

1-1 By: Nelson, et al. S.B. No. 6  
1-2 (In the Senate - Filed December 7, 2004; January 31, 2005,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; February 28, 2005, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;  
1-6 February 28, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 6 By: Nelson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to protective services; providing penalties.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 ARTICLE 1. CHILD PROTECTIVE SERVICES

1-13 SECTION 1.01. Section 54.211, Education Code, is amended to  
1-14 read as follows:

1-15 Sec. 54.211. EXEMPTIONS FOR STUDENTS IN FOSTER OR OTHER  
1-16 RESIDENTIAL CARE. (a) A student is exempt from the payment of  
1-17 tuition and fees authorized in this chapter if the student:

1-18 (1) was in foster care or other residential care under  
1-19 the conservatorship of the Department of Family and Protective [and  
1-20 Regulatory] Services on or after:

1-21 (A) the day preceding the student's 18th  
1-22 birthday;

1-23 (B) the day of the student's 14th birthday, if  
1-24 the student was also eligible for adoption on or after that day; or

1-25 (C) the day the student graduated from high  
1-26 school or received the equivalent of a high school diploma; and

1-27 (2) enrolls in an institution of higher education as  
1-28 an undergraduate student not later than:

1-29 (A) the third anniversary of the date the student  
1-30 was discharged from the foster or other residential care, the date  
1-31 the student graduated from high school, or the date the student  
1-32 received the equivalent of a high school diploma, whichever date is  
1-33 earliest; or

1-34 (B) the student's 21st birthday.

1-35 (b) The Texas Education Agency and the Texas Higher  
1-36 Education Coordinating Board shall develop outreach programs to  
1-37 ensure that students in foster or other residential care in grades  
1-38 9-12 are aware of the availability of the exemption from the payment  
1-39 of tuition and fees provided by this section.

1-40 SECTION 1.02. Section 54.2111, Education Code, is amended  
1-41 to read as follows:

1-42 Sec. 54.2111. EXEMPTIONS FOR ADOPTED STUDENTS FORMERLY IN  
1-43 FOSTER OR OTHER RESIDENTIAL CARE. (a) A student is exempt from the  
1-44 payment of tuition and fees authorized by this chapter if the  
1-45 student:

1-46 (1) was adopted; and

1-47 (2) was the subject of an adoption assistance  
1-48 agreement under Subchapter D, Chapter 162, Family Code.

1-49 (b) The Texas Education Agency and the Texas Higher  
1-50 Education Coordinating Board shall develop outreach programs to  
1-51 ensure that adopted students in grades 9-12 formerly in foster or  
1-52 other residential care are aware of the availability of the  
1-53 exemption from the payment of tuition and fees provided by this  
1-54 section.

1-55 SECTION 1.03. Subchapter A, Chapter 107, Family Code, is  
1-56 amended by adding Section 107.0045 to read as follows:

1-57 Sec. 107.0045. DISCIPLINE OF ATTORNEY AD LITEM. An  
1-58 attorney ad litem who fails to perform the duties required by  
1-59 Sections 107.003 and 107.004 is subject to disciplinary action  
1-60 under Subchapter E, Chapter 81, Government Code.

1-61 SECTION 1.04. Section 162.304, Family Code, is amended by  
1-62 adding Subsection (f) to read as follows:

1-63 (f) The department shall work with the Health and Human

2-1 Services Commission and the federal government to develop a program  
 2-2 to provide medical assistance under Chapter 32, Human Resources  
 2-3 Code, to children who were in the conservatorship of the department  
 2-4 at the time of adoptive placement and need medical or  
 2-5 rehabilitative care but do not qualify for adoption assistance.

2-6 SECTION 1.05. Section 261.001, Family Code, is amended by  
 2-7 amending Subdivision (2) to read as follows:

2-8 (2) "Department" means the Department of Family and  
 2-9 Protective [and Regulatory] Services.

2-10 SECTION 1.06. Section 261.002, Family Code, is amended by  
 2-11 adding Subsection (c) to read as follows:

2-12 (c) The department shall enter into agreements with other  
 2-13 states to allow for the exchange of reports of child abuse and  
 2-14 neglect in other states' central registry systems. The department  
 2-15 shall use information obtained under this subsection in performing  
 2-16 the background checks required under Section 42.056, Human  
 2-17 Resources Code. The department shall cooperate with federal  
 2-18 agencies and shall provide information and reports of child abuse  
 2-19 and neglect to the appropriate federal agency that maintains the  
 2-20 national registry for child abuse and neglect, if a national  
 2-21 registry exists.

2-22 SECTION 1.07. (a) Subsection (a), Section 261.107, Family  
 2-23 Code, is amended to read as follows:

2-24 (a) A person commits an offense if the person knowingly or  
 2-25 intentionally makes a report as provided in this chapter that the  
 2-26 person knows is false [~~or lacks factual foundation~~]. An offense  
 2-27 under this section is a state jail felony [~~class A misdemeanor~~]  
 2-28 unless it is shown on the trial of the offense that the person has  
 2-29 previously been convicted under this section, in which case the  
 2-30 offense is a [state jail] felony of the third degree.

2-31 (b) The change in law made by this section to Subsection  
 2-32 (a), Section 261.107, Family Code, applies only to an offense  
 2-33 committed on or after the effective date of this section. An  
 2-34 offense committed before the effective date of this section is  
 2-35 covered by Section 261.107, Family Code, as it existed on the date  
 2-36 the offense was committed, and the former law is continued in effect  
 2-37 for that purpose. For purposes of this subsection, an offense is  
 2-38 committed before the effective date of this section if any element  
 2-39 of the offense occurs before that date.

2-40 SECTION 1.08. Section 261.201, Family Code, is amended by  
 2-41 adding Subsection (f-1) to read as follows:

2-42 (f-1) The department shall provide to a relative or other  
 2-43 individual with whom a child is placed any information the  
 2-44 department considers necessary to ensure that the relative or other  
 2-45 individual is prepared to meet the needs of the child. The  
 2-46 information must include information regarding:

2-47 (1) any abuse or neglect suffered by the child;  
 2-48 (2) the child's physical and mental health history,  
 2-49 including any diagnosis of mental illness, and any physical or  
 2-50 mental health issues that exist at the time the child is placed;  
 2-51 (3) any medications prescribed for the child; and  
 2-52 (4) the child's educational background and experience.

2-53 SECTION 1.09. (a) Subsections (a), (d), (f), (g), and (h),  
 2-54 Section 261.301, Family Code, are amended to read as follows:

2-55 (a) With assistance from the appropriate state or local law  
 2-56 enforcement agency as provided by this section, the department or  
 2-57 designated agency shall make a prompt and thorough investigation of  
 2-58 a report of child abuse or neglect allegedly committed by a person  
 2-59 responsible for a child's care, custody, or welfare. The  
 2-60 investigation shall be conducted without regard to any pending suit  
 2-61 affecting the parent-child relationship.

2-62 (d) The department shall [~~may~~] by rule assign priorities and  
 2-63 prescribe investigative procedures for investigations based on the  
 2-64 severity and immediacy of the alleged harm to the child. The  
 2-65 primary purpose of the investigation shall be the protection of the  
 2-66 child. The rules must require the department to:

2-67 (1) immediately respond to a report of abuse and  
 2-68 neglect that involves circumstances in which the death of the child  
 2-69 or substantial bodily harm to the child would result unless the

3-1 department immediately intervenes;

3-2 (2) respond within 24 hours to a report of abuse and  
 3-3 neglect that is assigned the highest priority, other than a report  
 3-4 described by Subdivision (1); and

3-5 (3) respond within 72 hours to a report of abuse and  
 3-6 neglect that is assigned the second highest priority.

3-7 (f) An investigation of a report to the department [that is  
 3-8 assigned the highest priority in accordance with department rules  
 3-9 adopted under Subsection (d) and] that alleges that a child has been  
 3-10 or may be the victim of conduct that constitutes a criminal offense  
 3-11 that poses an immediate risk of physical or sexual abuse of a child  
 3-12 that could result in the death of or serious harm to the child shall  
 3-13 be conducted jointly by a peace officer, as defined by Article 2.12,  
 3-14 Code of Criminal Procedure, from the appropriate local law  
 3-15 enforcement agency and the department or the agency responsible for  
 3-16 conducting an investigation under Subchapter E.

3-17 (g) The inability or unwillingness of a local law  
 3-18 enforcement agency to conduct a joint investigation under this  
 3-19 section [Subsection (f)] does not constitute grounds to prevent or  
 3-20 prohibit the department from performing its duties under this  
 3-21 subtitle. The department shall document any instance in which a law  
 3-22 enforcement agency is unable or unwilling to conduct a joint  
 3-23 investigation under this section [Subsection (f)].

3-24 (h) The department and the appropriate local law  
 3-25 enforcement agency shall conduct an investigation, other than an  
 3-26 investigation under Subchapter E, as provided by this section and  
 3-27 Article 2.27, Code of Criminal Procedure, if the investigation is  
 3-28 of a report [of child abuse or neglect that is assigned the highest  
 3-29 priority in accordance with department rules adopted under  
 3-30 Subsection (d) and] that alleges that a child has been or may be the  
 3-31 victim of conduct that constitutes a criminal offense that poses an  
 3-32 immediate risk of physical or sexual abuse of a child that could  
 3-33 result in the death of or serious harm to the child. Immediately on  
 3-34 receipt of a report described by this subsection, the department  
 3-35 shall notify the appropriate local law enforcement agency of the  
 3-36 report.

3-37 (b) The change in law made by this section to Section  
 3-38 261.301, Family Code, applies to the investigation of a report of  
 3-39 child abuse or neglect made on or after the effective date of this  
 3-40 section. The investigation of a report of child abuse or neglect  
 3-41 made before the effective date of this section is governed by the  
 3-42 law in effect on the date the report was made, and the former law is  
 3-43 continued in effect for that purpose.

3-44 (c) The Department of Family and Protective Services shall  
 3-45 develop and implement an automated tracking and reporting system  
 3-46 that enables the department to track information on initial  
 3-47 contacts to monitor compliance with the requirements of Subsection  
 3-48 (d), Section 261.301, Family Code, as amended by this section,  
 3-49 relating to the timely response to reports of abuse and neglect.

3-50 SECTION 1.10. Subchapter D, Chapter 261, Family Code, is  
 3-51 amended by adding Section 261.3011 to read as follows:

3-52 Sec. 261.3011. JOINT INVESTIGATION GUIDELINES AND  
 3-53 TRAINING. (a) The department shall, in consultation with the  
 3-54 appropriate law enforcement agencies in each county, develop  
 3-55 guidelines and protocols for joint investigations by the department  
 3-56 and the law enforcement agency under Section 261.301. The  
 3-57 guidelines and protocols must:

3-58 (1) clarify the respective roles of the department and  
 3-59 law enforcement agency in conducting the investigation;

3-60 (2) require that mutual child protective services and  
 3-61 law enforcement training and agreements be implemented by both  
 3-62 entities to ensure the integrity and best outcomes of joint  
 3-63 investigations; and

3-64 (3) incorporate the use of forensic methods in  
 3-65 determining the occurrence of child abuse and neglect.

3-66 (b) The department shall collaborate with law enforcement  
 3-67 agencies to provide to department investigators and law enforcement  
 3-68 officers responsible for investigating reports of abuse and neglect  
 3-69 joint training relating to methods to effectively conduct joint

4-1 investigations under Section 261.301. The training must include  
 4-2 information on interviewing techniques, evidence gathering, and  
 4-3 testifying in court for criminal investigations.

4-4 SECTION 1.11. (a) Section 261.3015, Family Code, is  
 4-5 amended by amending Subsection (a) and adding Subsection (a-1) to  
 4-6 read as follows:

4-7 (a) In assigning priorities and prescribing investigative  
 4-8 procedures based on the severity and immediacy of the alleged harm  
 4-9 to a child under Section 261.301(d), the department [board by rule]  
 4-10 shall establish a flexible response system to allow the department  
 4-11 to make the most effective use of [allocate] resources by  
 4-12 investigating serious cases of abuse and neglect and by screening  
 4-13 out less serious cases of abuse and neglect if the department  
 4-14 determines, after contacting a professional or other credible  
 4-15 source, that the child's safety can be assured without further  
 4-16 investigation. The department may administratively close the less  
 4-17 serious cases without providing services or making a referral to  
 4-18 another entity for assistance [providing assessment and family  
 4-19 preservation services in less serious cases].

