner of the department ~~Health and Human Services Commission~~.

No equivalent provision.

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SECTION 3. Same as House version.

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SECTION ___. Section 107.154(b), Family Code, is amended to read as follows:

(b) To be qualified to conduct an adoption evaluation under this subchapter, a person must:

- (1) have a degree from an accredited college or university in a human services field of study and a license to practice in this state as a social worker, professional counselor, marriage and family therapist, or psychologist and:
 - (A) have one year of full-time experience working at a child-placing agency conducting child-placing activities; or
 - (B) be practicing under the direct supervision of a person qualified under this section to conduct adoption evaluations;
- (2) be employed by or under contract with a domestic relations office, provided that the person conducts adoption evaluations relating only to families ordered to participate in adoption evaluations conducted by the domestic relations office; or

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No equivalent provision.

SECTION 4. Section 107.159(a), Family Code, is amended to read as follows:

(a) Unless otherwise agreed to by the court, the pre-placement part of an adoption evaluation must comply with the minimum requirements for the pre-placement part of an adoption evaluation under rules adopted by the [executive] commissioner of the department [Health and Human Services Commission].

SECTION 5. Section 107.160(a), Family Code, is amended to read as follows:

(a) Unless otherwise agreed to by the court, the post-placement part of an adoption evaluation must comply with the minimum requirements for the post-placement part of an adoption evaluation under rules adopted by the [executive] commissioner of the department [Health and Human Services Commission].

No equivalent provision.

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(3) be qualified as a child custody evaluator under Section 107.104. [FA7]

SECTION ___. Section 107.154(b), Family Code, as amended by this Act, applies only to an adoption evaluation conducted on or after the effective date of this Act. An adoption evaluation conducted before the effective date of this Act is governed by the law in effect on the date the evaluation was conducted, and the former law is continued in effect for that purpose. [FA7]

SECTION 4. Same as House version.

SECTION 5. Same as House version.

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SECTION ___. Subchapter A, Chapter 162, Family Code, is amended by adding Section 162.0086 to read as follows:
Sec. 162.0086. INFORMATION REGARDING SIBLING

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ACCESS. (a) The Department of Family and Protective Services shall provide information to each person seeking to adopt a child placed for adoption by the department regarding the right of a child's sibling to file a suit for access to the child under Sections 102.0045 and 153.551.
(b) The department may provide the information required under Subsection (a) on any form or application provided to prospective adoptive parents. [FA6]

SECTION 6. Same as House version.

SECTION 6. Sections 162.304(b-2) and (g), Family Code, are amended to read as follows:

(b-2) The ~~[executive]~~ commissioner of the department ~~[Health and Human Services Commission]~~ shall adopt rules necessary to implement Subsection (b-1), including rules that:
(1) limit eligibility for the subsidy under that subsection to a child whose adoptive family income is less than 300 percent of the federal poverty level;
(2) provide for the manner in which the department shall pay the subsidy under that subsection; and
(3) specify any documentation required to be provided by an adoptive parent as proof that the subsidy is used to obtain and maintain health benefits coverage for the adopted child.

(g) The ~~[executive]~~ commissioner of the department ~~[Health and Human Services Commission]~~ by rule shall provide that the maximum amount of the subsidy under Subsection (b) that may be paid to an adoptive parent of a child under an adoption assistance agreement is an amount that is equal to the amount that would have been paid to the foster parent of the child, based on the child's foster care service level on the date the department and the adoptive parent enter into the adoption assistance agreement. This subsection applies only to a child who, based on factors specified in rules of the department, the

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department determines would otherwise have been expected to remain in foster care until the child's 18th birthday and for whom this state would have made foster care payments for that care. Factors the department may consider in determining whether a child is eligible for the amount of the subsidy authorized by this subsection include the following:

- (1) the child's mental or physical disability, age, and membership in a sibling group; and
- (2) the number of prior placement disruptions the child has experienced.

