

1-1 By: Sanford, et al. (Senate Sponsor - Paxton) H.B. No. 3390  
1-2 (In the Senate - Received from the House May 13, 2019;  
1-3 May 13, 2019, read first time and referred to Committee on Health &  
1-4 Human Services; May 19, 2019, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 May 19, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Kolkhorst	X		
1-10	Perry	X		
1-11	Buckingham	X		
1-12	Campbell	X		
1-13	Flores	X		
1-14	Johnson	X		
1-15	Miles	X		
1-16	Powell	X		
1-17	Seliger	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 3390 By: Perry

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

1-21 relating to caregivers for certain children, including the  
1-22 identification of caregivers for children in the conservatorship of  
1-23 the Department of Family and Protective Services and an exception  
1-24 from licensing requirements for certain caretakers.

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

1-26 SECTION 1. Section 107.002(b-1), Family Code, is amended to  
1-27 read as follows:

1-28 (b-1) In addition to the duties required by Subsection (b),  
1-29 a guardian ad litem appointed for a child in a proceeding under  
1-30 Chapter 262 or 263 shall:

1-31 (1) review the medical care provided to the child;

1-32 (2) in a developmentally appropriate manner, seek to  
1-33 elicit the child's opinion on the medical care provided; ~~and~~

1-34 (3) for a child at least 16 years of age, ascertain  
1-35 whether the child has received the following documents:

1-36 (A) a certified copy of the child's birth  
1-37 certificate;

1-38 (B) a social security card or a replacement  
1-39 social security card;

1-40 (C) a driver's license or personal  
1-41 identification certificate under Chapter 521, Transportation Code;  
1-42 and

1-43 (D) any other personal document the Department of  
1-44 Family and Protective Services determines appropriate; and

1-45 (4) seek to elicit in a developmentally appropriate  
1-46 manner the name of any adult, particularly an adult residing in the  
1-47 child's community, who could be a relative or designated caregiver  
1-48 for the child and immediately provide the names of those  
1-49 individuals to the Department of Family and Protective Services.

1-50 SECTION 2. Section 107.003(b), Family Code, is amended to  
1-51 read as follows:

1-52 (b) In addition to the duties required by Subsection (a), an  
1-53 attorney ad litem appointed for a child in a proceeding under  
1-54 Chapter 262 or 263 shall:

1-55 (1) review the medical care provided to the child;

1-56 (2) in a developmentally appropriate manner, seek to  
1-57 elicit the child's opinion on the medical care provided; ~~and~~

1-58 (3) for a child at least 16 years of age:

1-59 (A) advise the child of the child's right to  
1-60 request the court to authorize the child to consent to the child's

2-1 own medical care under Section 266.010; and  
2-2 (B) ascertain whether the child has received the  
2-3 following documents:  
2-4 (i) a certified copy of the child's birth  
2-5 certificate;

2-6 (ii) a social security card or a  
2-7 replacement social security card;  
2-8 (iii) a driver's license or personal  
2-9 identification certificate under Chapter 521, Transportation Code;  
2-10 and

2-11 (iv) any other personal document the  
2-12 Department of Family and Protective Services determines  
2-13 appropriate; and  
2-14 (4) seek to elicit in a developmentally appropriate  
2-15 manner the name of any adult, particularly an adult residing in the  
2-16 child's community, who could be a relative or designated caregiver  
2-17 for the child and immediately provide the names of those  
2-18 individuals to the Department of Family and Protective Services.

2-19 SECTION 3. The heading to Section 261.307, Family Code, is  
2-20 amended to read as follows:

2-21 Sec. 261.307. INFORMATION RELATING TO INVESTIGATION  
2-22 PROCEDURE AND CHILD PLACEMENT RESOURCES.