4-20 (a-1) For purposes of Subsection (a), a case is considered  
 4-21 to be a less serious case of abuse or neglect if the circumstances  
 4-22 of the case do not indicate an immediate risk of abuse or neglect  
 4-23 that could result in the death of or serious harm to the child who is  
 4-24 the subject of the case.

4-25 (b) To ensure the safety of children, the Department of  
 4-26 Family and Protective Services shall use highly skilled caseworkers  
 4-27 to perform the screening functions described by Subsection (a),  
 4-28 Section 261.3015, Family Code, as amended by this section, and  
 4-29 develop standardized policy guidelines, including accountability  
 4-30 measures to monitor closed cases, to ensure that screening  
 4-31 guidelines do not result in the closing of cases that should not be  
 4-32 closed.

4-33 SECTION 1.12. Subsection (e), Section 261.302, Family Code,  
 4-34 is amended to read as follows:

4-35 (e) An interview with a child alleged to be a victim of  
 4-36 [physical] abuse or neglect conducted by the department or another  
 4-37 person, other than a law enforcement agency, under the direction of  
 4-38 the department [sexual abuse] shall be audiotaped or videotaped  
 4-39 [unless the investigating agency determines that good cause exists  
 4-40 for not audiotaping or videotaping the interview in accordance with  
 4-41 rules of the agency. Good cause may include, but is not limited to,  
 4-42 such considerations as the age of the child and the nature and  
 4-43 seriousness of the allegations under investigation. Nothing in  
 4-44 this subsection shall be construed as prohibiting the investigating  
 4-45 agency from audiotaping or videotaping an interview of a child on  
 4-46 any case for which such audiotaping or videotaping is not required  
 4-47 under this subsection]. The fact that the investigating agency  
 4-48 failed to audiotape or videotape an interview is admissible at the  
 4-49 trial of the offense that is the subject of the interview.

4-50 SECTION 1.13. Subchapter D, Chapter 261, Family Code, is  
 4-51 amended by adding Sections 261.3021, 261.3022, 261.3023, and  
 4-52 261.3024 to read as follows:

4-53 Sec. 261.3021. CASEWORK DOCUMENTATION AND MANAGEMENT.  
 4-54 Subject to the appropriation of money for these purposes, the  
 4-55 department shall:

4-56 (1) identify critical investigation actions that  
 4-57 impact child safety and require department caseworkers to document  
 4-58 those actions in a child's case file not later than the day after  
 4-59 the action occurs;

4-60 (2) identify and develop a comprehensive set of  
 4-61 casework quality indicators that must be reported in real time to  
 4-62 support timely management oversight;

4-63 (3) provide department supervisors with access to  
 4-64 casework quality indicators and train department supervisors on the  
 4-65 use of that information in the daily supervision of caseworkers;

4-66 (4) develop a case tracking system that notifies  
 4-67 department supervisors and management when a case is not  
 4-68 progressing in a timely manner;

4-69 (5) use current data reporting systems to provide

5-1 department supervisors and management with easier access to  
 5-2 information; and

5-3 (6) train department supervisors and management on the  
 5-4 use of data to monitor cases and make decisions.

5-5 Sec. 261.3022. CHILD SAFETY CHECK ALERT LIST. (a) If the  
 5-6 department is unable to locate a family for purposes of  
 5-7 investigating a report of child abuse or neglect and the department  
 5-8 has exhausted all means available to the department for locating  
 5-9 the family, the department may seek assistance from the appropriate  
 5-10 county attorney, district attorney, or criminal district attorney  
 5-11 with responsibility for representing the department as provided by  
 5-12 Section 264.009.

5-13 (b) If the department requests assistance, the county  
 5-14 attorney, district attorney, or criminal district attorney, as  
 5-15 applicable, shall file an application with the court requesting the  
 5-16 issuance of an ex parte order requiring the Texas Crime Information  
 5-17 Center to place the members of the family the department is  
 5-18 attempting to locate on a child safety check alert list. The  
 5-19 application must include a summary of:

5-20 (1) the report of child abuse or neglect the  
 5-21 department is attempting to investigate; and

5-22 (2) the department's efforts to locate the family.

5-23 (c) If the court determines after a hearing that the  
 5-24 department has exhausted all means available to the department for  
 5-25 locating the family, the court shall approve the application and  
 5-26 order the Texas Crime Information Center to place the family on a  
 5-27 child safety check alert list. The alert list must include:

5-28 (1) the name of the family member alleged to have  
 5-29 abused or neglected a child according to the report the department  
 5-30 is attempting to investigate;

5-31 (2) the name of the child who is the subject of the  
 5-32 report;

5-33 (3) a code identifying the type of child abuse or  
 5-34 neglect alleged to have been committed against the child;

5-35 (4) the family's last known address; and

5-36 (5) the minimum criteria for an entry as established  
 5-37 by the center.

5-38 Sec. 261.3023. LAW ENFORCEMENT RESPONSE TO CHILD SAFETY  
 5-39 CHECK ALERT. (a) If a law enforcement officer encounters a person  
 5-40 listed on the Texas Crime Information Center's child safety check  
 5-41 alert list who is alleged to have abused or neglected a child, or  
 5-42 encounters a child listed on the alert list who is the subject of a  
 5-43 report of child abuse or neglect the department is attempting to  
 5-44 investigate, the officer shall request information from the person  
 5-45 or the child regarding the child's well-being and current  
 5-46 residence.

5-47 (b) If the law enforcement officer determines that the  
 5-48 circumstances described by Section 262.104 exist, the officer may  
 5-49 take possession of the child without a court order as authorized by  
 5-50 that section if the officer is able to locate the child. If the  
 5-51 circumstances described by Section 262.104 do not exist, the  
 5-52 officer shall obtain the child's current address and any other  
 5-53 relevant information and report that information to the department.

5-54 Sec. 261.3024. REMOVAL FROM CHILD SAFETY CHECK ALERT LIST.  
 5-55 (a) A law enforcement officer who locates a child listed on the  
 5-56 Texas Crime Information Center's child safety check alert list who  
 5-57 is the subject of a report of child abuse or neglect the department  
 5-58 is attempting to investigate and who reports the child's current  
 5-59 address and other relevant information to the department under  
 5-60 Section 261.3023 shall report to the Texas Crime Information Center  
 5-61 that the child has been located.

5-62 (b) If the department locates a child described by  
 5-63 Subsection (a) through a means other than information reported by a  
 5-64 law enforcement officer under Subsection (a), the department shall  
 5-65 report to the Texas Crime Information Center that the child has been  
 5-66 located.

5-67 (c) On receipt of notice under this section that a child has  
 5-68 been located, the Texas Crime Information Center shall remove the  
 5-69 child and the child's family from the child safety check alert list.

6-1 SECTION 1.14. Subchapter D, Chapter 261, Family Code, is  
 6-2 amended by adding Section 261.3031 to read as follows:

6-3 Sec. 261.3031. FAILURE TO COOPERATE WITH INVESTIGATION;  
 6-4 DEPARTMENT RESPONSE. If a parent or other person refuses to  
 6-5 cooperate with the department's investigation of the alleged abuse  
 6-6 or neglect of a child and the refusal poses a risk to the child's  
 6-7 safety, the department shall seek assistance from the appropriate  
 6-8 county attorney or district attorney or criminal district attorney  
 6-9 with responsibility for representing the department as provided by  
 6-10 Section 264.009 to obtain a court order as described by Section  
 6-11 261.303.

6-12 SECTION 1.15. Subchapter D, Chapter 261, Family Code, is  
 6-13 amended by adding Section 261.3032 to read as follows:

6-14 Sec. 261.3032. INTERFERENCE WITH INVESTIGATION; CRIMINAL  
 6-15 PENALTY. (a) A person commits an offense if, with the intent to  
 6-16 interfere with the department's investigation of a report of abuse  
 6-17 or neglect of a child, the person takes, retains, or conceals the  
 6-18 child and the person's taking, retention, or concealment interferes  
 6-19 with the department's investigation.

6-20 (b) An offense under this section is a Class B misdemeanor.

6-21 (c) If conduct that constitutes an offense under this  
 6-22 section also constitutes an offense under any other law, the actor  
 6-23 may be prosecuted under this section or the other law.

6-24 SECTION 1.16. (a) Section 261.307, Family Code, is amended  
 6-25 to read as follows:

6-26 Sec. 261.307. INFORMATION RELATING TO INVESTIGATION  
 6-27 PROCEDURE. (a) As soon as possible after initiating an  
 6-28 investigation of a parent or other person having legal custody of a  
 6-29 child, the department shall provide to the person:

6-30 (1) a brief and easily understood summary of:

6-31 (A) [(1)] the department's procedures for  
 6-32 conducting an investigation of alleged child abuse or neglect,  
 6-33 including:

6-34 (i) [(A)] a description of the  
 6-35 circumstances under which the department would request to remove  
 6-36 the child from the home through the judicial system; and

6-37 (ii) [(B)] an explanation that the law  
 6-38 requires the department to refer all reports of alleged child abuse  
 6-39 or neglect to a law enforcement agency for a separate determination  
 6-40 of whether a criminal violation occurred;

6-41 (B) [(2)] the person's right to file a complaint  
 6-42 with the department or to request a review of the findings made by  
 6-43 the department in the investigation;

6-44 (C) [(3)] the person's right to review all  
 6-45 records of the investigation unless the review would jeopardize an  
 6-46 ongoing criminal investigation or the child's safety;

6-47 (D) [(4)] the person's right to seek legal  
 6-48 counsel;

6-49 (E) [(5)] references to the statutory and  
 6-50 regulatory provisions governing child abuse and neglect and how the  
 6-51 person may obtain copies of those provisions; and

6-52 (F) [(6)] the process the person may use to  
 6-53 acquire access to the child if the child is removed from the home;

6-54 (2) a proposed child placement resources form that  
 6-55 instructs the parent or other person having legal custody of the  
 6-56 child to complete and return the form to the department or agency  
 6-57 and to identify in the form three individuals who could be relative  
 6-58 or designated caregivers, as those terms are defined by Section  
 6-59 264.751; and

6-60 (3) the informational manual required by Section  
 6-61 261.3071.

6-62 (b) In addition to the information required to be provided  
 6-63 under Subsection (a), the department shall provide to the person  
 6-64 described by that subsection any information required to be  
 6-65 provided by the federal Child Abuse Prevention and Treatment Act  
 6-66 (Pub. L. No. 93-247) and its subsequent amendments by the Keeping  
 6-67 Children and Families Safe Act of 2003 (Pub. L. No. 108-36). To the  
 6-68 extent of any conflict between Subsection (a) and those federal  
 6-69 laws, the federal law prevails.

7-1  
7-2 (b) The Department of Family and Protective Services shall  
7-3 develop the proposed child placement resources form required to be  
7-4 provided under Section 261.307, Family Code, as amended by this  
7-5 section, not later than November 1, 2005.

7-6 (c) The Department of Family and Protective Services shall  
7-7 provide the proposed child placement resources form required under  
7-8 Section 261.307, Family Code, as amended by this section, to the  
7-9 parent or other person having legal custody of a child who is the  
7-10 subject of an investigation of abuse or neglect that is commenced on  
or after November 1, 2005.

7-11 SECTION 1.17. Subchapter D, Chapter 261, Family Code, is  
7-12 amended by adding Section 261.3071 to read as follows:

7-13 Sec. 261.3071. INFORMATIONAL MANUAL. (a) In this section,  
7-14 "relative caregiver" and "designated caregiver" have the meanings  
7-15 assigned those terms by Section 264.751.

7-16 (b) The department shall develop and publish an  
7-17 informational manual that provides information for:

7-18 (1) a parent or other person having custody of a child  
7-19 who is the subject of an investigation under this chapter; and  
7-20 (2) a person who is selected by the department to be  
7-21 the child's relative or designated caregiver.

7-22 (c) Information provided in the manual must be in both  
7-23 English and Spanish and must include:

7-24 (1) useful indexes of information such as telephone  
7-25 numbers;

7-26 (2) the information required to be provided under  
7-27 Section 261.307(1);

7-28 (3) information describing the rights and duties of a  
7-29 relative or designated caregiver; and

7-30 (4) information regarding the relative and other  
7-31 designated caregiver program under Subchapter I, Chapter 264.