SECTION 7. Section 162.3041(a-1), Family Code, is amended to read as follows:

(a-1) Notwithstanding Subsection (a), if the department first entered into an adoption assistance agreement with a child's adoptive parents after the child's 16th birthday, the department shall, in accordance with rules adopted by the [executive] commissioner of the department [~~Health and Human Services Commission~~], offer adoption assistance after the child's 18th birthday to the child's adoptive parents under an existing adoption agreement until the last day of the month of the child's 21st birthday, provided the child is:

- (1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;
- (2) regularly attending an institution of higher education or a postsecondary vocational or technical program;
- (3) participating in a program or activity that promotes, or removes barriers to, employment;
- (4) employed for at least 80 hours a month; or
- (5) incapable of doing any of the activities described by Subdivisions (1)-(4) due to a documented medical condition.

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SECTION 7. Same as House version.

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SECTION 8. Subchapter A, Chapter 261, Family Code, is amended by adding Section 261.004 to read as follows:

Sec. 261.004. REFERENCE TO EXECUTIVE COMMISSIONER OR COMMISSION. In this chapter:
(1) a reference to the executive commissioner or the executive commissioner of the Health and Human Services Commission means the commissioner of the department; and
(2) a reference to the Health and Human Services Commission means the department.

SECTION 9. Section 263.009(a), Family Code, is amended to read as follows:

(a) The department shall hold a permanency planning meeting for each child for whom the department is appointed temporary managing conservator in accordance with a schedule adopted by the [executive] commissioner of the department [Health and Human Services Commission] by rule that is designed to allow the child to exit the managing conservatorship of the department safely and as soon as possible and be placed with an appropriate adult caregiver who will permanently assume legal responsibility for the child.

SECTION 10. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.0011 to read as follows:

Sec. 264.0011. REFERENCE TO EXECUTIVE COMMISSIONER OR COMMISSION. In this chapter:
(1) a reference to the executive commissioner or the executive commissioner of the Health and Human Services Commission means the commissioner of the department; and
(2) a reference to the commission or the Health and Human Services Commission means the department.

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SECTION 8. Same as House version.

SECTION 9. Same as House version.

SECTION 10. Same as House version.

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No equivalent provision.

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SECTION ___. Chapter 264, Family Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. COMMUNITY-BASED FOSTER CARE

Sec. 264.170. LIMITED LIABILITY FOR NONPROFIT SINGLE SOURCE CONTINUUM CONTRACTOR.

(a) Except as otherwise provided by this section, a nonprofit entity that contracts with the department to provide foster care services as a single source continuum contractor under this subchapter is, while acting within the scope of the contract between the entity and the department, immune from civil liability for any act or omission of the entity resulting in property damage, personal injury, or death.

(b) Except as otherwise provided by this section, a person who is a director, officer, employee, or volunteer of a nonprofit entity described by Subsection (a) is, while acting in the course and scope of the person's duties for the entity, immune from civil liability for any act or omission resulting in property damage, personal injury, or death.

(c) This section does not limit the liability of a nonprofit entity described by Subsection (a) for:

(1) property damage, personal injury, or death that is caused by gross negligence or intentional acts or omissions by the entity; or

(2) property damage, personal injury, or death caused by a condition or use of tangible personal or real property if the nonprofit entity would be liable to the claimant under state law.

(d) This section does not limit the liability of a person described by Subsection (b) for:

(1) property damage, personal injury, or death that is caused by gross negligence or intentional acts or omissions by the

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SECTION 11. Section 265.105, Family Code, as added by Chapter 1257 (H.B. 2630), Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 265.105. RULES. The ~~executive~~ commissioner of the ~~department~~ ~~Health and Human Services Commission~~ may adopt rules as necessary to implement this subchapter.

SECTION 12. Section 265.106, Family Code, is amended to read as follows:

Sec. 265.106. PARTNERSHIP PROGRAM STANDARDS. The ~~executive~~ commissioner, with the assistance of the Nurse-Family Partnership National Service Office, shall adopt standards for the partnership programs funded under this subchapter. The standards must adhere to the Nurse-Family Partnership National Service Office program model standards and guidelines that were developed in multiple, randomized clinical trials and have been tested and replicated in multiple communities.

SECTION 13. Section 265.109(a), Family Code, is amended to read as follows:

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person; or
(2) property damage, personal injury, or death proximately caused by the wrongful act or omission or the negligence of the person acting within the course and scope of the person's duties with the nonprofit entity if:
(A) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment; and
(B) the person would be personally liable to the claimant under state law. [FA8]

SECTION 11. Same as House version.