2-23 SECTION 4. Section 261.307(a), Family Code, is amended to  
2-24 read as follows:

2-25 (a) As soon as possible after initiating an investigation of  
2-26 a parent or other person having legal custody of a child, the  
2-27 department shall provide to the person:

2-28 (1) a summary that:

2-29 (A) is brief and easily understood;

2-30 (B) is written in a language that the person  
2-31 understands, or if the person is illiterate, is read to the person  
2-32 in a language that the person understands; and

2-33 (C) contains the following information:

2-34 (i) the department's procedures for  
2-35 conducting an investigation of alleged child abuse or neglect,  
2-36 including:

2-37 (a) a description of the  
2-38 circumstances under which the department would request to remove  
2-39 the child from the home through the judicial system; and

2-40 (b) an explanation that the law  
2-41 requires the department to refer all reports of alleged child abuse  
2-42 or neglect to a law enforcement agency for a separate determination  
2-43 of whether a criminal violation occurred;

2-44 (ii) the person's right to file a complaint  
2-45 with the department or to request a review of the findings made by  
2-46 the department in the investigation;

2-47 (iii) the person's right to review all  
2-48 records of the investigation unless the review would jeopardize an  
2-49 ongoing criminal investigation or the child's safety;

2-50 (iv) the person's right to seek legal  
2-51 counsel;

2-52 (v) references to the statutory and  
2-53 regulatory provisions governing child abuse and neglect and how the  
2-54 person may obtain copies of those provisions; and

2-55 (vi) the process the person may use to  
2-56 acquire access to the child if the child is removed from the home;

2-57 (2) if the department determines that removal of the  
2-58 child may be warranted, a proposed child placement resources form  
2-59 that:

2-60 (A) instructs the parent or other person having  
2-61 legal custody of the child to:

2-62 (i) complete and return the form to the  
2-63 department or agency; ~~and~~

2-64 (ii) identify in the form at least three  
2-65 individuals who could be relative caregivers or designated  
2-66 caregivers, as those terms are defined by Section 264.751; ~~and~~

2-67 (iii) ask the child in a developmentally  
2-68 appropriate manner to identify any adult, particularly an adult  
2-69 residing in the child's community, who could be a relative

3-1 caregiver or designated caregiver for the child; and  
3-2 (iv) list on the form the name of each  
3-3 individual identified by the child as a potential relative  
3-4 caregiver or designated caregiver; and

3-5 (B) informs the parent or other person of a  
3-6 location that is available to the parent or other person to submit  
3-7 the information in the form 24 hours a day either in person or by  
3-8 facsimile machine or e-mail; and

3-9 (3) an informational manual required by Section  
3-10 261.3071.

3-11 SECTION 5. Section 262.0022, Family Code, is amended to  
3-12 read as follows:

3-13 Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each  
3-14 hearing under this chapter, the court shall review the placement of  
3-15 each child in the temporary or permanent managing conservatorship  
3-16 of the Department of Family and Protective Services who is not  
3-17 placed with a relative caregiver or designated caregiver as defined  
3-18 by Section 264.751. The court shall include in its findings a  
3-19 statement on whether the department:

3-20 (1) asked the child in a developmentally appropriate  
3-21 manner to identify any adult, particularly an adult residing in the  
3-22 child's community, who could be a relative caregiver or designated  
3-23 caregiver for the child; and

3-24 (2) has the option of placing the child with a relative  
3-25 caregiver or [other] designated caregiver.

3-26 SECTION 6. Sections 262.114(a), (a-2), and (b), Family  
3-27 Code, are amended to read as follows:

3-28 (a) Before a full adversary hearing under Subchapter C, the  
3-29 Department of Family and Protective Services must perform a  
3-30 background and criminal history check of the relatives or other  
3-31 designated individuals identified as a potential relative or  
3-32 designated caregiver, as defined by Section 264.751, on the  
3-33 proposed child placement resources form provided under Section  
3-34 261.307, including any adult identified by the child. The  
3-35 department shall evaluate each person listed on the form to  
3-36 determine the relative or other designated individual who would be  
3-37 the most appropriate substitute caregiver for the child and must  
3-38 complete a home study of the most appropriate substitute caregiver,  
3-39 if any, before the full adversary hearing. Until the department  
3-40 identifies a relative or other designated individual qualified to  
3-41 be a substitute caregiver, the department must continue to explore  
3-42 substitute caregiver options, including asking the child in a  
3-43 developmentally appropriate manner to identify any adult,  
3-44 particularly an adult residing in the child's community, who could  
3-45 be a relative or designated caregiver for the child. The time  
3-46 frames in this subsection do not apply to a relative or other  
3-47 designated individual located in another state.

