

1-1 By: Kolkhorst S.B. No. 1398
1-2 (In the Senate - Filed February 19, 2025; March 6, 2025,
1-3 read first time and referred to Committee on Health & Human
1-4 Services; April 7, 2025, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 7, 2025, sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Kolkhorst	X			
1-10	Perry	X			
1-11	Blanco	X			
1-12	Cook	X			
1-13	Hall	X			
1-14	Hancock	X			
1-15	Hughes	X			
1-16	Miles	X			
1-17	Sparks	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1398 By: Hughes

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

1-21 relating to certain procedures in a suit affecting the parent-child
1-22 relationship for a child placed in the conservatorship of the
1-23 Department of Family and Protective Services and the provision of
1-24 family preservation services and community-based foster care.

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

1-26 SECTION 1. Section 262.401(3), Family Code, is amended to
1-27 read as follows:

1-28 (3) "Family preservation service" means [a]
1-29 time-limited, family-focused services ~~[service]~~, including
1-30 services ~~[a service]~~ subject to the Family First Prevention
1-31 Services Act (Title VII, Div. E, Pub. L. No. 115-123) and services
1-32 approved under the Title IV-E state plan ~~[7]~~ provided to the family
1-33 of a child who is:

1-34 (A) a candidate for foster care to prevent or
1-35 eliminate the need to remove the child and to allow the child to
1-36 remain safely with the child's family; ~~[or]~~

1-37 (B) a pregnant or parenting foster youth; or

1-38 (C) a member of a household that is subject to an
1-39 order rendered under Section 264.203.

1-40 SECTION 2. The heading to Section 262.411, Family Code, is
1-41 amended to read as follows:

1-42 Sec. 262.411. SELECTION OF SERVICE PROVIDER;
1-43 REIMBURSEMENT.

1-44 SECTION 3. Section 262.411(c), Family Code, is amended to
1-45 read as follows:

1-46 (c) A ~~[parent,]~~ managing conservator, guardian, or other
1-47 member of a household who is not a parent and who obtains family
1-48 preservation services from a provider selected by the person is
1-49 responsible for the cost of those services.

1-50 SECTION 4. Subchapter A, Chapter 263, Family Code, is
1-51 amended by adding Section 263.0022 to read as follows:

1-52 Sec. 263.0022. TEMPORARY EMERGENCY SUPERVISION; MONTHLY
1-53 REPORT. (a) In this section, "temporary emergency supervision"
1-54 means the supervision and care provided by the department or a
1-55 single source continuum contractor for a child without placement
1-56 for whom the department has been appointed as the temporary or
1-57 permanent managing conservator.

1-58 (b) The department or a single source continuum contractor
1-59 may not advocate for and a court may not render an order placing a
1-60 child in temporary emergency supervision if an appropriate

placement is available. The department or the contractor and the court may not consider a child's refusal to stay in a placement when determining whether the placement is appropriate.

(c) Before a court may order temporary emergency supervision for a child, the department or the single source continuum contractor shall submit a report to the court that includes information regarding each attempted placement, including:

- (1) the type of placement;
- (2) the location of the placement;
- (3) the date the department or the contractor contacted the placement; and
- (4) the reason the department or the contractor determined the placement was not appropriate.

SECTION 5. Section 264.107(g), Family Code, is amended to read as follows:

(g) If the department or single source continuum contractor is unable to find an appropriate placement for a child, an employee of the department or contractor who has on file with the department or contractor, as applicable, a background and criminal history check may provide temporary emergency supervision ~~[care]~~ for the child. The employee may not provide temporary emergency supervision ~~[care]~~ under this subsection in the employee's residence. The department or contractor shall provide notice to the court for a child placed in temporary emergency supervision ~~[care]~~ under this subsection not later than the next business day after the date the child is placed in temporary emergency supervision ~~[care]~~.