SECTION 12. Same as House version.

SECTION 13. Same as House version.

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(a) The department, with the assistance of the Nurse-Family Partnership National Service Office, shall:

(1) adopt performance indicators that are designed to measure a grant recipient's performance with respect to the partnership program standards adopted by the [executive] commissioner under Section 265.106;

(2) use the performance indicators to continuously monitor and formally evaluate on an annual basis the performance of each grant recipient; and

(3) prepare and submit an annual report, not later than December 1 of each year, to the Senate Health and Human Services Committee, or its successor, and the House Human Services Committee, or its successor, regarding the performance of each grant recipient during the preceding state fiscal year with respect to providing partnership program services.

SECTION 14. Section 266.001, Family Code, is amended by adding Subdivision (1-b) to read as follows:

(1-b) "Commissioner" means the commissioner of the Department of Family and Protective Services.

SECTION 15. Section 266.003, Family Code, is amended to read as follows:

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

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SECTION 14. Same as House version.

SECTION 15. Section 266.003, Family Code, is amended to read as follows:

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

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- (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) the development and implementation of health passports as described in Section 266.006;
- (5) establishment and use of a management information system that allows monitoring of medical care that is provided to all children in foster care;
- (6) the use of medical advisory committees and medical review teams, as appropriate, to establish treatment guidelines and criteria by which individual cases of medical care provided to children in foster care will be identified for further, in-depth review;
- (7) development of the training program described by Section 266.004(h);
- (8) provision for the summary of medical care described by Section 266.007; and
- (9) provision for the participation of the person authorized to consent to medical care for a child in foster care in each appointment of the child with the provider of medical care.

(b) The department [commission] shall collaborate with health and human services agencies, community partners, the health care community, and federal health and social services

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- (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) the development and implementation of health passports as described in Section 266.006;
- (5) establishment and use of a management information system that allows monitoring of medical care that is provided to all children in foster care;
- (6) the use of medical advisory committees and medical review teams, as appropriate, to establish treatment guidelines and criteria by which individual cases of medical care provided to children in foster care will be identified for further, in-depth review;
- (7) development of the training program described by Section 266.004(h);
- (8) provision for the summary of medical care described by Section 266.007; and
- (9) provision for the participation of the person authorized to consent to medical care for a child in foster care in each appointment of the child with the provider of medical care.

(b) The department [commission] shall collaborate with health and human services agencies, community partners, the health care community, and federal health and social services

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programs to maximize services and benefits available under this section.

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

(d) The commission is responsible for administering contracts with managed care providers for the provision of medical care to children in foster care.

SECTION 16. Sections 266.006(a), (b), and (e), Family Code, are amended to read as follows:

(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, in collaboration with the commissioner, 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;

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programs to maximize services and benefits available under this section.

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

(d) The commission is responsible for administering contracts with managed care providers for the provision of medical care to children in foster care. The department shall collaborate with the commission to ensure that medical care services provided by managed care providers match the needs of children in foster care.

SECTION 16. Substantially the same as House version.

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- (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.

(e) The commission in collaboration with the department shall provide training or instructional materials to foster parents, physicians, and other health care providers regarding use of the health passport.

SECTION 17. Sections 266.008(a) and (d), Family Code, are amended to read as follows:

- (a) The department [~~commission~~] shall develop an education passport for each foster child. The department [~~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 department [~~commission~~] determines is important.
- (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.

SECTION 18. Chapter 266, Family Code, is amended by adding Section 266.013 to read as follows:

Sec. 266.013. CONTINUITY OF SERVICES PROVIDED BY COMMISSION. (a) In addition to the requirements of

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SECTION 17. Same as House version.

SECTION 18. Same as House version.

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Section 266.003(d), the commission shall continue to provide any services to children in the conservatorship of the department that the commission provided to those children before September 1, 2017.

(b) Subsection (a) does not apply to any services provided by the commission in relation to a child's education passport created under Section 266.008.

SECTION 19. Section 531.001(4), Government Code, is amended to read as follows:

(4) "Health and human services agencies" includes the:
(A) Department of Aging and Disability Services;
(B) Department of State Health Services; and
(C) Department of Assistive and Rehabilitative Services[; and
[D) Department of Family and Protective Services].