3-48 (a-2) If the child has not been placed with a relative or  
3-49 other designated caregiver by the time of the full adversary  
3-50 hearing under Section 262.201, the department shall file with the  
3-51 court a statement that explains:

3-52 (1) the reasons why the department has not placed the  
3-53 child with a relative or other designated caregiver listed on the  
3-54 proposed child placement resources form, including any adult  
3-55 identified by the child; and

3-56 (2) the actions the department is taking, if any, to  
3-57 place the child with a relative or other designated caregiver.

3-58 (b) The department may place a child with a relative or  
3-59 other designated caregiver identified on the proposed child  
3-60 placement resources form, including any adult identified by the  
3-61 child, if the department determines that the placement is in the  
3-62 best interest of the child. The department must complete the  
3-63 background and criminal history check and conduct a preliminary  
3-64 evaluation of the relative or other designated caregiver's home  
3-65 before the child is placed with the relative or other designated  
3-66 caregiver. The department may place the child with the relative or  
3-67 designated caregiver before conducting the home study required  
3-68 under Subsection (a). Not later than 48 hours after the time that  
3-69 the child is placed with the relative or other designated

4-1 caregiver, the department shall begin the home study of the  
 4-2 relative or other designated caregiver. The department shall  
 4-3 complete the home study as soon as possible unless otherwise  
 4-4 ordered by a court. The department shall provide a copy of an  
 4-5 informational manual required under Section 261.3071 to the  
 4-6 relative or other designated caregiver at the time of the child's  
 4-7 placement.

4-8 SECTION 7. Section 262.201, Family Code, is amended by  
 4-9 adding Subsection (1-1) to read as follows:

4-10 (1-1) The court shall ask all parties present at the full  
 4-11 adversary hearing whether:

4-12 (1) the child has had the opportunity, in a  
 4-13 developmentally appropriate manner, to identify any adult,  
 4-14 particularly an adult residing in the child's community, who could  
 4-15 be a relative or designated caregiver for the child; and

4-16 (2) each individual identified by the child as a  
 4-17 potential relative or designated caregiver is listed on the  
 4-18 proposed child placement resources form.

4-19 SECTION 8. Section 263.002(b), Family Code, is amended to  
 4-20 read as follows:

4-21 (b) At each permanency hearing under this chapter, the court  
 4-22 shall review the placement of each child in the temporary managing  
 4-23 conservatorship of the department who is not placed with a relative  
 4-24 caregiver or designated caregiver as defined by Section  
 4-25 264.751. The court shall include in its findings a statement  
 4-26 whether the department:

4-27 (1) asked the child in a developmentally appropriate  
 4-28 manner to identify any adult, particularly an adult residing in the  
 4-29 child's community, who could be a relative or designated caregiver  
 4-30 for the child; and

4-31 (2) placed the child with a relative or [other]  
 4-32 designated caregiver.

4-33 SECTION 9. Section 263.202(h), Family Code, is amended to  
 4-34 read as follows:

4-35 (h) If a proposed child placement resources form as  
 4-36 described by Section 261.307 has not been submitted, the court  
 4-37 shall require each parent, alleged father, or other person to whom  
 4-38 the department is required to provide a form to submit a completed  
 4-39 form. The court shall ask all parties present at the status hearing  
 4-40 whether:

4-41 (1) the child has had the opportunity, in a  
 4-42 developmentally appropriate manner, to identify any adult,  
 4-43 particularly an adult residing in the child's community, who could  
 4-44 be a relative or designated caregiver for the child; and

4-45 (2) each individual identified by the child as a  
 4-46 potential relative or designated caregiver is listed on the  
 4-47 proposed child placement resources form.