SECTION 6. Section 264.1261(b), Family Code, is amended to read as follows:

(b) Appropriate department management personnel from a child protective services region in which community-based care has not been implemented, in collaboration with foster care providers, faith-based organizations ~~[entities]~~, and child advocates in that region, shall use data collected by the department on foster care capacity needs and availability of each type of foster care and kinship placement in the region to create a plan to address the substitute care capacity needs in the region. The plan must identify both short-term and long-term goals and strategies for addressing those capacity needs.

SECTION 7. Section 264.152, Family Code, is amended by amending Subdivision (2) and adding Subdivisions (5) and (6) to read as follows:

(2) "Case management" means the provision of case management services to a child for whom the department has been appointed temporary or permanent managing conservator or to the child's family, a young adult in extended foster care, a relative or kinship caregiver, or a child who has been placed in the catchment area through the Interstate Compact on the Placement of Children, and includes:

(A) caseworker visits with the child;

(B) family and caregiver visits;

(C) convening and conducting permanency planning meetings;

(D) the development and revision of child and family plans of service, including a permanency plan and goals for a child or young adult in care;

(E) the coordination and monitoring of services required by the child and the child's family or caregivers, including:

(i) pre-adoption and post-adoption assistance;

(ii) services for children in the conservatorship of the department who must transition to independent living; and

(iii) services related to family reunification, including services to support a monitored return;

(F) the assumption of court-related duties regarding the child, including:

(i) providing any required notifications or

3-1 consultations;

3-2 (ii) preparing court reports;

3-3 (iii) attending judicial and permanency

3-4 hearings, trials, and mediations;

3-5 (iv) complying with applicable court

3-6 orders; and

3-7 (v) ensuring the child is progressing

3-8 toward the goal of permanency within state and federally mandated

3-9 guidelines; and

3-10 (G) any other function or service that the

3-11 department determines necessary to allow a single source continuum

3-12 contractor to assume responsibility for case management.

3-13 (5) "Faith-based organization" means a religious or

3-14 denominational institution or organization, including an

3-15 organization operated for religious, educational, or charitable

3-16 purposes and operated, supervised, or controlled, in whole or in

3-17 part, by or in connection with a religious organization.

3-18 (6) "Family preservation service" means time-limited,

3-19 family-focused services, including services subject to the Family

3-20 First Prevention Services Act (Title VII, Div. E, Pub. L.

3-21 No. 115-123) and services approved under the Title IV-E state plan

3-22 provided to the family of a child who is:

3-23 (A) a candidate for foster care to prevent or

3-24 eliminate the need to remove the child and to allow the child to

3-25 remain safely with the child's family;

3-26 (B) a pregnant or parenting foster youth; or

3-27 (C) a member of a household that is subject to an

3-28 order rendered under Section 264.203.

3-29 SECTION 8. Section 264.153, Family Code, is amended to read

3-30 as follows:

3-31 Sec. 264.153. COMMUNITY-BASED CARE IMPLEMENTATION PLAN.

3-32 (a) The department shall develop and maintain a plan for

3-33 implementing community-based care. The plan must:

3-34 (1) describe the department's expectations, goals, and

3-35 approach to implementing community-based care;

3-36 (2) include a timeline for implementing

3-37 community-based care throughout this state, any limitations

3-38 related to the implementation, and a progressive intervention plan

3-39 and a contingency plan to provide continuity of the delivery of

3-40 foster care services and services for relative and kinship

3-41 caregivers if a contract with a single source continuum contractor

3-42 ends prematurely;

3-43 (3) delineate and define the case management roles and

3-44 responsibilities of the department and the department's

3-45 contractors and the duties, employees, and related funding that

3-46 will be transferred to the contractor by the department;

3-47 (4) identify any training needs and include long-range

3-48 and continuous plans for training and cross-training staff,

3-49 including plans to train caseworkers using the standardized

3-50 curriculum created by the human trafficking prevention task force

3-51 under Section 402.035(d)(6), Government Code, as that section

3-52 existed on August 31, 2017;

3-53 (5) include a plan for evaluating the costs and tasks

3-54 associated with each contract procurement, including the initial

3-55 and ongoing contract costs for the department and contractor;

3-56 (6) include the department's contract monitoring

3-57 approach and a plan for evaluating the continuous performance of

3-58 each contractor and the community-based care system as a whole that

3-59 includes an ~~independent~~ evaluation of each contractor's

3-60 processes and fiscal and qualitative outcomes; and

3-61 (7) include a report on transition issues resulting

3-62 from implementation of community-based care.