7-32 SECTION 1.18. Section 261.310, Family Code, is amended by  
7-33 amending Subsection (c) and adding Subsection (e) to read as  
7-34 follows:

7-35 (c) The professional training curriculum developed under  
7-36 this section shall include:

7-37 (1) information concerning:

7-38 (A) [(-1)] physical abuse and neglect, including  
7-39 distinguishing physical abuse from ordinary childhood injuries;

7-40 (B) [(-2)] psychological abuse and neglect;

7-41 (C) [(-3)] available treatment resources; and

7-42 (D) [(-4)] the incidence and types of reports of  
7-43 child abuse and neglect that are received by the investigating  
7-44 agencies, including information concerning false reports;

7-45 (2) law-enforcement-style training, including  
7-46 training relating to forensic interviewing and investigatory  
7-47 techniques and the collection of physical evidence; and

7-48 (3) training regarding applicable federal law,  
7-49 including the Adoption and Safe Families Act of 1997 (Pub. L. No.  
7-50 105-89) and the Child Abuse Prevention and Treatment Act (Pub. L.  
7-51 No. 93-247) and its subsequent amendments by the Keeping Children  
7-52 and Families Safe Act of 2003 (Pub. L. No. 108-36).

7-53 (e) The department, in conjunction with the Department of  
7-54 Public Safety, shall provide to the department's residential  
7-55 child-care facility licensing investigators advanced training in  
7-56 investigative protocols and techniques.

7-57 SECTION 1.19. Subchapter D, Chapter 261, Family Code, is  
7-58 amended by adding Section 261.3101 to read as follows:

7-59 Sec. 261.3101. FORENSIC INVESTIGATION SUPPORT. The  
7-60 department shall, subject to the availability of money:

7-61 (1) employ or contract with medical and law  
7-62 enforcement professionals who shall be strategically placed  
7-63 throughout the state to provide forensic investigation support and  
7-64 to assist caseworkers with assessment decisions and intervention  
7-65 activities;

7-66 (2) employ or contract with subject matter experts to  
7-67 serve as consultants to department caseworkers in all aspects of  
7-68 their duties; and

7-69 (3) designate persons who shall act as liaisons within

8-1 the department whose primary functions are to develop relationships  
 8-2 with local law enforcement agencies and courts.

8-3 SECTION 1.20. Section 261.3125, Family Code, is amended to  
 8-4 read as follows:

8-5 Sec. 261.3125. CHILD SAFETY SPECIALISTS [INVESTIGATIONS  
 8-6 COORDINATOR]. (a) The department shall employ in each of the  
 8-7 department's administrative regions [region of the department for  
 8-8 child protective services] at least one child safety specialist  
 8-9 [protective services investigations coordinator]. The job  
 8-10 responsibilities of the child safety specialist [investigations  
 8-11 coordinator] must focus [only] on child abuse and neglect  
 8-12 investigation issues, including reports of child abuse required by  
 8-13 Section 261.101, to achieve a greater compliance with that section,  
 8-14 and on assessing and improving the effectiveness of the department  
 8-15 in providing for the protection of children in the region.

8-16 (b) The duties of a child safety specialist [protective  
 8-17 services investigations coordinator] must include the duty to:

8-18 (1) conduct staff reviews and evaluations of cases  
 8-19 determined to involve a high risk to the health or safety of a  
 8-20 child, including cases of abuse reported under Section 261.101, to  
 8-21 ensure that risk assessment tools are fully and correctly used;

8-22 (2) review and evaluate [monitor] cases in which there  
 8-23 have been multiple referrals to the department of child abuse or  
 8-24 neglect involving the same family, child, or person alleged to have  
 8-25 committed the abuse or neglect; and

8-26 (3) approve decisions and assessments related to  
 8-27 investigations of cases of child abuse or neglect that involve a  
 8-28 high risk to the health or safety of a child.

8-29 SECTION 1.21. Subchapter D, Chapter 261, Family Code, is  
 8-30 amended by adding Section 261.3126 to read as follows:

8-31 Sec. 261.3126. COLOCATION OF INVESTIGATORS. (a) In each  
 8-32 county, to the extent possible, the department and the local law  
 8-33 enforcement agencies that investigate child abuse in the county  
 8-34 shall collocate in the same offices investigators from the  
 8-35 department and the law enforcement agencies to improve the  
 8-36 efficiency of child abuse investigations. With approval of the  
 8-37 local children's advocacy center and its partner agencies, in each  
 8-38 county in which a children's advocacy center established under  
 8-39 Section 264.402 is located, the department shall attempt to locate  
 8-40 investigators from the department and county and municipal law  
 8-41 enforcement agencies at the center.

8-42 (b) A law enforcement agency is not required to comply with  
 8-43 the colocation requirements of this section if the law enforcement  
 8-44 agency does not have a full-time peace officer solely assigned to  
 8-45 investigate reports of child abuse and neglect.

8-46 (c) If a county does not have a children's advocacy center,  
 8-47 the department shall work with the local community to encourage one  
 8-48 as provided by Section 264.402.

8-49 SECTION 1.22. Subchapter E, Chapter 261, Family Code, is  
 8-50 amended by adding Section 261.410 to read as follows:

8-51 Sec. 261.410. REPORT OF ABUSE BY OTHER CHILDREN. (a) In  
 8-52 this section:

8-53 (1) "Physical abuse" means:

8-54 (A) physical injury that results in substantial  
 8-55 harm to the child, or the genuine threat of substantial harm from  
 8-56 physical injury to the child, including an injury that is at  
 8-57 variance with the history or explanation given and excluding an  
 8-58 accident or reasonable discipline by a parent, guardian, or  
 8-59 managing or possessory conservator that does not expose the child  
 8-60 to a substantial risk of harm; or

8-61 (B) failure to make a reasonable effort to  
 8-62 prevent an action by another person that results in physical injury  
 8-63 that results in substantial harm to the child.

8-64 (2) "Sexual abuse" means:

8-65 (A) sexual conduct harmful to a child's mental,  
 8-66 emotional, or physical welfare, including conduct that constitutes  
 8-67 the offense of indecency with a child under Section 21.11, Penal  
 8-68 Code, sexual assault under Section 22.011, Penal Code, or  
 8-69 aggravated sexual assault under Section 22.021, Penal Code;

(B) failure to make a reasonable effort to prevent sexual conduct harmful to a child;

(C) compelling or encouraging a child to engage in sexual conduct as defined by Section 43.01, Penal Code;

(D) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of a child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic; or

(E) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code.

(b) An agency that operates, licenses, certifies, or registers a facility shall require a residential child-care facility to report each incident of physical or sexual abuse committed by a child against another child.

(c) Using information received under Subsection (b), the agency that operates, licenses, certifies, or registers a facility shall compile a report that includes information:

(1) regarding the number of cases of physical and sexual abuse committed by a child against another child;

conduct abuse committed by a child against another child;  
(2) identifying the residential child-care facility;  
(3) regarding the date each allegation of abuse was made;

made, (4) regarding the date each investigation was started and concluded; (5) regarding the findings and results of each

(5) regarding the findings and results of each investigation; and

(6) regarding the number of children involved in each incident investigated.

Incident Investigated: SECTION 1.23. Subchapter B, Chapter 262, Family Code, is

SECTION 1.29. Subchapter B, Chapter 262, Family Code, is amended by adding Section 262.114 to read as follows:

Sec. 262.114. EVALUATION OF IDENTIFIED RELATIVES AND OTHER DESIGNATED INDIVIDUALS; PLACEMENT. (a) Before a full adversary hearing under Subchapter C, the Department of Family and Protective Services must perform a background and criminal history check and, if appropriate, a home study, of the relatives or other designated individuals identified as a potential relative or designated caregiver, as defined by Section 264.751, on the proposed child placement resources form provided under Section 261.307. The department shall perform these evaluations of each person listed on the form until the department identifies a relative or other designated individual qualified to be a substitute caregiver. The department may eliminate a person as a potential relative or designated caregiver based solely on a background and criminal history check. A final determination that a potential relative or designated caregiver is qualified to be a substitute caregiver must also include completion of the home study.

(a-1) For the purposes of this section, "background" means, but is not limited to, a history of child abuse and neglect.

(b) The department shall place a child with a relative or other designated individual identified on the proposed child placement resources form if the department, with input from the attorney ad litem, if the attorney ad litem has met with the child, determines that the placement is in the best interest of the child. The department may place the child with the relative or designated individual before conducting the home study required under Subsection (a), only in exigent circumstances, as determined by the department on an individual case basis. In determining the placement of the child, the department shall at all times consider the child's safety to be the paramount concern. The department shall provide a copy of the informational manual required under Section 261.3071 to the relative or other designated caregiver at the time of the child's placement.

SECTION 1.24. (a) Subsection (c), Section 262.201, Family Code, is amended to read as follows:

(c) If the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that there is a continuing danger to the physical health or safety of the child and for the

10-1 child to remain in the home is contrary to the welfare of the child,  
 10-2 the court shall issue an appropriate temporary order under Chapter  
 10-3 105. The court shall require each parent, alleged father, or  
 10-4 relative of the child before the court to submit the proposed child  
 10-5 placement resources form provided under Section 261.307, if the  
 10-6 form has not been previously provided, and provide the Department  
 10-7 of Family and Protective [and Regulatory] Services with information  
 10-8 necessary to locate any other absent parent, alleged father, or  
 10-9 relative of the child. The court shall inform each parent, alleged  
 10-10 father, or relative of the child before the court that the person's  
 10-11 failure to submit the proposed child placement resources form will  
 10-12 not delay any court proceedings relating to the child. The court  
 10-13 shall inform each parent in open court that parental and custodial  
 10-14 rights and duties may be subject to restriction or to termination  
 10-15 unless the parent or parents are willing and able to provide the  
 10-16 child with a safe environment. If the court finds that the child  
 10-17 requires protection from family violence by a member of the child's  
 10-18 family or household, the court shall render a protective order  
 10-19 under Title 4 for the child. In this subsection, "family violence"  
 10-20 has the meaning assigned by Section 71.004.

10-21 (b) The change in law made by this section to Section  
 10-22 262.201(c), Family Code, applies only to a full adversary hearing  
 10-23 that occurs on or after November 1, 2005. A full adversary hearing  
 10-24 that occurs before that date is governed by the law as it existed  
 10-25 before amendment by this section, and the former law is continued in  
 10-26 effect for that purpose.

10-27 SECTION 1.25. (a) Section 263.201, Family Code, is amended  
 10-28 by adding Subsection (c) to read as follows:

10-29 (c) The court shall require each parent, alleged father, or  
 10-30 relative of the child before the court to submit the proposed child  
 10-31 placement resources form provided under Section 261.307 at the  
 10-32 status hearing, if the form has not previously been submitted.

10-33 (b) The change in law made by this section to Section  
 10-34 263.201, Family Code, applies only to a status hearing that occurs  
 10-35 on or after November 1, 2005. A status hearing that occurs before  
 10-36 that date is governed by the law as it existed before amendment by  
 10-37 this section, and the former law is continued in effect for that  
 10-38 purpose.

10-39 SECTION 1.26. (a) Section 263.102, Family Code, is amended  
 10-40 by amending Subsection (a) and adding Subsections (d) and (e) to  
 10-41 read as follows:

10-42 (a) The service plan must:

10-43 (1) be specific;

10-44 (2) be in writing in a language that the parents  
 10-45 understand, or made otherwise available;

10-46 (3) be prepared by the department or other agency in  
 10-47 conference with the child's parents;

10-48 (4) state appropriate deadlines;

10-49 (5) state whether the goal of the plan is:

10-50 (A) return of the child to the child's parents;

10-51 (B) termination of parental rights and placement  
 10-52 of the child for adoption; or

10-53 (C) because of the child's special needs or  
 10-54 exceptional circumstances, continuation of the child's care out of  
 10-55 the child's home;

10-56 (6) state steps that are necessary to:

10-57 (A) return the child to the child's home if the  
 10-58 placement is in foster care;

10-59 (B) enable the child to remain in the child's  
 10-60 home with the assistance of a service plan if the placement is in  
 10-61 the home under the department's or other agency's supervision; or

10-62 (C) otherwise provide a permanent safe placement  
 10-63 for the child;

10-64 (7) state the actions and responsibilities that are  
 10-65 necessary for the child's parents to take to achieve the plan goal  
 10-66 during the period of the service plan and the assistance to be  
 10-67 provided to the parents by the department or other authorized  
 10-68 agency toward meeting that goal;

10-69 (8) state any specific skills or knowledge that the

11-1 child's parents must acquire or learn, as well as any behavioral  
 11-2 changes the parents must exhibit, to achieve the plan goal;

11-3       (9) state the actions and responsibilities that are  
 11-4 necessary for the child's parents to take to ensure that the child  
 11-5 attends school and maintains or improves the child's academic  
 11-6 performance;

11-7       (10) state the name of the person with the department  
 11-8 or other agency whom the child's parents may contact for  
 11-9 information relating to the child if other than the person  
 11-10 preparing the plan; and

11-11       (11) [9] prescribe any other term or condition that  
 11-12 the department or other agency determines to be necessary to the  
 11-13 service plan's success.