4-48 SECTION 10. Section 263.306(a-1), Family Code, is amended  
 4-49 to read as follows:

4-50 (a-1) At each permanency hearing before a final order is  
 4-51 rendered, the court shall:

4-52 (1) identify all persons and parties present at the  
 4-53 hearing;

4-54 (2) review the efforts of the department or other  
 4-55 agency in:

4-56 (A) locating and requesting service of citation  
 4-57 on all persons entitled to service of citation under Section  
 4-58 102.009; and

4-59 (B) obtaining the assistance of a parent in  
 4-60 providing information necessary to locate an absent parent, alleged  
 4-61 father, ~~or~~ relative of the child, or other adult identified by the  
 4-62 child as a potential relative or designated caregiver;

4-63 (3) ask all parties present whether the child or the  
 4-64 child's family has a Native American heritage and identify any  
 4-65 Native American tribe with which the child may be associated;

4-66 (4) review the extent of the parties' compliance with  
 4-67 temporary orders and the service plan and the extent to which  
 4-68 progress has been made toward alleviating or mitigating the causes  
 4-69 necessitating the placement of the child in foster care;

5-1 (5) review the permanency progress report to  
5-2 determine:  
5-3 (A) the safety and well-being of the child and  
5-4 whether the child's needs, including any medical or special needs,  
5-5 are being adequately addressed;  
5-6 (B) the continuing necessity and appropriateness  
5-7 of the placement of the child, including with respect to a child who  
5-8 has been placed outside of this state, whether the placement  
5-9 continues to be in the best interest of the child;  
5-10 (C) the appropriateness of the primary and  
5-11 alternative permanency goals for the child developed in accordance  
5-12 with department rule and whether the department has made reasonable  
5-13 efforts to finalize the permanency plan, including the concurrent  
5-14 permanency goals, in effect for the child;  
5-15 (D) whether the child has been provided the  
5-16 opportunity, in a developmentally appropriate manner, to express  
5-17 the child's opinion on any medical care provided;  
5-18 (E) whether the child has been provided the  
5-19 opportunity, in a developmentally appropriate manner, to identify  
5-20 any adults, particularly an adult residing in the child's  
5-21 community, who could be a relative or designated caregiver for the  
5-22 child;  
5-23 (F) for a child receiving psychotropic  
5-24 medication, whether the child:  
5-25 (i) has been provided appropriate  
5-26 nonpharmacological interventions, therapies, or strategies to meet  
5-27 the child's needs; or  
5-28 (ii) has been seen by the prescribing  
5-29 physician, physician assistant, or advanced practice nurse at least  
5-30 once every 90 days;  
5-31 (G) [~~(F)~~] whether an education decision-maker  
5-32 for the child has been identified, the child's education needs and  
5-33 goals have been identified and addressed, and there have been major  
5-34 changes in the child's school performance or there have been  
5-35 serious disciplinary events;  
5-36 (H) [~~(G)~~] for a child 14 years of age or older,  
5-37 whether services that are needed to assist the child in  
5-38 transitioning from substitute care to independent living are  
5-39 available in the child's community; and  
5-40 (I) [~~(H)~~] for a child whose permanency goal is  
5-41 another planned permanent living arrangement:  
5-42 (i) the desired permanency outcome for the  
5-43 child, by asking the child;  
5-44 (ii) whether, as of the date of the hearing,  
5-45 another planned permanent living arrangement is the best permanency  
5-46 plan for the child and, if so, provide compelling reasons why it  
5-47 continues to not be in the best interest of the child to:  
5-48 (a) return home;  
5-49 (b) be placed for adoption;  
5-50 (c) be placed with a legal guardian;  
5-51 or  
5-52 (d) be placed with a fit and willing  
5-53 relative;  
5-54 (iii) whether the department has conducted  
5-55 an independent living skills assessment under Section  
5-56 264.121(a-3);  
5-57 (iv) whether the department has addressed  
5-58 the goals identified in the child's permanency plan, including the  
5-59 child's housing plan, and the results of the independent living  
5-60 skills assessment;  
5-61 (v) if the youth is 16 years of age or  
5-62 older, whether there is evidence that the department has provided  
5-63 the youth with the documents and information listed in Section  
5-64 264.121(e); and  
5-65 (vi) if the youth is 18 years of age or  
5-66 older or has had the disabilities of minority removed, whether  
5-67 there is evidence that the department has provided the youth with  
5-68 the documents and information listed in Section 264.121(e-1);  
5-69 (6) determine whether to return the child to the

6-1 child's parents if the child's parents are willing and able to  
6-2 provide the child with a safe environment and the return of the  
6-3 child is in the child's best interest;

6-4 (7) estimate a likely date by which the child may be  
6-5 returned to and safely maintained in the child's home, placed for  
6-6 adoption, or placed in permanent managing conservatorship; and

6-7 (8) announce in open court the dismissal date and the  
6-8 date of any upcoming hearings.