3-63 (b) The department shall annually:

3-64 (1) update the implementation plan developed under

3-65 this section and post the updated plan on the department's Internet

3-66 website; and

3-67 (2) post on the department's Internet website the

3-68 progress the department has made toward its goals for implementing

3-69 community-based care, including:

4-1 (A) performance measure data from each single
 4-2 source continuum contractor;

4-3 (B) quality improvement plans and corrective
 4-4 action plans for each contractor; and

4-5 (C) a summary of contractor actions to be taken
 4-6 to address the plans described by Paragraph (B).

4-7 SECTION 9. The heading to Section 264.154, Family Code, is
 4-8 amended to read as follows:

4-9 Sec. 264.154. QUALIFICATIONS OF SINGLE SOURCE CONTINUUM
 4-10 CONTRACTOR; SELECTION; PUBLICATION.

4-11 SECTION 10. Section 264.154, Family Code, is amended by
 4-12 adding Subsections (d) and (e) to read as follows:

4-13 (d) The department shall annually post on the department's
 4-14 Internet website:

4-15 (1) the list of single source continuum contractors
 4-16 providing services under this subchapter; and

4-17 (2) a description of each contractor's full corporate
 4-18 structure, including divisions and subsidiaries.

4-19 (e) A single source continuum contractor shall provide
 4-20 information described by Subsection (d)(2) to the department.

4-21 SECTION 11. The heading to Section 264.155, Family Code, is
 4-22 amended to read as follows:

4-23 Sec. 264.155. ~~[REQUIRED]~~ CONTRACT PROVISIONS.

4-24 SECTION 12. Section 264.155, Family Code, is amended by
 4-25 amending Subsection (a) and adding Subsection (a-1) to read as
 4-26 follows:

4-27 (a) A contract with a single source continuum contractor to
 4-28 provide community-based care services in a catchment area must
 4-29 include provisions that:

4-30 (1) establish a sequential plan [timeline] for the
 4-31 implementation of community-based care in the catchment area,
 4-32 including a sequential plan [timeline] for implementing the
 4-33 following in an order determined by the department based on
 4-34 community needs and readiness and contractor capacity:

4-35 (A) family preservation services;

4-36 (B) case management services for children,
 4-37 families, and relative and kinship caregivers receiving services in
 4-38 the catchment area; and

4-39 (C) ~~[(B)]~~ family reunification support services
 4-40 to be provided after a child receiving services from the contractor
 4-41 is returned to the child's family;

4-42 (2) establish conditions for the single source
 4-43 continuum contractor's access to relevant department data and
 4-44 require the participation of the contractor in the data access and
 4-45 standards governance council created under Section 264.159;

4-46 (3) require the single source continuum contractor to
 4-47 create a single process for the training and use of alternative
 4-48 caregivers for all child-placing agencies in the catchment area to
 4-49 facilitate reciprocity of licenses for alternative caregivers
 4-50 between agencies, including respite and overnight care providers,
 4-51 as those terms are defined by department rule;

4-52 (4) require the single source continuum contractor to
 4-53 maintain a diverse network of service providers that offer a range
 4-54 of foster capacity options and that can accommodate children from
 4-55 diverse cultural backgrounds;

4-56 (5) require [allow] the department to conduct annual
 4-57 [a] performance reviews [review] of the contractor beginning on the
 4-58 first anniversary of the contract to:

4-59 (A) ~~[18 months after the contractor has begun~~
 4-60 ~~providing case management and family reunification support~~
 4-61 ~~services to all children and families in the catchment area and]~~
 4-62 determine if the contractor has achieved applicable [any]
 4-63 performance outcomes and other requirements specified in the
 4-64 contract as determined by services implemented at the time of the
 4-65 review, including data related to:

4-66 (i) the percentage of children reunified
 4-67 with their families after a suit is filed by the department;

4-68 (ii) the percentage of children who reenter
 4-69 the conservatorship of the department;

(iii) the percentage of children who remain in the conservatorship of the department until the age of majority;
 (iv) the percentage of children who experience multiple placement moves while in substitute care; and
 (v) the percentage of families completing family preservation services to mitigate findings of abuse or neglect;

(B) ensure service authorizations are based on documented criteria and are not being used to negatively impact a child's access to care by conducting utilization reviews on a sample of cases at least biennially;

(C) review the contractor's compliance with requirements related to conflicts of interest and financial disclosures; and

(D) assess the adequacy of the contractor's provider network and service delivery system;

(6) following the review under Subdivision (5), require [allow] the department to:

(A) publish the review on the department's Internet website;

(B) impose financial remedies [penalties] on the contractor for failing to:

(i) meet applicable [any—specified] performance outcomes, contract requirements, or deliverables, as determined by services implemented at the time of the review; or

(ii) follow applicable court orders relating to child welfare;

(C) [~~(B)~~] award financial incentives to the contractor for exceeding applicable [any—specified] performance outcomes as determined by services implemented at the time of the review; and

(D) if deficiencies in the provision of services are identified, impose a corrective action plan to address the deficiencies that:

(i) includes a timeline for addressing the deficiencies; and

(ii) provides for escalating interventions if deficiencies are not addressed;

(7) allow the department to implement formal measures to ensure the contractor is delivering high-quality service, including quality improvement plans, financial interventions, and other appropriate interventions or restrictions;

(8) require the adoption of a capitated funding methodology for the provision of all services not later than the third anniversary of the date the contract is executed;

(9) for a catchment area in which a contractor has not implemented services before September 1, 2023, if family preservation services are included in the initial service implementation, require:

(A) an external review to ensure the contractor has adequate systems and processes in place to effectively provide family preservation services;

(B) the establishment of performance outcomes specific to family preservation services; and

(C) the achievement of the performance outcomes as a condition of continued provision or expansion of family preservation services;

(10) [~~(7)~~] require the contractor to give preference for employment to employees of the department:

(A) whose position at the department is impacted by the implementation of community-based care; and

(B) who are considered by the department to be employees in good standing;

(11) [~~(8)~~] require the contractor to implement [provide] preliminary and ongoing community engagement plans to ensure communication and collaboration with local stakeholders in the catchment area that include the establishment of a community advisory committee that:

(A) meets at least quarterly;

(B) maintains, as the majority of the committee's membership, members not employed by or contracted with the contractor; and

(C) includes representatives from~~including~~ any of the following:

(i) ~~[(A)]~~ community faith-based organizations ~~[entities]~~;

(ii) ~~[(B)]~~ the judiciary;

(iii) ~~[(C)]~~ court-appointed special advocates;

(iv) ~~[(D)]~~ child advocacy centers;

(v) ~~[(E)]~~ service providers;

(vi) ~~[(F)]~~ foster families;

(vii) ~~[(G)]~~ biological parents;

(viii) ~~[(H)]~~ foster youth and former foster youth;

(ix) ~~[(I)]~~ relative or kinship caregivers;

(x) ~~[(J)]~~ child welfare boards, if applicable;

(xi) ~~[(K)]~~ attorneys ad litem;

(xii) ~~[(L)]~~ attorneys that represent parents involved in suits filed by the department; and

(xiii) ~~[(M)]~~ any other stakeholders, as determined by the contractor;

(12) require the department to include findings and recommendations from the advisory committee established under Subdivision (11) in:

(A) the annual performance review under Subdivision (5);

(B) any corrective action plan under Subdivision (6) (D); and

(C) any other applicable quality improvement measures; and

(13) ~~[(9)]~~ require that the contractor comply with any applicable court order issued by a court of competent jurisdiction in the case of a child for whom the contractor has assumed case management responsibilities or an order imposing a requirement on the department that relates to functions assumed by the contractor.