11-14       (d) The department must write the service plan in a clear  
 11-15 and understandable manner in order to facilitate a parent's ability  
 11-16 to follow the requirements of the service plan.

11-17       (e) Regardless of whether the goal stated in a child's  
 11-18 service plan as required under Subsection (a)(5) is to return the  
 11-19 child to the child's parents or to terminate parental rights and  
 11-20 place the child for adoption, the department shall concurrently  
 11-21 provide to the child and the child's family, as applicable:

11-22       (1) time-limited family reunification services as  
 11-23 defined by 42 U.S.C. Section 629a for a period not to exceed the  
 11-24 period within which the court must render a final order in or  
 11-25 dismiss the suit affecting the parent-child relationship with  
 11-26 respect to the child as provided by Subchapter E; and

11-27       (2) adoption promotion and support services as defined  
 11-28 by 42 U.S.C. Section 629a.

11-29       (b) Subsection (c), Section 263.202, Family Code, is  
 11-30 amended to read as follows:

11-31       (c) The court shall advise the parties that progress under  
 11-32 the service plan will be reviewed at all subsequent hearings,  
 11-33 including a review of whether the parties have acquired or learned  
 11-34 any specific skills or knowledge stated in the service plan.

11-35       (c) The changes in law made by Section 263.102 and  
 11-36 Subsection (c), Section 263.202, Family Code, as amended by this  
 11-37 section, apply only to a child placed in the custody of the  
 11-38 Department of Family and Protective Services on or after the  
 11-39 effective date of this section. A child placed in the custody of  
 11-40 the department before the effective date of this section is  
 11-41 governed by the law in effect on the date the child was placed in the  
 11-42 department's custody, and the former law is continued in effect for  
 11-43 that purpose.

11-44       SECTION 1.27. Section 263.202, Family Code, is amended by  
 11-45 amending Subsection (b) and adding Subsection (e) to read as  
 11-46 follows:

11-47       (b) Except as provided by Subsection (e), a [A] status  
 11-48 hearing shall be limited to matters related to the contents and  
 11-49 execution of the service plan filed with the court. The court shall  
 11-50 review the service plan that the department or other agency filed  
 11-51 under this chapter for reasonableness, accuracy, and compliance  
 11-52 with requirements of court orders and make findings as to whether:

11-53       (1) a plan that has the goal of returning the child to  
 11-54 the child's parents adequately ensures that reasonable efforts are  
 11-55 made to enable the child's parents to provide a safe environment for  
 11-56 the child; and

11-57       (2) the child's parents have reviewed and understand  
 11-58 the service plan and have been advised that unless the parents are  
 11-59 willing and able to provide the child with a safe environment, even  
 11-60 with the assistance of a service plan, within the reasonable period  
 11-61 of time specified in the plan, the parents' parental and custodial  
 11-62 duties and rights may be subject to restriction or to termination  
 11-63 under this code or the child may not be returned to the parents.

11-64       (e) At the status hearing, the court shall make a finding as  
 11-65 to whether the court has identified the individual who has the right  
 11-66 to consent for the child under Section 266.003.

11-67       SECTION 1.28. Subsection (b), Section 263.401, Family Code,  
 11-68 is amended to read as follows:

11-69       (b) The court may not retain the suit on the court's docket

12-1 after the time described by Subsection (a) unless the court finds  
 12-2 that extraordinary circumstances prevent the court from rendering a  
 12-3 final order within the time described by Subsection (a) and that  
 12-4 continuing the appointment of the department as temporary managing  
 12-5 conservator is in the best interest of the child. If the court  
 12-6 makes those findings, the court may retain the suit on the court's  
 12-7 docket for a period not to exceed 180 days after the time described  
 12-8 by Subsection (a) [ , if the court finds that continuing the  
 12-9 appointment of the department as temporary managing conservator is  
 12-10 in the best interest of the child ]. If the court retains the suit on  
 12-11 the court's docket, the court shall render an order in which the  
 12-12 court:

12-13 (1) schedules the new date for dismissal of the suit  
 12-14 not later than the 180th day after the time described by Subsection  
 12-15 (a);

12-16 (2) makes further temporary orders for the safety and  
 12-17 welfare of the child as necessary to avoid further delay in  
 12-18 resolving the suit; and

12-19 (3) sets a final hearing on a date that allows the  
 12-20 court to render a final order before the required date for dismissal  
 12-21 of the suit under this subsection.

12-22 SECTION 1.29. (a) Subsection (c), Section 263.502, Family  
 12-23 Code, is amended to read as follows:

12-24 (c) The placement review report must:

12-25 (1) evaluate whether the child's current placement is  
 12-26 appropriate for meeting the child's needs;

12-27 (2) evaluate whether efforts have been made to ensure  
 12-28 placement of the child in the least restrictive environment  
 12-29 consistent with the best interest and special needs of the child if  
 12-30 the child is placed in institutional care;

12-31 (3) contain a discharge plan for a child who is at  
 12-32 least 16 years of age that identifies [ identify ] the services and  
 12-33 specific tasks that are needed to assist the [ a ] child [ who is at  
 12-34 least 16 years of age ] in making the transition from substitute care  
 12-35 to adult [ independent ] living and describes the services that are  
 12-36 available through the Preparation for Adult Living Program operated  
 12-37 by the department [ if the services are available in the community ];

12-38 (4) evaluate whether the child's current educational  
 12-39 placement is appropriate for meeting the child's academic needs;

12-40 (5) identify other plans or services that are needed  
 12-41 to meet the child's special needs or circumstances; and

12-42 (6) [ (5) ] describe the efforts of the department or  
 12-43 authorized agency to place the child for adoption if parental  
 12-44 rights to the child have been terminated and the child is eligible  
 12-45 for adoption, including efforts to provide adoption promotion and  
 12-46 support services as defined by 42 U.S.C. Section 629a and other  
 12-47 efforts consistent with the federal Adoption and Safe Families Act  
 12-48 of 1997 (Pub. L. No. 105-89).

12-49 (b) In implementing the provisions of Subdivision (3),  
 12-50 Subsection (c), Section 263.502, Family Code, as amended by this  
 12-51 section, the Department of Family and Protective Services shall, to  
 12-52 the extent that funding is appropriated for this purpose, contract  
 12-53 with outside entities to assist in the discharge planning process.

12-54 SECTION 1.30. Section 264.001, Family Code, is amended to  
 12-55 read as follows:

12-56 Sec. 264.001. DEFINITIONS [ DEFINITION ]. In this chapter:

12-57 (1) "Department" [ , "department" ] means the Department  
 12-58 of Family and Protective [ and Regulatory ] Services.

12-59 (2) "Commission" means the Health and Human Services  
 12-60 Commission.

12-61 (3) "Executive commissioner" means the executive  
 12-62 commissioner of the Health and Human Services Commission.

12-63 (4) "Residential child-care facility" has the meaning  
 12-64 assigned by Section 42.002, Human Resources Code.

12-65 SECTION 1.31. Subchapter A, Chapter 264, Family Code, is  
 12-66 amended by adding Section 264.0091 to read as follows:

12-67 Sec. 264.0091. USE OF TELECONFERENCING AND  
 12-68 VIDEOCONFERENCING TECHNOLOGY. The department, in cooperation with  
 12-69 district and county courts, shall expand the use of

13-1 teleconferencing and videoconferencing to facilitate participation  
 13-2 by medical experts and other individuals in court proceedings.

13-3 SECTION 1.32. Section 264.101, Family Code, is amended by  
 13-4 adding Subsection (d-1) to read as follows:

13-5 (d-1) The executive commissioner may adopt rules that  
 13-6 prescribe the maximum amount of state money that a residential  
 13-7 child-care facility may spend on nondirect residential services,  
 13-8 including administrative services. The commission shall recover  
 13-9 the money that exceeds the maximum amount established under this  
 13-10 subsection.

13-11 SECTION 1.33. (a) Section 264.106, Family Code, is amended  
 13-12 to read as follows:

13-13 Sec. 264.106. REQUIRED CONTRACTS FOR SUBSTITUTE CARE  
 13-14 SERVICES. (a) In this section:

13-15 (1) "Case management services" means services  
 13-16 provided to or for, or functions performed with respect to, a child  
 13-17 for whom the department has been appointed temporary or permanent  
 13-18 managing conservator or the child's family in managing a case  
 13-19 involving the child. The term includes:

13-20 (A) conducting caseworker-child visits or family  
 13-21 visits;

13-22 (B) convening family group conferences;

13-23 (C) developing or revising case plans;

13-24 (D) coordinating and monitoring services needed  
 13-25 by the family;

13-26 (E) assuming duties related to court proceedings  
 13-27 involving the child, including preparing court reports and  
 13-28 attending court hearings and permanency planning hearings, but not  
 13-29 including duties related to court proceedings involving the  
 13-30 processing of an adoption of the child; and

13-31 (F) other services to ensure that the child is  
 13-32 progressing toward permanency in accordance with federal law and  
 13-33 the laws of this state.

13-34 (2) "Substitute care provider" means a child-care  
 13-35 institution or child-placing agency, as defined by Section 42.002,  
 13-36 Human Resources Code.

13-37 (3) "Substitute care services" means services  
 13-38 provided to or for children in substitute care, including the  
 13-39 recruitment, training, and management of foster parents, the  
 13-40 recruitment of adoptive families, and the facilitation and  
 13-41 processing of adoptions. The term does not include case management  
 13-42 services.

13-43 (b) The department shall:

13-44 (1) assess the need for substitute care services  
 13-45 throughout the state for children for whom the department has been  
 13-46 appointed temporary or permanent managing conservator; and

13-47 (2) contract with substitute care providers [only to  
 13-48 the extent necessary to meet the need] for the [these] services  
 13-49 described by Subdivision (1).

13-50 [(b) Before contracting with a substitute care provider,  
 13-51 the department shall determine whether:

13-52 [(1) community resources are available to support  
 13-53 children placed under the provider's care, and  
 13-54 [(2) the appropriate public school district has  
 13-55 sufficient resources to support children placed under the  
 13-56 provider's care if the children will attend public school.]

13-57 (c) The department shall:

13-58 (1) monitor the quality of services for which the  
 13-59 department contracts under this section;

13-60 (2) ensure that the services are provided in  
 13-61 accordance with federal law and the laws of this state, including  
 13-62 department rules and rules of the Department of State Health  
 13-63 Services and the Texas Commission on Environmental Quality; and

13-64 (3) attempt to contract with substitute care providers  
 13-65 that are community-based organizations that will:

13-66 (A) increase local foster and adoptive placement  
 13-67 options for all children, especially teenagers, sibling groups,  
 13-68 children with severe or multiple disabilities, and other children  
 13-69 who are difficult to place; and

14-1  
14-2 (B) expand efforts to recruit foster families,  
14-3 adoptive families, and alternative care providers through  
14-4 faith-based and other targeted recruitment programs.

14-5 (d) In addition to the requirements of Section 40.058(b),  
14-6 Human Resources Code, a contract with a substitute care provider  
14-7 must include provisions that:

14-8 (1) enable the department to monitor the effectiveness  
14-9 of the provider's services; [and]

14-10 (2) specify performance criteria; and

14-11 (3) authorize the department to terminate the contract  
14-12 or impose sanctions for a violation of a provision of the contract  
14-13 that specifies performance criteria.

14-14 (e) [d] In determining whether to contract with a  
14-15 substitute care provider, the department shall consider the  
14-16 provider's performance under any previous contract for substitute  
14-17 care services between the department and the provider.

14-18 (f) A contract under this section does not affect the rights  
14-19 and duties of the department in the department's capacity as the  
14-20 temporary or permanent managing conservator of a child.

14-21 (g) Notwithstanding any other law, on and after September 1,  
14-22 2008, the department may not directly provide substitute care  
14-23 services for children for whom the department has been appointed  
14-24 temporary or permanent managing conservator, except for case  
14-25 management services.