6-9 SECTION 11. Section 263.5031, Family Code, is amended to  
6-10 read as follows:

6-11 Sec. 263.5031. PERMANENCY HEARINGS FOLLOWING FINAL ORDER.  
6-12 At each permanency hearing after the court renders a final order,  
6-13 the court shall:

6-14 (1) identify all persons and parties present at the  
6-15 hearing;

6-16 (2) review the efforts of the department or other  
6-17 agency in notifying persons entitled to notice under Section  
6-18 263.0021; and

6-19 (3) review the permanency progress report to  
6-20 determine:

6-21 (A) the safety and well-being of the child and  
6-22 whether the child's needs, including any medical or special needs,  
6-23 are being adequately addressed;

6-24 (B) whether the child has been provided the  
6-25 opportunity, in a developmentally appropriate manner, to identify  
6-26 any adult, particularly an adult residing in the child's community,  
6-27 who could be a relative or designated caregiver for the child;

6-28 (C) whether the department placed the child with  
6-29 a relative or ~~other~~ designated caregiver and the continuing  
6-30 necessity and appropriateness of the placement of the child,  
6-31 including with respect to a child who has been placed outside of  
6-32 this state, whether the placement continues to be in the best  
6-33 interest of the child;

6-34 (D) ~~[(C)]~~ if the child is placed in institutional  
6-35 care, whether efforts have been made to ensure that the child is  
6-36 placed in the least restrictive environment consistent with the  
6-37 child's best interest and special needs;

6-38 (E) ~~[(D)]~~ the appropriateness of the primary and  
6-39 alternative permanency goals for the child, whether the department  
6-40 has made reasonable efforts to finalize the permanency plan,  
6-41 including the concurrent permanency goals, in effect for the child,  
6-42 and whether:

6-43 (i) the department has exercised due  
6-44 diligence in attempting to place the child for adoption if parental  
6-45 rights to the child have been terminated and the child is eligible  
6-46 for adoption; or

6-47 (ii) another permanent placement,  
6-48 including appointing a relative as permanent managing conservator  
6-49 or returning the child to a parent, is appropriate for the child;

6-50 (F) ~~[(E)]~~ for a child whose permanency goal is  
6-51 another planned permanent living arrangement:

6-52 (i) the desired permanency outcome for the  
6-53 child, by asking the child;

6-54 (ii) whether, as of the date of the hearing,  
6-55 another planned permanent living arrangement is the best permanency  
6-56 plan for the child and, if so, provide compelling reasons why it  
6-57 continues to not be in the best interest of the child to:

- 6-58 (a) return home;
- 6-59 (b) be placed for adoption;
- 6-60 (c) be placed with a legal guardian;

6-61 or  
6-62 (d) be placed with a fit and willing  
6-63 relative;

6-64 (iii) whether the department has conducted  
6-65 an independent living skills assessment under Section  
6-66 264.121(a-3);

6-67 (iv) whether the department has addressed  
6-68 the goals identified in the child's permanency plan, including the  
6-69 child's housing plan, and the results of the independent living

7-1 skills assessment;

7-2 (v) if the youth is 16 years of age or

7-3 older, whether there is evidence that the department has provided

7-4 the youth with the documents and information listed in Section

7-5 [264.121\(e\)](#); and

7-6 (vi) if the youth is 18 years of age or

7-7 older or has had the disabilities of minority removed, whether

7-8 there is evidence that the department has provided the youth with

7-9 the documents and information listed in Section [264.121\(e-1\)](#);

7-10 (G) [~~(F)~~] if the child is 14 years of age or

7-11 older, whether services that are needed to assist the child in

7-12 transitioning from substitute care to independent living are

7-13 available in the child's community;

7-14 (H) [~~(G)~~] whether the child is receiving

7-15 appropriate medical care and has been provided the opportunity, in

7-16 a developmentally appropriate manner, to express the child's

7-17 opinion on any medical care provided;

7-18 (I) [~~(H)~~] for a child receiving psychotropic

7-19 medication, whether the child:

7-20 (i) has been provided appropriate

7-21 nonpharmacological interventions, therapies, or strategies to meet

7-22 the child's needs; or

7-23 (ii) has been seen by the prescribing

7-24 physician, physician assistant, or advanced practice nurse at least

7-25 once every 90 days;

7-26 (J) [~~(I)~~] whether an education decision-maker

7-27 for the child has been identified, the child's education needs and

7-28 goals have been identified and addressed, and there are major

7-29 changes in the child's school performance or there have been

7-30 serious disciplinary events;

7-31 (K) [~~(J)~~] for a child for whom the department has

7-32 been named managing conservator in a final order that does not

7-33 include termination of parental rights, whether to order the

7-34 department to provide services to a parent for not more than six

7-35 months after the date of the permanency hearing if:

7-36 (i) the child has not been placed with a

7-37 relative or other individual, including a foster parent, who is

7-38 seeking permanent managing conservatorship of the child; and

7-39 (ii) the court determines that further

7-40 efforts at reunification with a parent are:

7-41 (a) in the best interest of the child;

7-42 and

7-43 (b) likely to result in the child's

7-44 safe return to the child's parent; and

7-45 (L) [~~(K)~~] whether the department has identified

7-46 a family or other caring adult who has made a permanent commitment

7-47 to the child.

7-48 SECTION 12. Section [264.751\(1\)](#), Family Code, is amended to

7-49 read as follows:

7-50 (1) "Designated caregiver" means an individual who has

7-51 a longstanding and significant relationship with a child or the

7-52 family of a child for whom the department has been appointed

7-53 managing conservator and who:

7-54 (A) is appointed to provide substitute care for

7-55 the child, but is not verified by a licensed child-placing agency to

7-56 operate an agency foster home under Chapter [42](#), Human Resources

7-57 Code; or

7-58 (B) is subsequently appointed permanent managing

7-59 conservator of the child after providing the care described by

7-60 Paragraph (A).

7-61 SECTION 13. Section [42.041\(b\)](#), Human Resources Code, as

7-62 amended by Chapters 244 (H.B. 871) and 317 (H.B. 7), Acts of the

7-63 85th Legislature, Regular Session, 2017, is reenacted and amended

7-64 to read as follows:

7-65 (b) This section does not apply to:

7-66 (1) a state-operated facility;

7-67 (2) an agency foster home;

7-68 (3) a facility that is operated in connection with a

7-69 shopping center, business, religious organization, or

8-1 establishment where children are cared for during short periods  
8-2 while parents or persons responsible for the children are attending  
8-3 religious services, shopping, or engaging in other activities,  
8-4 including retreats or classes for religious instruction, on or near  
8-5 the premises, that does not advertise as a child-care facility or  
8-6 day-care center, and that informs parents that it is not licensed by  
8-7 the state;

8-8 (4) a school or class for religious instruction that  
8-9 does not last longer than two weeks and is conducted by a religious  
8-10 organization during the summer months;

8-11 (5) a youth camp licensed by the Department of State  
8-12 Health Services;

8-13 (6) a facility licensed, operated, certified, or  
8-14 registered by another state agency;

8-15 (7) an educational facility that is accredited by the  
8-16 Texas Education Agency, the Southern Association of Colleges and  
8-17 Schools, or an accreditation body that is a member of the Texas  
8-18 Private School Accreditation Commission and that operates  
8-19 primarily for educational purposes for prekindergarten and above, a  
8-20 before-school or after-school program operated directly by an  
8-21 accredited educational facility, or a before-school or  
8-22 after-school program operated by another entity under contract with  
8-23 the educational facility, if the Texas Education Agency, the  
8-24 Southern Association of Colleges and Schools, or the other  
8-25 accreditation body, as applicable, has approved the curriculum  
8-26 content of the before-school or after-school program operated under  
8-27 the contract;

8-28 (8) an educational facility that operates solely for  
8-29 educational purposes for prekindergarten through at least grade  
8-30 two, that does not provide custodial care for more than one hour  
8-31 during the hours before or after the customary school day, and that  
8-32 is a member of an organization that promulgates, publishes, and  
8-33 requires compliance with health, safety, fire, and sanitation  
8-34 standards equal to standards required by state, municipal, and  
8-35 county codes;