No equivalent provision.

SECTION 20. (a) Section 531.02013, Government Code, is amended to read as follows:

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SECTION 19. Same as House version.

SECTION 20. Section 531.00553, Government Code, as added by Chapter 837 (S.B. 200), Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) [Deleted by FA4(1)]
(a-1) [Deleted by FA4(1)]
(b) Subject to Subsection (c), the executive commissioner shall plan and implement an efficient and effective centralized system of administrative support services for the health and human services system and the Department of Family and Protective Services, as applicable. The performance of administrative support services for the health and human services system is the responsibility of the commission.

SECTION 21. (a) Section 531.02013, Government Code, is amended to read as follows:

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

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

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

(B) adult protective services, including [other than] investigations of the alleged abuse, neglect, or exploitation of an elderly person or person with a disability:

(i) in a facility operated, or in a facility or by a person licensed, certified, or registered, by a state agency; or

(ii) by a provider that has contracted to provide home and community-based services; [and]

(C) prevention and early intervention services; and

(D) investigations of alleged abuse, neglect, or exploitation occurring at a child-care facility, including a residential child-care facility, as those terms are defined by Section 42.002, Human Resources Code; and

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

(b) Notwithstanding any provision of Subchapter A-1, Chapter 531, Government Code, or any other law, the responsibility for conducting investigations of reports of abuse, neglect, or exploitation occurring at a child-care facility, including a residential child-care facility, as those terms are defined by Section 42.002, Human Resources Code, may not be transferred to the Health and Human Services

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

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

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

(B) adult protective services, other than investigations of the alleged abuse, neglect, or exploitation of an elderly person or person with a disability: [FA1]

(i) in a facility operated, or in a facility or by a person licensed, certified, or registered, by a state agency; or

(ii) by a provider that has contracted to provide home and community-based services; [and]

(C) prevention and early intervention services; and

(D) investigations of alleged abuse, neglect, or exploitation occurring at a child-care facility, including a residential child-care facility, as those terms are defined by Section 42.002, Human Resources Code; and

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

(b) Notwithstanding any provision of Subchapter A-1, Chapter 531, Government Code, or any other law, the responsibility for conducting investigations of reports of abuse, neglect, or exploitation occurring at a child-care facility, including a residential child-care facility, as those terms are defined by Section 42.002, Human Resources Code, may not be transferred to the Health and Human Services

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Commission and remains the responsibility of the Department of Family and Protective Services.

(c) As soon as possible after the effective date of this section, the commissioner of the Department of Family and Protective Services shall transfer the responsibility for conducting investigations of reports of abuse, neglect, or exploitation occurring at a child-care facility, including a residential child-care facility, as those terms are defined by Section 42.002, Human Resources Code, to the child protective services division of the department. The commissioner shall transfer appropriate investigators and staff as necessary to implement this section.

(d) This section takes effect immediately if this Act receives a vote of two-thirds of all the members of each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for this section to take immediate effect, this section takes effect on the 91st day after the last day of the legislative session.

SECTION 21. Section 531.0202(a), Government Code, is amended to read as follows:

(a) Each of the following state agencies and entities is abolished on a date that is within the period prescribed by Section 531.02001(1), that is specified in the transition plan required under Section 531.0204 for the abolition of the agency or entity, and that occurs after all of the agency's or entity's functions have been transferred in accordance with Section 531.0201:

- (1) the Department of Assistive and Rehabilitative Services;
- (2) the Health and Human Services Council;
- (3) the Aging and Disability Services Council;
- (4) the Assistive and Rehabilitative Services Council;

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Commission and remains the responsibility of the Department of Family and Protective Services.

(c) As soon as possible after the effective date of this section, the commissioner of the Department of Family and Protective Services shall transfer the responsibility for conducting investigations of reports of abuse, neglect, or exploitation occurring at a child-care facility, including a residential child-care facility, as those terms are defined by Section 42.002, Human Resources Code, to the child protective services division of the department. The commissioner shall transfer appropriate investigators and staff as necessary to implement this section.