14-26 (e) In this section, "substitute care provider" means a  
14-27 person who provides residential care for children for 24 hours a  
14-28 day, including:

14-29 [(1) a child-care institution, as defined by Section  
14-30 42.002, Human Resources Code;

14-31 [(2) a child-placing agency, as defined by Section  
14-32 42.002, Human Resources Code;

14-33 [(3) a foster group home or foster family home, as  
14-34 defined by Section 42.002, Human Resources Code; and

14-35 [(4) an agency group home or agency home, as defined by  
14-36 Section 42.002, Human Resources Code, other than an agency group  
14-37 home, agency home, or a foster home verified or certified by the  
14-38 department.]

14-39 (b) The executive commissioner of the Health and Human  
14-40 Services Commission shall adopt a substitute care transition plan  
14-41 and rules to implement Section 264.106, Family Code, as amended by  
14-42 this section. The transition plan must provide that:

14-43 (1) as soon as possible after September 1, 2005, the  
14-44 Department of Family and Protective Services shall begin  
14-45 implementing Section 264.106, Family Code, as amended by this  
14-46 section; and

14-47 (2) on and after September 1, 2008:

14-48 (A) all substitute care services, as defined by  
14-49 Subsection (a), Section 264.106, Family Code, as amended by this  
14-50 section, for children for whom the department has been appointed  
14-51 temporary or permanent managing conservator must be provided by  
14-52 child-care institutions, child-placing agencies, foster group  
14-53 homes, and counties with a local child welfare board with which the  
14-54 department contracts; and

14-55 (B) notwithstanding any other law, the  
14-56 department may not directly provide those services.

14-57 (c) Section 264.106, Family Code, as amended by this  
14-58 section, applies only to a contract for substitute care services  
14-59 that is entered into or renewed on or after the effective date of  
14-60 this section. A contract that is entered into or renewed before the  
14-61 effective date of this section is governed by the law in effect on  
14-62 the date the contract was entered into or renewed, and the former  
14-63 law is continued in effect for that purpose.

14-64 SECTION 1.34. ADOPTION OF TRANSITION PLAN. Not later than  
14-65 March 1, 2006, the Health and Human Services Commission and the  
14-66 Department of Family and Protective Services shall, in consultation  
14-67 with private entities under contract to provide substitute care  
14-68 services for the department, including members of the boards of  
14-69 directors of the private entities and other community stakeholders,  
14-70 develop and adopt a substitute care services transition plan. The

15-1 executive commissioner of the Health and Human Services Commission  
 15-2 shall adopt rules to implement the privatization of substitute care  
 15-3 services in this state. The transition plan developed by the  
 15-4 department and the commission must:

15-5 (1) identify barriers to privatization and propose  
 15-6 solutions to stimulate capacity and adjust program delivery;

15-7 (2) include an implementation plan to transfer all  
 15-8 foster homes certified by the department to private child-placing  
 15-9 agencies, ensuring minimum disruption to the children in foster  
 15-10 care and to current foster parents;

15-11 (3) include a process for assessing each child who is  
 15-12 transferred to a private substitute care provider to verify the  
 15-13 child's service needs;

15-14 (4) include an implementation plan to transfer all  
 15-15 adoption services to private agencies, including details of how and  
 15-16 when cases will be transferred and how adoption provider contracts  
 15-17 and reimbursement methods will be structured;

15-18 (5) detail financial arrangements and performance  
 15-19 expectations for substitute care and case management providers  
 15-20 that:

15-21 (A) provide incentives for desired results and  
 15-22 explicit contract performance and outcome indicators;

15-23 (B) describe how financing options will increase  
 15-24 flexibility to promote innovation and efficiency in service  
 15-25 delivery; and

15-26 (C) provide balance between control over key  
 15-27 decisions with the level of risk the contractor assumes;

15-28 (6) require the department to enter into contracts for  
 15-29 the provision of substitute care and describe the procurement and  
 15-30 contracting process, including:

15-31 (A) describing how the department will shift from  
 15-32 an open-enrollment system to competitive procurement; and

15-33 (B) developing a procurement and contracting  
 15-34 schedule to ensure full implementation not later than September 1,  
 15-35 2008;

15-36 (7) address the immediate and ongoing training that is  
 15-37 needed both for department staff who are shifting roles and for  
 15-38 contractors, including substitute care and case management  
 15-39 providers;

15-40 (8) provide that a substitute care provider that  
 15-41 contracts with the department to provide substitute care services  
 15-42 shall give a preference in hiring to qualified department employees  
 15-43 in good standing with the department who provide substitute care  
 15-44 services and whose positions with the department may be eliminated  
 15-45 as a result of the privatization of substitute care services; and

15-46 (9) describe how the transition will impact the  
 15-47 state's ability to capture federal funding and examine options for  
 15-48 further maximizing federal funding opportunities and increasing  
 15-49 flexibility.

15-50 SECTION 1.35. SUBSTITUTE CARE SERVICES TRANSITION TASK  
 15-51 FORCE. (a) The substitute care services transition task force  
 15-52 shall:

15-53 (1) review the substitute care services transition  
 15-54 plan and rules adopted by the executive commissioner of the Health  
 15-55 and Human Services Commission under this Act;

15-56 (2) monitor the implementation of Section 264.106,  
 15-57 Family Code, as amended by this Act, by the Department of Family and  
 15-58 Protective Services; and

15-59 (3) make recommendations to the department to  
 15-60 facilitate the implementation of Section 264.106, Family Code, as  
 15-61 amended by this Act.

15-62 (b) The task force is composed of three members, appointed  
 15-63 as follows:

15-64 (1) one member appointed by the lieutenant governor;

15-65 (2) one member appointed by the speaker of the house of  
 15-66 representatives; and

15-67 (3) one member appointed by the comptroller.

15-68 (c) The member appointed under Subdivision (3), Subsection  
 15-69 (b) of this section, serves as the presiding officer.

16-1 (d) The task force shall meet at least monthly.  
 16-2 (e) Not later than the 31st day after the date the  
 16-3 Department of Family and Protective Services receives a  
 16-4 recommendation under Subdivision (3), Subsection (a) of this  
 16-5 section, the department shall implement the recommendation or, if  
 16-6 necessary, the executive commissioner of the Health and Human  
 16-7 Services Commission shall initiate rulemaking procedures to adopt  
 16-8 rules to implement the recommendation.

16-9 (f) At least quarterly, the task force shall submit a report  
 16-10 to the lieutenant governor, the speaker of the house of  
 16-11 representatives, and the Legislative Budget Board regarding the  
 16-12 status of the implementation of Section 264.106, Family Code, as  
 16-13 amended by this Act.

16-14 (g) This section expires and the task force is abolished  
 16-15 August 31, 2008.

16-16 SECTION 1.36. Section 264.1075, Family Code, is amended to  
 16-17 read as follows:

16-18 Sec. 264.1075. ASSESSING THE NEEDS OF A CHILD [USE OF  
 16-19 ASSESSMENT SERVICES]. (a) As soon as possible after a child  
 16-20 begins receiving foster care under this subchapter, the department  
 16-21 shall assess whether the child has a developmental disability or  
 16-22 mental retardation. The commission shall establish the procedures  
 16-23 that the department must use in making an assessment under this  
 16-24 subsection. The procedures may include screening or participation  
 16-25 by:

16-26 (1) a private person experienced in the developmental  
 16-27 disabilities or mental retardation of children;

16-28 (2) a local mental retardation authority; or

16-29 (3) a provider of a county with a local child welfare  
 16-30 board.

16-31 (b) Before placing a child in substitute care, the  
 16-32 department shall use assessment services provided by a child-care  
 16-33 facility or child-placing agency in accordance with Section  
 16-34 42.0425, Human Resources Code, to determine the appropriate  
 16-35 substitute care for the child.

16-36 SECTION 1.37. Subchapter B, Chapter 264, Family Code, is  
 16-37 amended by adding Section 264.1076 to read as follows:

16-38 Sec. 264.1076. FOSTER CARE DEVELOPMENTAL DISABILITIES  
 16-39 ADVISORY COMMITTEE. (a) The Foster Care Developmental  
 16-40 Disabilities Advisory Committee shall advise the department on  
 16-41 issues relating to the care of foster children with developmental  
 16-42 disabilities or mental retardation, including effective methods  
 16-43 for:

16-44 (1) minimizing the number of foster children placed in  
 16-45 institutions and maximizing the number of foster children receiving  
 16-46 community-based care;

16-47 (2) training and supporting persons who provide foster  
 16-48 care in a residential setting on issues relating to the particular  
 16-49 needs of children with developmental disabilities or mental  
 16-50 retardation;

16-51 (3) training employees of the department to promptly  
 16-52 identify foster children with developmental disabilities or mental  
 16-53 retardation;

16-54 (4) monitoring the care provided in residential  
 16-55 settings to foster children with developmental disabilities or  
 16-56 mental retardation;

16-57 (5) recruiting individuals to provide foster care in a  
 16-58 residential setting to children with developmental disabilities or  
 16-59 mental retardation;

16-60 (6) contracting with persons to care for foster  
 16-61 children with developmental disabilities or mental retardation;

16-62 (7) planning for the transition of children with  
 16-63 developmental disabilities or mental retardation out of foster care  
 16-64 to enhance opportunities for the children to remain in their  
 16-65 communities; and

16-66 (8) assigning levels of services for children with  
 16-67 developmental disabilities or mental retardation and children with  
 16-68 special health care needs.

16-69 (b) The executive commissioner shall determine the number

17-1 of persons who serve on the committee.

17-2 (c) The executive commissioner shall appoint the members of  
 17-3 the committee and determine each member's length of service. In  
 17-4 making appointments to the committee, the executive commissioner  
 17-5 shall attempt to include:

17-6 (1) representatives of the commission and other  
 17-7 relevant state agencies;

17-8 (2) providers of services to persons with  
 17-9 developmental disabilities or mental retardation;

17-10 (3) persons who formerly received care under this  
 17-11 subchapter as foster children;

17-12 (4) persons with expertise about developmental  
 17-13 disabilities or mental retardation;

17-14 (5) persons who advocate for the rights of children  
 17-15 with developmental disabilities or mental retardation; and

17-16 (6) persons related to children with developmental  
 17-17 disabilities or mental retardation.

17-18 (d) Chapter 2110, Government Code, does not apply to the  
 17-19 committee.

17-20 (e) The commission or the department may pay any expenses  
 17-21 incurred by the committee.

17-22 SECTION 1.38. Subchapter B, Chapter 264, Family Code, is  
 17-23 amended by adding Section 264.1095 to read as follows:

17-24 Sec. 264.1095. CHILD SUPPORT. Unless the department has  
 17-25 been assigned support rights under Section 264.109, the department  
 17-26 shall file suit for child support under Section 154.001(b) for a  
 17-27 child for whom the department has been named temporary managing  
 17-28 conservator.

17-29 SECTION 1.39. (a) Subchapter B, Chapter 264, Family Code,  
 17-30 is amended by adding Section 264.116 to read as follows:

17-31 Sec. 264.116. TEXAS FOSTER GRANDPARENTS PROGRAM. (a) The  
 17-32 department shall work with volunteer and advocacy organizations  
 17-33 from the community to develop and implement a statewide foster  
 17-34 grandparents program that:

17-35 (1) recruits volunteers who are senior citizens; and  
 17-36 (2) encourages the volunteers to serve as mentors to  
 17-37 children who reside in a residential child-care facility.

17-38 (b) From funds available for that purpose, the department  
 17-39 may reimburse volunteers for actual and necessary expenses incurred  
 17-40 while participating in the program, including travel expenses. The  
 17-41 executive commissioner by rule shall develop guidelines for the  
 17-42 reimbursement of expenses under the program.

17-43 (c) A volunteer who participates in the program is subject  
 17-44 to state and national criminal background checks in accordance with  
 17-45 Sections 411.087 and 411.114, Government Code.

17-46 (d) The department shall require foster parents or  
 17-47 employees of residential child-care facilities to provide  
 17-48 appropriate supervision over volunteers during their participation  
 17-49 in the program.

17-50 (e) The program is subject to Chapter 2109, Government Code.

17-51 (b) The Department of Family and Protective Services shall  
 17-52 implement the statewide foster grandparents program required by  
 17-53 Section 264.116, Family Code, as added by this section, not later  
 17-54 than June 1, 2006.

17-55 SECTION 1.40. Subchapter B, Chapter 264, Family Code, is  
 17-56 amended by adding Section 264.121 to read as follows:

17-57 Sec. 264.121. PREPARATION FOR ADULT LIVING PROGRAM.