8-36 (9) a kindergarten or preschool educational program  
8-37 that is operated as part of a public school or a private school  
8-38 accredited by the Texas Education Agency, that offers educational  
8-39 programs through grade six, and that does not provide custodial  
8-40 care during the hours before or after the customary school day;

8-41 (10) a family home, whether registered or listed;

8-42 (11) an educational facility that is integral to and  
8-43 inseparable from its sponsoring religious organization or an  
8-44 educational facility both of which do not provide custodial care  
8-45 for more than two hours maximum per day, and that offers an  
8-46 educational program in one or more of the following:  
8-47 prekindergarten through at least grade three, elementary grades, or  
8-48 secondary grades;

8-49 (12) an emergency shelter facility, other than a  
8-50 facility that would otherwise require a license as a child-care  
8-51 facility under this section, that provides shelter or care to a  
8-52 minor and the minor's child or children, if any, under Section  
8-53 [32.201](#), Family Code, if the facility:

8-54 (A) is currently under a contract with a state or  
8-55 federal agency; or

8-56 (B) meets the requirements listed under Section  
8-57 [51.005\(b\)\(3\)](#);

8-58 (13) a juvenile detention facility certified under  
8-59 Section [51.12](#), Family Code, a juvenile correctional facility  
8-60 certified under Section [51.125](#), Family Code, a juvenile facility  
8-61 providing services solely for the Texas Juvenile Justice  
8-62 Department, or any other correctional facility for children  
8-63 operated or regulated by another state agency or by a political  
8-64 subdivision of the state;

8-65 (14) an elementary-age (ages 5-13) recreation program  
8-66 operated by a municipality provided the governing body of the  
8-67 municipality annually adopts standards of care by ordinance after a  
8-68 public hearing for such programs, that such standards are provided  
8-69 to the parents of each program participant, and that the ordinances



9-1 shall include, at a minimum, staffing ratios, minimum staff  
9-2 qualifications, minimum facility, health, and safety standards,  
9-3 and mechanisms for monitoring and enforcing the adopted local  
9-4 standards; and further provided that parents be informed that the  
9-5 program is not licensed by the state and the program may not be  
9-6 advertised as a child-care facility;

9-7 (15) an annual youth camp held in a municipality with a  
9-8 population of more than 1.5 million that operates for not more than  
9-9 three months and that has been operated for at least 10 years by a  
9-10 nonprofit organization that provides care for the homeless;

9-11 (16) a food distribution program that:

9-12 (A) serves an evening meal to children two years  
9-13 of age or older; and

9-14 (B) is operated by a nonprofit food bank in a  
9-15 nonprofit, religious, or educational facility for not more than two  
9-16 hours a day on regular business days;

9-17 (17) a child-care facility that operates for less than  
9-18 three consecutive weeks and less than 40 days in a period of 12  
9-19 months;

9-20 (18) a program:

9-21 (A) in which a child receives direct instruction  
9-22 in a single skill, talent, ability, expertise, or proficiency;

9-23 (B) that does not provide services or offerings  
9-24 that are not directly related to the single talent, ability,  
9-25 expertise, or proficiency;

9-26 (C) that does not advertise or otherwise  
9-27 represent that the program is a child-care facility, day-care  
9-28 center, or licensed before-school or after-school program or that  
9-29 the program offers child-care services;

9-30 (D) that informs the parent or guardian:

9-31 (i) that the program is not licensed by the  
9-32 state; and

9-33 (ii) about the physical risks a child may  
9-34 face while participating in the program; and

9-35 (E) that conducts background checks for all  
9-36 program employees and volunteers who work with children in the  
9-37 program using information that is obtained from the Department of  
9-38 Public Safety;

9-39 (19) an elementary-age (ages 5-13) recreation program  
9-40 that:

9-41 (A) adopts standards of care, including  
9-42 standards relating to staff ratios, staff training, health, and  
9-43 safety;

9-44 (B) provides a mechanism for monitoring and  
9-45 enforcing the standards and receiving complaints from parents of  
9-46 enrolled children;

9-47 (C) does not advertise as or otherwise represent  
9-48 the program as a child-care facility, day-care center, or licensed  
9-49 before-school or after-school program or that the program offers  
9-50 child-care services;