(d) This section takes effect immediately if this Act receives a vote of two-thirds of all the members of each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for this section to take immediate effect, this section takes effect on the 91st day after the last day of the legislative session.

SECTION 22. Same as House version.

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(5) ~~the Family and Protective Services Council;~~
[~~6~~] the State Health Services Council; and
6 [~~7~~] the Texas Council on Autism and Pervasive Developmental Disorders.

SECTION 22. Section 531.0206(a), Government Code, is amended to read as follows:

(a) The Sunset Advisory Commission shall conduct a limited-scope review of the commission during the state fiscal biennium ending August 31, 2023, in the manner provided by Chapter 325 (Texas Sunset Act). The review must provide:

- (1) an update on the commission's progress with respect to the consolidation of the health and human services system mandated by this subchapter, including the commission's compliance with the transition plan required under Section 531.0204;
- (2) an evaluation and recommendations regarding the need to continue ~~the Department of Family and Protective Services and~~ the Department of State Health Services as a state agency [agencies] separate from the commission; and
- (3) any additional information the Sunset Advisory Commission determines appropriate, including information regarding any additional organizational changes the Sunset Advisory Commission recommends.

SECTION 23. Section 531.102(a), Government Code, is amended to read as follows:

(a) The commission's office of inspector general is responsible for the prevention, detection, audit, inspection, review, and investigation of fraud, waste, and abuse in the provision and delivery of all health and human services in the state, including services through any state-administered health

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SECTION 24. Same as House version.

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or human services program that is wholly or partly federally funded or services provided by the Department of Family and Protective Services, and the enforcement of state law relating to the provision of those services. The commission may obtain any information or technology necessary to enable the office to meet its responsibilities under this subchapter or other law.

SECTION 24. Sections 40.0026 and 40.0027, Human Resources Code, as effective ~~on~~ September 1, 2017, are amended to read as follows:

Sec. 40.0026. REFERENCES IN LAW MEANING DEPARTMENT. In this code or any other law, a reference to the department or the commission in relation to a function described by Section 40.0025(b) or an administrative support function for the department means the department. ~~[A reference in law to the department in relation to any other function has the meaning assigned by Section 531.0011, Government Code.]~~

Sec. 40.0027. REFERENCES IN LAW MEANING COMMISSIONER OR DESIGNEE. In this code or in any other law, a reference to the commissioner or the executive commissioner in relation to a function described by Section 40.0025(b) or an administrative support function for the department means the commissioner. ~~[A reference in law to the commissioner in relation to any other function has the meaning assigned by Section 531.0012, Government Code.]~~

SECTION 25. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Sections 40.021, 40.022, 40.023, 40.024, 40.025, and 40.026 to read as follows:

Sec. 40.021. FAMILY AND PROTECTIVE SERVICES

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SECTION 25. Sections 40.0026 and 40.0027, Human Resources Code, as effective September 1, 2017, are amended to read as follows:

Sec. 40.0026. REFERENCES IN LAW MEANING DEPARTMENT. In this code or any other law, a reference to the department or the commission in relation to a function described by Section 40.0025(b) means the department. ~~[A reference in law to the department in relation to any other function has the meaning assigned by Section 531.0011, Government Code.]~~ [FA4(2)]

Sec. 40.0027. REFERENCES IN LAW MEANING COMMISSIONER OR DESIGNEE. In this code or in any other law, a reference to the commissioner or the executive commissioner in relation to a function described by Section 40.0025(b) means the commissioner. ~~[A reference in law to the commissioner in relation to any other function has the meaning assigned by Section 531.0012, Government Code.]~~ [FA4(3)]

SECTION 26. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Sections 40.021, 40.022, 40.023, 40.024, 40.025, and 40.026 to read as follows:

Sec. 40.021. FAMILY AND PROTECTIVE SERVICES

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COUNCIL. (a) The Family and Protective Services Council is created to assist the commissioner in developing rules and policies for the department.

(b) The council is composed of the following nine members: (1) three members of the public appointed by the governor, at least one of whom must be either a court-appointed volunteer advocate or a staff member or volunteer of a children's advocacy center; (2) three members of the public appointed by the lieutenant governor, at least one of whom must be a current or former foster parent; and (3) three members of the public appointed by the speaker of the house of representatives, at least one of whom must be a current or former foster child.