17-58 (a) The department shall address the unique challenges facing  
 17-59 foster children in the conservatorship of the department who must  
 17-60 transition to independent living by:

17-61 (1) expanding efforts to improve discharge planning  
 17-62 and increasing the availability of transitional family group  
 17-63 decision-making to all youth age 16 or older in the department's  
 17-64 permanent managing conservatorship;

17-65 (2) coordinating with the Health and Human Services  
 17-66 Commission to obtain authority, to the extent allowed by federal  
 17-67 law, the state Medicaid plan, the Title IV-E state plan, and any  
 17-68 waiver or amendment to either plan, necessary to:

17-69 (A) extend foster care eligibility and

18-1 transition services for youth up to age 21 and develop policy to  
 18-2 permit eligible youth to return to foster care as necessary to  
 18-3 achieve the goals of the Preparation for Adult Living Program; and

18-4 (B) extend Medicaid coverage for foster care  
 18-5 youth and former foster care youth up to age 21 with a single  
 18-6 application at the time the youth leaves foster care; and

18-7 (3) entering into cooperative agreements with the  
 18-8 Texas Workforce Commission and local workforce development boards  
 18-9 to further the objectives of the Preparation for Adult Living  
 18-10 Program. The department, the Texas Workforce Commission, and the  
 18-11 local workforce development boards shall ensure that services are  
 18-12 prioritized and targeted to meet the needs of foster care and former  
 18-13 foster care children and that such services will include, where  
 18-14 feasible, referrals for short-term stays for youth needing housing.

18-15 (b) In this section "local workforce development board"  
 18-16 means a local workforce development board created under Chapter  
 18-17 2308, Government Code.

18-18 SECTION 1.41. Subchapter C, Chapter 264, Family Code, is  
 18-19 amended by adding Section 264.2015 to read as follows:

18-20 Sec. 264.2015. FAMILY GROUP CONFERENCING. The department  
 18-21 may collaborate with the courts and other appropriate local  
 18-22 entities to develop and implement family group conferencing as a  
 18-23 strategy for promoting family preservation and permanency for  
 18-24 children.

18-25 SECTION 1.42. Subchapter C, Chapter 264, Family Code, is  
 18-26 amended by adding Section 264.204 to read as follows:

18-27 Sec. 264.204. COMMUNITY-BASED FAMILY SERVICES. (a) The  
 18-28 department shall administer a grant program to provide funding to  
 18-29 community organizations, including faith-based or county  
 18-30 organizations, to respond to:

18-31 (1) low-priority, less serious cases of abuse and  
 18-32 neglect; and

18-33 (2) cases in which an allegation of abuse or neglect of  
 18-34 a child was unsubstantiated but involved a family that has been  
 18-35 previously investigated for abuse or neglect of a child.

18-36 (b) The executive commissioner shall adopt rules to  
 18-37 implement the grant program, including rules governing the  
 18-38 submission and approval of grant requests and the cancellation of  
 18-39 grants.

18-40 (c) To receive a grant, a community organization whose grant  
 18-41 request is approved must execute an interagency agreement or a  
 18-42 contract with the department. The contract must require the  
 18-43 organization receiving the grant to perform the services as stated  
 18-44 in the approved grant request. The contract must contain  
 18-45 appropriate provisions for program and fiscal monitoring.

18-46 (d) In areas of the state in which community organizations  
 18-47 receive grants under the program, the department shall refer  
 18-48 low-priority, less serious cases of abuse and neglect to a  
 18-49 community organization receiving a grant under the program.

18-50 (e) A community organization receiving a referral under  
 18-51 Subsection (d) shall make a home visit and offer family social  
 18-52 services to enhance the parents' ability to provide a safe and  
 18-53 stable home environment for the child. If the family chooses to use  
 18-54 the family services, a case manager from the organization shall  
 18-55 monitor the case and ensure that the services are delivered.

18-56 (f) If after the home visit the community organization  
 18-57 determines that the case is more serious than the department  
 18-58 indicated, the community organization shall refer the case to the  
 18-59 department for a full investigation.

18-60 (g) The department may not award a grant to a community  
 18-61 organization in an area of the state in which a similar program is  
 18-62 already providing effective family services in the community.

18-63 (h) For purposes of this section, a case is considered to be  
 18-64 a less serious case of abuse or neglect if:

18-65 (1) the circumstances of the case do not appear to  
 18-66 involve a reasonable likelihood that the child will be abused or  
 18-67 neglected in the foreseeable future; or

18-68 (2) the allegations in the report of child abuse or  
 18-69 neglect:

(A) are general in nature or vague and do not support a determination that the child who is the subject of the report has been abused or neglected or will likely be abused or neglected; or

(B) if substantiated, would not be considered abuse or neglect under this chapter.

SECTION 1.43. Subchapter C, Chapter 264, Family Code, is amended by adding Section 264.2041 to read as follows:

Sec. 264.2041. CULTURAL AWARENESS. The department shall:

(1) document disproportionate representation of individual races and ethnicities and institute policy and practices to promote parity in outcomes for all children;

(2) prioritize prevention and early intervention services for communities and groups with disproportionate representation in the child protective services population;

(3) develop and deliver cultural competency training to all service delivery staff;

(4) increase targeted recruitment efforts for foster and adoptive families who can meet the needs of children and youth who are waiting for permanent homes;

who are waiting for permanent homes; (5) target recruitment efforts to ensure diversity among department staff; and

(6) develop collaborative partnerships with community groups, agencies, faith-based organizations, and other community organizations to provide culturally competent services to children and families of every race and ethnicity.

SECTION 1.44. Subsection (c), Section 264.203, Family Code, is amended to read as follows:

(c) If the person ordered to participate in the services fails to follow the court's order, the court may impose appropriate sanctions in order to protect the health and safety of the child, including the removal of the child as specified by Chapter 262 [community service as a sanction for contempt].

SECTION 1.45. Subsection (b), Section 264.502, Family Code, is amended to read as follows:

(b) The members of the committee who serve under Subsections (a)(1) through (3) shall select the following additional committee members:

- (1) a criminal prosecutor involved in prosecuting crimes against children;
- (2) a sheriff;
- (3) a justice of the peace;
- (4) a medical examiner;
- (5) a police chief;
- (6) a pediatrician experienced in diagnosing and treating child abuse and neglect;
- (7) a child educator;
- (8) a child mental health provider;
- (9) a public health professional;
- (10) a child protective services specialist;
- (11) a sudden infant death syndrome family service provider;
- (12) a neonatologist;
- (13) a child advocate; ~~and~~
- (14) a chief juvenile probation officer; and
- (15) a child abuse prevention specialist.

SECTION 1.46. Section 264.503, Family Code, is amended by amending Subsections (b) through (f) and adding Subsections (d-1) and (g) to read as follows:

(b) To ensure that the committee achieves its purpose, the department and the [Texas] Department of State Health Services shall perform the duties specified by this section.

(c) The department shall:

teams; and (1) recognize the creation and participation of review

(2) work cooperatively with the committee and with individual child fatality review teams [promote and coordinate training to assist the review teams in carrying out their duties;

[ (3) assist the committee in developing model

20-1 ~~protocols for:~~

20-2 [ (A) the reporting and investigating of child  
 20-3 fatalities for law enforcement agencies, child protective  
 20-4 services, justices of the peace and medical examiners, and other  
 20-5 professionals involved in the investigations of child deaths;  
 20-6 [ (B) the collection of data regarding child  
 20-7 deaths; and

20-8 [ (C) the operation of the review teams; and  
 20-9 [ (4) develop and implement procedures necessary for  
 20-10 the operation of the committee].

20-11 (d) The Department of State Health Services [department]  
 20-12 shall:

20-13 (1) promote and coordinate training to assist the  
 20-14 review teams in carrying out their duties;

20-15 (2) assist the committee in developing model protocols  
 20-16 for:

20-17 (A) the reporting and investigating of child  
 20-18 fatalities for law enforcement agencies, child protective  
 20-19 services, justices of the peace and medical examiners, and other  
 20-20 professionals involved in the investigations of child deaths;

20-21 (B) the collection of data regarding child  
 20-22 deaths; and

20-23 (C) the operation of the review teams;

20-24 (3) develop and implement procedures necessary for the  
 20-25 operation of the committee; and

20-26 (4) promote education of the public regarding the  
 20-27 incidence and causes of child deaths, the public role in preventing  
 20-28 child deaths, and specific steps the public can undertake to  
 20-29 prevent child deaths.

20-30 (d-1) The committee shall enlist the support and assistance  
 20-31 of civic, philanthropic, and public service organizations in the  
 20-32 performance of the duties imposed under Subsection (d) [~~this  
 20-33 subsection~~].

20-34 (e) In addition to the duties under Subsection (d), the [~~The  
 20-35 Texas~~] Department of State Health Services shall:

20-36 (1) collect data under this subchapter and coordinate  
 20-37 the collection of data under this subchapter with other data  
 20-38 collection activities; and

20-39 (2) perform annual statistical studies of the  
 20-40 incidence and causes of child fatalities using the data collected  
 20-41 under this subchapter.

20-42 (f) The committee shall issue a report for each preventable  
 20-43 child death. The report must include [~~annual reports on the  
 20-44 committee's activities, including~~] findings related to the child's  
 20-45 death, [~~and~~] recommendations on how to prevent similar deaths, and  
 20-46 details surrounding the department's involvement with the child  
 20-47 prior to the child's death [~~relating to each purpose and duty of the  
 20-48 committee described by this section~~]. Not later than December 1 of  
 20-49 each [~~even-numbered~~] year, the committee shall publish a  
 20-50 compilation of the reports published under this subsection during  
 20-51 the year, [~~the report and~~] submit a copy of the compilation [~~report~~]  
 20-52 to the governor, lieutenant governor, [~~and~~] speaker of the house of  
 20-53 representatives, and department, and make the compilation  
 20-54 available to the public. Not later than June 1 of each year, the  
 20-55 department shall submit a written response on the compilation from  
 20-56 the previous year to the committee, governor, lieutenant governor,  
 20-57 and speaker of the house of representatives describing which of the  
 20-58 committee's recommendations regarding the operation of the child  
 20-59 protective services system the department will implement and the  
 20-60 methods of implementation.

20-61 (g) The committee shall perform the functions and duties  
 20-62 required of a citizen review panel under 42 U.S.C. Section  
 20-63 5106a(c)(4)(A).

20-64 SECTION 1.47. Subsection (c), Section 264.504, Family Code,  
 20-65 is amended to read as follows:

20-66 (c) Information identifying a deceased child, a member of  
 20-67 the child's family, a guardian or caretaker of the child, or an  
 20-68 alleged or suspected perpetrator of abuse or neglect of the child  
 20-69 may not be disclosed during a public meeting. On a majority vote of

21-1 the committee members, the members shall remove from the committee  
 21-2 any member who discloses information described by this subsection  
 21-3 in a public meeting.

21-4 SECTION 1.48. Subsection (c), Section 264.505, Family Code,  
 21-5 is amended to read as follows:

21-6 (c) A review team may include:  
 21-7 (1) a criminal prosecutor involved in prosecuting  
 21-8 crimes against children;  
 21-9 (2) a sheriff;  
 21-10 (3) a justice of the peace or medical examiner;  
 21-11 (4) a police chief;  
 21-12 (5) a pediatrician experienced in diagnosing and  
 21-13 treating child abuse and neglect;  
 21-14 (6) a child educator;  
 21-15 (7) a child mental health provider;  
 21-16 (8) a public health professional;  
 21-17 (9) a child protective services specialist;  
 21-18 (10) a sudden infant death syndrome family service  
 21-19 provider;  
 21-20 (11) a neonatologist;  
 21-21 (12) a child advocate; [and]  
 21-22 (13) a chief juvenile probation officer; and  
 21-23 (14) a child abuse prevention specialist.

21-24 SECTION 1.49. Section 264.506, Family Code, is amended by  
 21-25 amending Subsection (b) and adding Subsection (d) to read as  
 21-26 follows:

21-27 (b) To achieve its purpose, a review team shall:  
 21-28 (1) adapt and implement, according to local needs and  
 21-29 resources, the model protocols developed by the department and the  
 21-30 committee;  
 21-31 (2) meet on a regular basis at least quarterly to  
 21-32 review child fatality cases and recommend methods to improve  
 21-33 coordination of services and investigations between agencies that  
 21-34 are represented on the team;  
 21-35 (3) collect and maintain data as required by the  
 21-36 committee; and  
 21-37 (4) submit to the bureau of vital statistics data  
 21-38 reports on deaths reviewed as specified by the committee.