9-51 (D) informs parents that the program is not  
9-52 licensed by the state;

9-53 (E) is organized as a nonprofit organization or  
9-54 is located on the premises of a participant's residence;

9-55 (F) does not accept any remuneration other than a  
9-56 nominal annual membership fee;

9-57 (G) does not solicit donations as compensation or  
9-58 payment for any good or service provided as part of the program; and

9-59 (H) conducts background checks for all program  
9-60 employees and volunteers who work with children in the program  
9-61 using information that is obtained from the Department of Public  
9-62 Safety;

9-63 (20) a living arrangement in a caretaker's home  
9-64 involving one or more children or a sibling group, excluding  
9-65 children who are related to the caretaker, in which the caretaker:

9-66 (A) had a prior relationship with the child or  
9-67 sibling group or other family members of the child or sibling group;

9-68 (B) does not care for more than one unrelated  
9-69 child or sibling group;

10-1 (C) does not receive compensation or solicit  
10-2 donations for the care of the child or sibling group; and

10-3 (D) has a written agreement with the parent to  
10-4 care for the child or sibling group;

10-5 (21) a living arrangement in a caretaker's home  
10-6 involving one or more children or a sibling group, excluding  
10-7 children who are related to the caretaker, in which:

10-8 (A) the department is the managing conservator of  
10-9 the child or sibling group;

10-10 (B) the department placed the child or sibling  
10-11 group in the caretaker's home; and

10-12 (C) the caretaker had a long-standing and  
10-13 significant relationship with the child or sibling group, or the  
10-14 family of the child or sibling group, before the child or sibling  
10-15 group was placed with the caretaker;

10-16 (22) a living arrangement in a caretaker's home  
10-17 involving one or more children or a sibling group, excluding  
10-18 children who are related to the caretaker, in which the child is in  
10-19 the United States on a time-limited visa under the sponsorship of  
10-20 the caretaker or of a sponsoring organization;

10-21 (23) a facility operated by a nonprofit organization  
10-22 that:

10-23 (A) does not otherwise operate as a child-care  
10-24 facility that is required to be licensed under this section;

10-25 (B) provides emergency shelter and care for not  
10-26 more than 15 days to children 13 years of age or older but younger  
10-27 than 18 years of age who are victims of human trafficking alleged  
10-28 under Section 20A.02, Penal Code;

10-29 (C) is located in a municipality with a  
10-30 population of at least 600,000 that is in a county on an  
10-31 international border; and

10-32 (D) meets one of the following criteria:

10-33 (i) is licensed by, or operates under an  
10-34 agreement with, a state or federal agency to provide shelter and  
10-35 care to children; or

10-36 (ii) meets the eligibility requirements for  
10-37 a contract under Section 51.005(b)(3); [~~or~~]

10-38 (24) a facility that provides respite care exclusively  
10-39 for a local mental health authority under a contract with the local  
10-40 mental health authority; or

10-41 (25) [~~(24)~~] a living arrangement in a caretaker's home  
10-42 involving one or more children or a sibling group in which the  
10-43 caretaker:

10-44 (A) has a written authorization agreement under  
10-45 Chapter 34, Family Code, with the parent of each child or sibling  
10-46 group to care for each child or sibling group;

10-47 (B) does not care for more than six children,  
10-48 excluding children who are related to the caretaker; and

10-49 (C) does not receive compensation for caring for  
10-50 any child or sibling group.

10-51 SECTION 14. As soon as practicable after the effective date  
10-52 of this Act, the commissioner of the Department of Family and  
10-53 Protective Services shall adopt rules necessary to implement the  
10-54 changes in law made by this Act.

10-55 SECTION 15. To the extent of any conflict, this Act prevails  
10-56 over another Act of the 86th Legislature, Regular Session, 2019,  
10-57 relating to nonsubstantive additions to and corrections in enacted  
10-58 codes.

10-59 SECTION 16. This Act takes effect immediately if it  
10-60 receives a vote of two-thirds of all the members elected to each  
10-61 house, as provided by Section 39, Article III, Texas Constitution.  
10-62 If this Act does not receive the vote necessary for immediate  
10-63 effect, this Act takes effect September 1, 2019.

10-64 \* \* \* \* \*