(c) The council shall study and make recommendations to the commissioner regarding the management and operation of the department, including policies and rules governing the delivery of services to persons who are served by the department and the rights and duties of persons who are served or regulated by the department.

(d) Chapter 551, Government Code, applies to the council.

(e) Chapter 2110, Government Code, does not apply to the council.

(f) A majority of the members of the council constitute a quorum for the transaction of business.

Sec. 40.022. APPOINTMENTS. (a) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the

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COUNCIL. (a) The Family and Protective Services Council is created to assist the commissioner in developing rules and policies for the department.

(b) The council is composed of nine members of the public appointed by the governor. In making appointments to the council, the governor shall consider persons who have a demonstrated knowledge of the department and the health and human services system in general, including former department employees, court-appointed special advocates, foster care providers, and employees of child advocacy centers. [FA2]

(c) The council shall study and make recommendations to the commissioner regarding the management and operation of the department, including policies and rules governing the delivery of services to persons who are served by the department, the rights and duties of persons who are served or regulated by the department, and the consolidation of the provision of administrative support services as provided by Section 531.00553, Government Code. The council may not develop policies or rules relating to administrative support services provided by the commission for the department.

(d) Chapter 551, Government Code, applies to the council.

(e) Chapter 2110, Government Code, does not apply to the council.

(f) A majority of the members of the council constitute a quorum for the transaction of business.

Sec. 40.022. APPOINTMENTS. (a) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the

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appointees.

(b) Appointments to the council shall be made so that each geographic area of the state is represented on the council. Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.

Sec. 40.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A person who is appointed as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide information to the member regarding:

(1) the legislation that created the department and the council;
(2) the programs operated by the department;
(3) the role and functions of the department and the council, including detailed information regarding the advisory responsibilities of the council;

(4) the rules of the department, with an emphasis on rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;
(B) public information law, Chapter 552, Government Code; and
(C) administrative procedure law, Chapter 2001, Government Code;

(8) the requirements of the conflict-of-interest laws and other

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appointees.

(b) Appointments to the council shall be made so that each geographic area of the state is represented on the council. Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.

Sec. 40.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A person who is appointed as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide information to the member regarding:

(1) the legislation that created the department and the council;
(2) the programs operated by the department;
(3) the role and functions of the department and the council, including detailed information regarding the advisory responsibilities of the council;

(4) the role of the commission and the responsibilities of the commission in relation to the department;

(5) the rules of the department, with an emphasis on rules that relate to disciplinary and investigatory authority;

(6) the current budget for the department;

(7) the results of the most recent formal audit of the department;

(8) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;
(B) public information law, Chapter 552, Government Code; and
(C) administrative procedure law, Chapter 2001, Government Code;

(9) the requirements of the conflict-of-interest laws and other

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laws relating to public officials; and

(9) any applicable ethics policies adopted by the commissioner or the Texas Ethics Commission.

Sec. 40.024. TERMS; VACANCY. (a) Members of the council serve for staggered six-year terms, with the terms of three members expiring February 1 of each odd-numbered year.

(b) A member of the council may not serve more than two consecutive full terms as a council member.

(c) A vacancy on the council shall be filled in the same manner as the original appointment.

Sec. 40.025. REIMBURSEMENT FOR EXPENSES. A council member may not receive compensation for service as a member of the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.

Sec. 40.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) The governor shall designate a member of the council as the presiding officer to serve in that capacity at the pleasure of the governor.

(b) The members of the council shall elect any other necessary officers.

(c) The council shall meet quarterly and at other times at the call of the presiding officer. The council may hold meetings in different areas of the state.

SECTION 26. Section 40.027, Human Resources Code, is amended to read as follows:

Sec. 40.027. COMMISSIONER. (a) The governor [executive commissioner] shall appoint a commissioner [in accordance with Section 531.0056, Government Code]. The

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laws relating to public officials; and

(10) any applicable ethics policies adopted by the commissioner or the Texas Ethics Commission.

Sec. 40.024. TERMS; VACANCY. (a) Members of the council serve for staggered six-year terms, with the terms of three members expiring February 1 of each odd-numbered year.

(b) A member of the council may not serve more than two consecutive full terms as a council member.