(a-1) A contract with a single source continuum contractor to provide community-based care services in a catchment area may include provisions that require the contractor to develop a program to recruit and retain foster parents from faith-based organizations, including requirements for the contractor to:

(1) collaborate with faith-based organizations to inform prospective foster parents about:

(A) the need for foster parents in the community;

(B) the requirements for becoming a foster parent; and

(C) any other aspect of the foster care program that is necessary to recruit foster parents;

(2) provide training for prospective foster parents; and

(3) identify and recommend ways in which faith-based organizations may support persons as they are recruited, are trained, and serve as foster parents.

SECTION 13. Section 264.156(a), Family Code, is amended to read as follows:

(a) The department shall develop a formal review process to assess the ability of a single source continuum contractor to satisfy the responsibilities and administrative requirements of delivering foster care services and services for relative and kinship caregivers, including the contractor's ability to provide:

(1) family preservation services;

(2) case management services for children and families;

(3) ~~[(2)]~~ evidence-based, promising practice, or evidence-informed supports for children and families; and

(4) ~~[(3)]~~ sufficient available capacity for inpatient and outpatient services and supports for children at all service

levels who have previously been placed in the catchment area.

SECTION 14. Sections 264.158(a) and (b), Family Code, are amended to read as follows:

(a) In each initial catchment area where community-based care has been implemented or a contract with a single source continuum contractor has been executed before September 1, 2017, the department shall transfer to the single source continuum contractor providing foster care services in that area:

(1) family preservation services;

(2) the case management of children, relative and kinship caregivers, and families receiving services from that contractor; and

(3) ~~[(2)]~~ family reunification support services to be provided after a child receiving services from the contractor is returned to the child's family for the period of time ordered by the court.

(b) The commission shall include a provision in a contract with a single source continuum contractor to provide foster care services and services for relative and kinship caregivers in a catchment area to which community-based care is expanded after September 1, 2017, that requires the transfer to the contractor of the provision of:

(1) family preservation services;

(2) the case management services for children, relative and kinship caregivers, and families in the catchment area where the contractor will be operating; and

(3) ~~[(2)]~~ family reunification support services to be provided after a child receiving services from the contractor is returned to the child's family.

SECTION 15. Section 264.162, Family Code, is amended to read as follows:

Sec. 264.162. REVIEW OF CONTRACTOR PERFORMANCE. The department shall develop a formal review process that includes a monitoring schedule to evaluate a single source continuum contractor's implementation of placement services and case management services in a catchment area. The department shall post the monitoring schedule on the department's Internet website.

SECTION 16. The heading to Section 264.2031, Family Code, is amended to read as follows:

Sec. 264.2031. SELECTION OF SERVICE PROVIDER; REIMBURSEMENT.

SECTION 17. Section 264.2031(b), Family Code, is amended to read as follows:

(b) A ~~[parent]~~ managing conservator, guardian, or other member of a household who is not a parent and who obtains services from a provider selected by the person is responsible for the cost of those services.

SECTION 18. Section 40.0583, Human Resources Code, is amended to read as follows:

Sec. 40.0583. STATE AUDITOR REVIEW OF CONTRACTS. The state auditor shall biennially ~~[annually]~~ review the department's performance-based contracts to determine whether the department is properly enforcing contract provisions with providers and to provide recommendations for improving department oversight and execution of contracts.

SECTION 19. Sections 264.113(a), (b), and (c), Family Code, are repealed.

SECTION 20. (a) Section 263.0022, Family Code, as added by this Act, applies to a placement review hearing of a child regardless of the date on which the Department of Family and Protective Services is named the child's managing conservator.

(b) Sections 264.152, 264.155, 264.156(a), and 264.158(a) and (b), Family Code, as amended by this Act, apply only to a contract with a single source continuum contractor entered into or amended on or after the effective date of this Act. A contract with a single source continuum contractor entered into before the effective date of this Act and not amended after that date is governed by the law in effect on the date the contract was entered into or amended, and the former law is continued in effect for that

8-1 purpose.

8-2 SECTION 21. This Act takes effect September 1, 2025.

8-3 * * * * *