21-39 (d) A review team shall perform the functions and duties  
 21-40 required of a citizen review panel under 42 U.S.C. Section  
 21-41 5106a(c)(4)(A).

21-42 SECTION 1.50. Subsection (c), Section 264.511, Family Code,  
 21-43 is amended to read as follows:

21-44 (c) A member of a review team may not disclose any  
 21-45 information that is confidential under this section. On a majority  
 21-46 vote of the review team members, the members shall remove from the  
 21-47 review team any member who discloses confidential information.

21-48 SECTION 1.51. Section 264.602, Family Code, is amended by  
 21-49 adding Subsection (e) to read as follows:

21-50 (e) The department, in cooperation with the statewide  
 21-51 organization with which the attorney general contracts under  
 21-52 Section 264.603 and other interested agencies, shall support the  
 21-53 expansion of court-appointed volunteer advocate programs into  
 21-54 counties in which there is a need for the programs. In expanding  
 21-55 into a county, a program shall work to ensure the independence of  
 21-56 the program, to the extent possible, by establishing community  
 21-57 support and accessing private funding from the community for the  
 21-58 program.

21-59 SECTION 1.52. (a) Chapter 264, Family Code, is amended by  
 21-60 adding Subchapter I to read as follows:

21-61 SUBCHAPTER I. RELATIVE AND OTHER DESIGNATED CAREGIVER PLACEMENT  
 21-62 PROGRAM

21-63 Sec. 264.751. DEFINITIONS. In this subchapter:  
 21-64 (1) "Designated caregiver" means an individual who has  
 21-65 a longstanding and significant relationship with a child for whom  
 21-66 the department has been appointed managing conservator and who:

21-67 (A) is appointed to provide substitute care for  
 21-68 the child, but is not licensed or certified to operate a foster  
 21-69 home, foster group home, agency foster home, or agency foster group

22-1 home under Chapter 42, Human Resources Code; or

22-2 (B) is subsequently appointed permanent managing  
22-3 conservator of the child after providing the care described by  
22-4 Paragraph (A).

22-5 (2) "Relative" means a person related to a child by  
22-6 consanguinity as determined under Section 573.022, Government  
22-7 Code.

22-8 (3) "Relative caregiver" means a relative who:

22-9 (A) provides substitute care for a child for whom  
22-10 the department has been appointed managing conservator, but who is  
22-11 not licensed or certified to operate a foster home, foster group  
22-12 home, agency foster home, or agency foster group home under Chapter  
22-13 42, Human Resources Code; or

22-14 (B) is subsequently appointed permanent managing  
22-15 conservator of the child after providing the care described by  
22-16 Paragraph (A).

22-17 Sec. 264.752. RELATIVE AND OTHER DESIGNATED CAREGIVER  
22-18 PLACEMENT PROGRAM. (a) The department shall develop and  
22-19 administer a program to:

22-20 (1) promote continuity and stability for children for  
22-21 whom the department is appointed managing conservator by placing  
22-22 those children with relative or other designated caregivers; and

22-23 (2) facilitate relative or other designated caregiver  
22-24 placements by providing assistance and services to those caregivers  
22-25 in accordance with this subchapter and rules adopted by the  
22-26 executive commissioner.

22-27 (b) The executive commissioner shall adopt rules necessary  
22-28 to implement this subchapter. The rules must include eligibility  
22-29 criteria for receiving assistance and services under this  
22-30 subchapter.

22-31 Sec. 264.753. EXPEDITED PLACEMENT. The department shall  
22-32 expedite the completion of the background and criminal history  
22-33 check, the home study, and any other administrative procedure to  
22-34 ensure that the child is placed with a qualified relative or  
22-35 caregiver not later than two weeks after the date the caregiver is  
22-36 identified.

22-37 Sec. 264.754. INVESTIGATION OF PROPOSED PLACEMENT. Before  
22-38 placing a child with a proposed relative or other designated  
22-39 caregiver, the department must conduct an investigation to  
22-40 determine whether the proposed placement is in the child's best  
22-41 interests.

22-42 Sec. 264.755. CAREGIVER ASSISTANCE AGREEMENT. The  
22-43 department shall, subject to the availability of funds, enter into  
22-44 a caregiver assistance agreement with each relative or other  
22-45 designated caregiver to provide monetary assistance and additional  
22-46 support services to the caregiver. The monetary assistance and  
22-47 support services may include:

22-48 (1) a one-time cash payment of not more than \$1,000 to  
22-49 the caregiver on the initial placement of a child or, if the child  
22-50 and at least one of the child's siblings are placed with the  
22-51 caregiver, a one-time cash payment of not more than \$1,000 to the  
22-52 caregiver on the initial placement of the sibling group, to assist  
22-53 the caregiver in purchasing essential child-care items such as  
22-54 furniture and clothing;

22-55 (2) case management services and training and  
22-56 information about the child's needs until the caregiver is  
22-57 appointed permanent managing conservator;

22-58 (3) referrals to appropriate state agencies  
22-59 administering public benefits or assistance programs for which the  
22-60 child, the caregiver, or the caregiver's family may qualify;

22-61 (4) family counseling not provided under the Medicaid  
22-62 program for the caregiver's family for a period not to exceed two  
22-63 years from the date of initial placement;

22-64 (5) if the caregiver meets the eligibility criteria  
22-65 determined by rules adopted by the executive commissioner,  
22-66 reimbursement of all child-care expenses incurred while the child  
22-67 is under 13 years of age, or under 18 years of age if the child has a  
22-68 developmental disability, and while the department is the child's  
22-69 managing conservator;

(6) if the caregiver meets the eligibility criteria determined by rules adopted by the executive commissioner, reimbursement of 50 percent of child-care expenses incurred after the caregiver is appointed permanent managing conservator of the child while the child is under 13 years of age, or under 18 years of age if the child has a developmental disability; and

(7) reimbursement of other expenses, as determined by rules adopted by the executive commissioner, not to exceed \$500 per year for each child.

Sec. 264.756. ASSISTANCE WITH PERMANENT PLACEMENT. The department shall collaborate with the State Bar of Texas and local community partners to identify legal resources to assist relatives and other designated caregivers in obtaining conservatorship, adoption, or other permanent legal status for the child.

Sec. 264.757. COORDINATION WITH OTHER AGENCIES. The department shall coordinate with other health and human services agencies, as defined by Section 531.001, Government Code, to provide assistance and services under this subchapter.

Sec. 264.758. FUNDS. The department and other state agencies shall actively seek and use federal funds available for the purposes of this subchapter.

(b) Not later than December 1, 2005, the executive commissioner of the Health and Human Services Commission shall adopt rules for implementing and administering the relative and other designated caregiver placement program under Subchapter I, Chapter 264, Family Code, as added by this section.

(c) Not later than March 1, 2006, the Department of Family and Protective Services shall implement the relative and other designated caregiver placement program in accordance with Subchapter I, Chapter 264, Family Code, as added by this section.

SECTION 1.53. Subtitle E, Title 5, Family Code, is as follows:

ing Chapter 266 to read as follows:

CHAPTER 266. MEDICAL CARE FOR CHILDREN IN FOSTER CARE  
Sec. 266.001. DEFINITIONS. In this chapter:  
(1) "Commission" means the Health and Human Services

Commission. (2) "Department" means the Department of Family and Protective Services.

Sec. 266.002. CONSTRUCTION WITH OTHER LAW. This chapter does not limit the right to consent to medical, dental, psychological, and surgical treatment under Chapter 32.

Sec. 266.003. CONSENT FOR MEDICAL CARE. (a) Medical care may not be provided to a child in foster care unless the person authorized by this section has provided informed consent.

(b) The following persons may be authorized by the court to consent to medical care for a child in foster care:

(1) an individual designated by name in an order of the court, including the child's parent, if the parent's rights have not been terminated; or

(2) the department or an agent of the department, including a foster parent.

(c) If the person authorized to consent to medical care is

the department or an agent of the department, the department shall file with the court the name of the individual who will exercise the duty and responsibility of providing informed consent on behalf of the department. If the individual who exercises the duty and responsibility of providing informed consent on behalf of the department changes, the department shall file notice of the change with the court not later than the 10th day after the date the change occurs.

(d) A physician or other provider of medical care acting in good faith may rely on the representation by a person that the person has the authority to consent to the provision of medical care to a child in foster care as provided by Subsection (b).

(e) The department, a person authorized to consent to medical care under Subsection (b), the child's parent if the parent's rights have not been terminated, a guardian ad litem or attorney ad litem if one has been appointed, or the person providing foster care to the child may petition the court for any order

24-1 related to medical care of a child in foster care that the  
24-2 department or other person believes is in the best interest of the  
24-3 child. Notice of the petition must be given to each person entitled  
24-4 to notice under Section 263.301(b).

24-5 (f) On its own motion or in response to a petition under  
24-6 Subsection (e), the court may issue any order related to the medical  
24-7 care of a child in foster care that the court determines is in the  
24-8 best interest of the child.

24-9 (g) Notwithstanding Subsection (b), a person may not be  
24-10 authorized to consent to medical care provided to a child in foster  
24-11 care unless the person has completed a department-approved training  
24-12 program related to consenting to medical care. This subsection  
24-13 does not apply to a parent whose rights have not been terminated  
24-14 unless the court orders the parent to complete the training.

24-15 (h) The person authorized by Subsection (b) to consent to  
24-16 medical care of a child in foster care shall participate in each  
24-17 appointment of the child with the provider of the medical care.

24-18 Sec. 266.004. HEALTH PASSPORTS. (a) The commission shall  
24-19 make available to the person authorized to consent to medical care  
24-20 under Section 266.003(b) and any provider of health care to a child  
24-21 in foster care the most complete health history of the child  
24-22 available to the department.

24-23 (b) The department shall develop a health passport for each  
24-24 child in foster care. The department shall determine the format of  
24-25 the passport. The passport may be maintained in an electronic  
24-26 format. The health passport must include the most complete medical  
24-27 history of the child available to the department and must be readily  
24-28 accessible to medical care providers. The health passport must  
24-29 contain educational records of the child, including the names and  
24-30 addresses of educational providers, the child's grade level  
24-31 performance, and any other educational information the department  
24-32 determines is important.

24-33 (c) The form and content of the passport shall be finalized  
24-34 within six months of the enactment of the legislation adding this  
24-35 chapter. The passport shall be available in an electronic format  
24-36 within 24 months of the enactment of this legislation. Within 36  
24-37 months, the passport shall interface directly with other electronic  
24-38 health record systems that contain information that impacts the  
24-39 health care of the child.

24-40 (d) The department shall maintain the passport as part of  
24-41 the department's records for the child as long as the child remains  
24-42 in foster care.

24-43 Sec. 266.005. JUDICIAL REVIEW OF MEDICAL CARE. (a) At  
24-44 each hearing under Chapter 263, or more frequently if ordered by the  
24-45 court, the court shall review a summary of the medical care provided  
24-46 to the child since the last hearing. The summary must include  
24-47 information regarding:

24-48 (1) the nature of any emergency medical care provided  
24-49 to the child and the circumstances necessitating emergency medical  
24-50 care, including any injury or acute illness suffered by the child;

24-51 (2) any medication prescribed for the child and the  
24-52 condition for which the medication was prescribed;

24-53 (3) the degree to which the child or foster care  
24-54 provider has complied or failed to comply with any plan of medical  
24-55 treatment for the child;

24-56 (4) any adverse reaction to or side effects of any  
24-57 medical treatment provided to the child;

24-58 (5) any specific medical condition of the child that  
24-59 has been diagnosed or for which tests are being conducted to make a  
24-60 diagnosis;

24-61 (6) any activity that the child should avoid or should  
24-62 engage in that might affect the effectiveness of the treatment,  
24-63 including physical activities, other medications, and diet; and

24-64 (7) other information required by department rule or  
24-65 by the court.

24-66 (b) At or before each hearing under Chapter 263, the  
24-67 department shall provide the summary of medical care described by  
24-68 Subsection (a) to:

24-69 (1) the court;

- (2) the person authorized to consent to medical treatment for the child;
- (3) the guardian ad litem or attorney ad litem, if one has been appointed by the court;
- (4) the child's parent, if the parent's rights have not been terminated; and
- (5) any other person determined by the department or the court to be necessary or convenient to the provision of medical care to children in foster care.

Sec. 266.006. OVERSIGHT OF MEDICAL CARE. (a) The commission shall establish a comprehensive system of oversight of medical care provided to children in foster care.