(c) A vacancy on the council shall be filled in the same manner as the original appointment.

Sec. 40.025. REIMBURSEMENT FOR EXPENSES. A council member may not receive compensation for service as a member of the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.

Sec. 40.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) The governor shall designate a member of the council as the presiding officer to serve in that capacity at the pleasure of the governor.

(b) The members of the council shall elect any other necessary officers.

(c) The council shall meet quarterly and at other times at the call of the presiding officer. The council may hold meetings in different areas of the state.

SECTION 27. Section 40.027, Human Resources Code, is amended to read as follows:

Sec. 40.027. COMMISSIONER. (a) The governor, with the advice and consent of the senate, [executive commissioner] shall appoint a commissioner [in accordance with Section

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commissioner is to be selected according to education, training, experience, and demonstrated ability.

- (b) The commissioner serves at the pleasure of the governor [executive commissioner].
- (c) The [Subject to the control of the executive commissioner, the] commissioner shall:
 - (1) act as the department's chief administrative officer;
 - (2) oversee [in accordance with the procedures prescribed by Section 531.00551, Government Code, assist the executive commissioner in] the development and implementation of policies and guidelines needed for the administration of the department's functions;
 - (3) oversee [in accordance with the procedures adopted by the executive commissioner under Section 531.00551, Government Code, assist the executive commissioner in] the development of rules relating to the matters within the department's jurisdiction, including the delivery of services to persons and the rights and duties of persons who are served or regulated by the department; and
 - (4) serve as a liaison between the department and commission.
- (d) The commissioner shall administer this chapter and other laws relating to the department [under operational policies established by the executive commissioner and in accordance with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule].
- (e) Notwithstanding any other law, the commissioner shall adopt rules and policies for the operation of and the provision of services by the department.

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~~531.0056, Government Code].~~ The commissioner is to be selected according to education, training, experience, and demonstrated ability.

- (b) The commissioner serves a term of two years [at the pleasure of the executive commissioner].
- (c) The [Subject to the control of the executive commissioner, the] commissioner shall:
 - (1) act as the department's chief administrative officer;
 - (2) oversee [in accordance with the procedures prescribed by Section 531.00551, Government Code, assist the executive commissioner in] the development and implementation of policies and guidelines needed for the administration of the department's functions;
 - (3) oversee [in accordance with the procedures adopted by the executive commissioner under Section 531.00551, Government Code, assist the executive commissioner in] the development of rules relating to the matters within the department's jurisdiction, including the delivery of services to persons and the rights and duties of persons who are served or regulated by the department; and
 - (4) serve as a liaison between the department and commission.
- (d) The commissioner shall administer this chapter and other laws relating to the department [under operational policies established by the executive commissioner and in accordance with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule].
- (e) Notwithstanding any other law, the commissioner shall adopt rules and policies for the operation of and the provision of services by the department.

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SECTION 27. Section 40.030, Human Resources Code, is amended to read as follows:

Sec. 40.030. ADVISORY COMMITTEES. (a) The [executive] commissioner or the [executive] commissioner's designee may appoint advisory committees in accordance with Chapter 2110, Government Code.

(b) The [executive] commissioner shall adopt rules, in compliance with Chapter 2110, Government Code, regarding the purpose, structure, and use of advisory committees by the department. The rules may include provisions governing:

- (1) an advisory committee's size and quorum requirements;
- (2) qualifications for membership of an advisory committee, including:
 - (A) requirements relating to experience and geographic representation; and
 - (B) requirements for the department to include as members of advisory committees youth who have aged out of foster care and parents who have successfully completed family service plans and whose children were returned to the parents, as applicable;
- (3) appointment procedures for an advisory committee;
- (4) terms for advisory committee members; and
- (5) compliance with Chapter 551, Government Code.

SECTION 28. Section 40.0505, Human Resources Code, is amended to read as follows:

Sec. 40.0505. DIVISIONS OF DEPARTMENT [POWERS AND DUTIES OF COMMISSIONER; EFFECT OF CONFLICT WITH OTHER LAW]. (a) The commissioner shall establish the following divisions and offices within the department:

- (1) an investigations division;

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SECTION 28. Same as House version.

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SECTION 29. Section 40.0505, Human Resources Code, is amended to read as follows:

Sec. 40.0505. DIVISIONS OF DEPARTMENT [POWERS AND DUTIES OF COMMISSIONER; EFFECT OF CONFLICT WITH OTHER LAW]. (a) The commissioner shall establish the following divisions and offices within the department:

- (1) an investigations division;

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(2) a contracting division that oversees the following:
(A) quality assurance;
(B) vendor oversight;
(C) contract adherence;
(D) contracting; and
(E) oversight of single source continuum contractors providing foster care services;
(3) an office of consumer affairs;
(4) a consolidated data division; and
(5) a legal division that oversees the following:
(A) human resources, as necessary to manage the department's workforce and establish the department's hiring and termination policies;
(B) open records;
(C) privacy and confidentiality;
(D) litigation; and
(E) contract compliance.

(b) The commissioner may establish additional divisions within the department as the commissioner determines appropriate.
(c) The commissioner may assign department functions among the department's divisions. [To the extent a power or duty given to the commissioner by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.]

No equivalent provision.

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(2) [Deleted by FA4(4)]

(3) a consolidated data division;
(4) a legal division that oversees the following:
(A) legal matters relating to human resources, as necessary to manage the department's workforce and establish the department's hiring and termination policies;
(B) open records;
(C) privacy and confidentiality;
(D) litigation; and
(E) contract compliance; [FA3(1)]
(5) an operations division that oversees department operations and human resources functions of the department; and
(6) a financial management and accounting services division.
[FA3(2)]
(b) The commissioner may establish additional divisions within the department as the commissioner determines appropriate.
(c) The commissioner may assign department functions among the department's divisions. [To the extent a power or duty given to the commissioner by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.]

SECTION 30. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.0512 to read as

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SECTION 29. Section 40.058, Human Resources Code, is amended by adding Subsection (i) to read as follows:

(i) The department and the commission shall enter into contracts for the provision of shared administrative services, subject to approval by the governor, including payroll, procurement, information resources, rate setting, and regional administrative services.

SECTION 30. Subchapter A, Chapter 48, Human Resources Code, is amended by adding Section 48.0021 to read as follows:

Sec. 48.0021. REFERENCE TO COMMISSION OR EXECUTIVE COMMISSIONER. In this chapter:

(1) a reference to the Health and Human Services Commission means the Department of Family and Protective Services; and
(2) a reference to the executive commissioner means the commissioner of the Department of Family and Protective Services.

SECTION 31. The following provisions are repealed:

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follows:

Sec. 40.0512. CONTINUITY OF SERVICES; INFORMATION SHARING. The department shall make a good faith effort to share relevant and appropriate information with health and human services agencies regarding persons receiving services from the department to ensure continuity of care and the best possible coordination of state-funded resources among health and human services agencies.

SECTION 31. Section 40.058, Human Resources Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) The department and the commission shall enter into contracts for the provision of shared administrative services including payroll, procurement, information resources, rate setting, purchasing, and contracting. [FA4(5),FA5]
(j) The department shall collaborate with the commission to ensure the efficient provision of administrative support services by the commission.

SECTION 32. Same as House version.

SECTION 33. Same as House version.

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(1) Sections 261.001(7) and 264.001(2) and (3), Family Code; and
(2) Sections 40.0506 and 40.0507, Human Resources Code.

SECTION 32. As soon as possible after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall transfer the appropriate divisions, resources, and personnel to the Department of Family and Protective Services to allow the department to perform the general functions of the department under Chapter 40, Human Resources Code, as amended by this Act.

SECTION 33. Except as otherwise provided by this Act, this Act takes effect September 1, 2017.

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SECTION 34. As soon as possible after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall transfer the appropriate divisions, resources, and personnel to the Department of Family and Protective Services to allow the department to perform the general functions of the department under Chapter 40, Human Resources Code, as amended by this Act, including any staff and associated resources previously transferred to the commission for the purpose of providing legal, human resources, contracting, or strategic planning and evaluation services to the department pursuant to the requirements of Chapter 837 (S.B. 200), Acts of the 84th Legislature, Regular Session, 2015.

SECTION 35. Same as House version.

CONFERENCE