(b) The oversight system must include:

(1) the implementation of medical passports by which each foster child's full medical history available to the department is available at all times to the person authorized to consent to medical care for the child and to each provider of medical care who diagnoses or treats the child;

(2) establishment and use of a management information system that allows medical care provided to all children in foster care to be monitored;

(3) the use of medical advisory committees and medical review teams 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;

(4) development of the training program described by Section 266.003(g);

(5) a system in which parents, foster parents, caseworkers, and guardians ad litem have access to a child psychiatrist employed by the department to use as a resource for treating foster children;

(6) provision for the summary of medical treatment described by Section 266.005(a); and  
(7) provision for the participation of the person

(7) 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 the medical care.

PSYCHOTROPIC DRUGS. (a) The department shall study the level of care system the department uses to determine a child's foster care needs to ascertain whether the system creates incentives for prescribing psychotropic medications to children in foster care.

(b) Not later than October 1, 2006, the department shall

(b) Not later than October 1, 2006, the department shall report the results of the study to the legislature. The report must include the department's proposed changes to the level of care system.

(c) This section expires January 1, 2007.  
SECTION 1.54. Section 51.961. Government

SECTION 1.54. Section 51.961, Government Code, is amended to read as follows:

Sec. 51.961. FAMILY PROTECTION FEE. (a) The commissioners

sec. 31.901. FAMILY PROTECTION FEE. (a) The commissioners court of a county shall [~~may~~] adopt a family protection fee in an amount not to exceed \$30 [\$15].

(b) Except as provided by Subsection (c), the district clerk

(c) The clerk may not collect a fee under this section from a district or county clerk shall collect the family protection fee at the time a suit for dissolution of a marriage under Chapter 6, Family Code, is filed. The fee is in addition to any other fee collected by the district clerk or county clerk.

(c) The clerk may not collect a fee under this section from a person who is protected by an order issued under:

(1) Subtitle B, Title 4, Family Code; or

(2) Article 17.292, Code of Criminal Pro

The clerk shall pay one-half of the [a] fee co

under this section to the appropriate officer of the county in which the suit is filed for deposit in the county treasury to the credit of the family protection account. The account may be used by the commissioners court of the county only to fund a service provider located in that county or an adjacent county. The commissioners court may provide funding to a nonprofit organization that provides services described by Subsection (e).

(e) A service provider who receives funds under Subsection

26-1 (d) may provide family violence and child abuse prevention,  
 26-2 intervention, family strengthening, mental health, counseling,  
 26-3 legal, and marriage preservation services to families that are at  
 26-4 risk of experiencing or that have experienced family violence or  
 26-5 the abuse or neglect of a child.

26-6 (f) In this section, "family violence" has the meaning  
 26-7 assigned by Section 71.004, Family Code.

26-8 (g) The clerk shall pay one-half of the fee collected under  
 26-9 this section to the comptroller, who shall deposit the money to the  
 26-10 credit of the child abuse and neglect prevention trust fund account  
 26-11 established under Section 40.105, Human Resources Code.

26-12 SECTION 1.55. Section 101.061, Government Code, is amended  
 26-13 to read as follows:

26-14 Sec. 101.061. DISTRICT COURT FEES AND COSTS. The clerk of a  
 26-15 district court shall collect fees and costs as follows:

26-16 (1) filing fee in action with respect to a fraudulent  
 26-17 court record or fraudulent lien or claim filed against property  
 26-18 (Sec. 12.005, Civil Practice and Remedies Code) . . . \$15;

26-19 (2) fee for service of notice of action with respect to  
 26-20 a fraudulent court record or fraudulent lien or claim filed against  
 26-21 property (Sec. 12.005, Civil Practice and Remedies Code) . . . not  
 26-22 to exceed \$20, if notice delivered in person, or the cost of  
 26-23 postage, if service is by registered or certified mail;

26-24 (3) court cost in certain civil cases to establish and  
 26-25 maintain an alternative dispute resolution system, if authorized by  
 26-26 the county commissioners court (Sec. 152.004, Civil Practice and  
 26-27 Remedies Code) . . . not to exceed \$10;

26-28 (4) appellate judicial system filing fees for:  
 26-29 (A) First or Fourteenth Court of Appeals District  
 26-30 (Sec. 22.2021, Government Code) . . . not more than \$5;

26-31 (B) Second Court of Appeals District (Sec.  
 26-32 22.2031, Government Code) . . . not more than \$5;

26-33 (C) Fourth Court of Appeals District (Sec.  
 26-34 22.2051, Government Code) . . . not more than \$5;

26-35 (D) Fifth Court of Appeals District (Sec.  
 26-36 22.2061, Government Code) . . . not more than \$5; and

26-37 (E) Thirteenth Court of Appeals District (Sec.  
 26-38 22.2141, Government Code) . . . not more than \$5;

26-39 (5) additional filing fees:  
 26-40 (A) for each suit filed for insurance contingency  
 26-41 fund, if authorized by the county commissioners court (Sec. 51.302,  
 26-42 Government Code) . . . not to exceed \$5;

26-43 (B) for each civil suit filed, for court-related  
 26-44 purposes for the support of the judiciary and for civil legal  
 26-45 services to an indigent:

26-46 (i) for family law cases and proceedings as  
 26-47 defined by Section 25.0002, Government Code (Sec. 133.151, Local  
 26-48 Government Code) . . . \$45; or

26-49 (ii) for any case other than a case  
 26-50 described by Subparagraph (i) (Sec. 133.151, Local Government  
 26-51 Code) . . . \$50;

26-52 (C) to fund the improvement of Dallas County  
 26-53 civil court facilities, if authorized by the county commissioners  
 26-54 court (Sec. 51.705, Government Code) . . . not more than \$15; and

26-55 (D) on the filing of any civil action or  
 26-56 proceeding requiring a filing fee, including an appeal, and on the  
 26-57 filing of any counterclaim, cross-action, intervention,  
 26-58 interpleader, or third-party action requiring a filing fee, to fund  
 26-59 civil legal services for the indigent:

26-60 (i) for family law cases and proceedings as  
 26-61 defined by Section 25.0002, Government Code (Sec. 133.152, Local  
 26-62 Government Code) . . . \$5; or

26-63 (ii) for any case other than a case  
 26-64 described by Subparagraph (i) (Sec. 133.152, Local Government  
 26-65 Code) . . . \$10;

26-66 (6) for filing a suit, including an appeal from an  
 26-67 inferior court:

26-68 (A) for a suit with 10 or fewer plaintiffs (Sec.  
 26-69 51.317, Government Code) . . . \$50;

27-1 (B) for a suit with at least 11 but not more than  
 27-2 25 plaintiffs (Sec. 51.317, Government Code) . . . \$75;  
 27-3 (C) for a suit with at least 26 but not more than  
 27-4 100 plaintiffs (Sec. 51.317, Government Code) . . . \$100;  
 27-5 (D) for a suit with at least 101 but not more than  
 27-6 500 plaintiffs (Sec. 51.317, Government Code) . . . \$125;  
 27-7 (E) for a suit with at least 501 but not more than  
 27-8 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$150; or  
 27-9 (F) for a suit with more than 1,000 plaintiffs  
 27-10 (Sec. 51.317, Government Code) . . . \$200;  
 27-11 (7) for filing a cross-action, counterclaim,  
 27-12 intervention, contempt action, motion for new trial, or third-party  
 27-13 petition (Sec. 51.317, Government Code) . . . \$15;  
 27-14 (8) for issuing a citation or other writ or process not  
 27-15 otherwise provided for, including one copy, when requested at the  
 27-16 time a suit or action is filed (Sec. 51.317, Government Code) . . .  
 27-17 \$8;  
 27-18 (9) for records management and preservation (Sec.  
 27-19 51.317, Government Code) . . . \$10;  
 27-20 (10) for issuing a subpoena, including one copy (Sec.  
 27-21 51.318, Government Code) . . . \$8;  
 27-22 (11) for issuing a citation, commission for  
 27-23 deposition, writ of execution, order of sale, writ of execution and  
 27-24 order of sale, writ of injunction, writ of garnishment, writ of  
 27-25 attachment, or writ of sequestration not provided for in Section  
 27-26 51.317, or any other writ or process not otherwise provided for,  
 27-27 including one copy if required by law (Sec. 51.318, Government  
 27-28 Code) . . . \$8;  
 27-29 (12) for searching files or records to locate a cause  
 27-30 when the docket number is not provided (Sec. 51.318, Government  
 27-31 Code) . . . \$5;  
 27-32 (13) for searching files or records to ascertain the  
 27-33 existence of an instrument or record in the district clerk's office  
 27-34 (Sec. 51.318, Government Code) . . . \$5;  
 27-35 (14) for abstracting a judgment (Sec. 51.318,  
 27-36 Government Code) . . . \$8;  
 27-37 (15) for approving a bond (Sec. 51.318, Government  
 27-38 Code) . . . \$4;  
 27-39 (16) for a certified copy of a record, judgment,  
 27-40 order, pleading, or paper on file or of record in the district  
 27-41 clerk's office, including certificate and seal, for each page or  
 27-42 part of a page (Sec. 51.318, Government Code) . . . \$1;  
 27-43 (17) for a noncertified copy, for each page or part of  
 27-44 a page (Sec. 51.318, Government Code) . . . not to exceed \$1;  
 27-45 (18) jury fee (Sec. 51.604, Government Code) . . .  
 27-46 \$30;  
 27-47 (19) for filing a report of divorce or annulment (Sec.  
 27-48 194.002, Health and Safety Code) . . . \$1;  
 27-49 (20) for filing a suit in Comal County (Sec. 152.0522,  
 27-50 Human Resources Code) . . . \$4;  
 27-51 (21) additional filing fee for family protection on  
 27-52 filing a suit for dissolution of a marriage under Chapter 6, Family  
 27-53 Code, if authorized by the county commissioners court (Sec. 51.961,  
 27-54 Government Code) . . . not to exceed \$30 [\$15];  
 27-55 (22) fee on filing a suit for dissolution of a marriage  
 27-56 for services of child support department in Harris County, if  
 27-57 authorized by the county commissioners court (Sec. 152.1074, Human  
 27-58 Resources Code) . . . not to exceed \$12;  
 27-59 (23) fee on filing a suit requesting an adoption in  
 27-60 Montague County (Sec. 152.1752, Human Resources Code) . . . \$25;  
 27-61 (24) court cost on citation for contempt of court for  
 27-62 failure to comply with child support order in Nueces County, if  
 27-63 authorized by the commissioners court (Sec. 152.1844, Human  
 27-64 Resources Code) . . . not to exceed \$10;  
 27-65 (25) fee on filing a suit for divorce in Orange County  
 27-66 (Sec. 152.1873, Human Resources Code) . . . not less than \$5;  
 27-67 (26) court costs on citation for contempt of court in  
 27-68 Orange County for failure to comply with a child support order or  
 27-69 order providing for possession of or access to a child (Sec.

28-1 152.1873, Human Resources Code) . . . amount determined by  
 28-2 district clerk;

28-3 (27) fee on filing a suit requesting an adoption in  
 28-4 Orange County (Sec. 152.1874, Human Resources Code) . . . not less  
 28-5 than \$25;

28-6 (28) fee on filing a suit requesting an adoption in  
 28-7 Wichita County (Sec. 152.2496, Human Resources Code) . . . \$100;

28-8 (29) additional filing fee to fund the courthouse  
 28-9 security fund, if authorized by the county commissioners court  
 28-10 (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

28-11 (30) additional filing fee for filing documents not  
 28-12 subject to certain filing fees to fund the courthouse security  
 28-13 fund, if authorized by the county commissioners court (Sec.  
 28-14 291.008, Local Government Code) . . . \$1;

28-15 (31) additional filing fee to fund the courthouse  
 28-16 security fund in Webb County, if authorized by the county  
 28-17 commissioners court (Sec. 291.009, Local Government Code) . . .  
 28-18 not to exceed \$20;

28-19 (32) court cost in civil cases other than suits for  
 28-20 delinquent taxes to fund the county law library fund, if authorized  
 28-21 by the county commissioners court (Sec. 323.023, Local Government  
 28-22 Code) . . . not to exceed \$35;

28-23 (33) when administering a case for the Rockwall County  
 28-24 Court at Law (Sec. 25.2012, Government Code) . . . civil fees and  
 28-25 court costs as if the case had been filed in district court;

28-26 (34) at a hearing held by an associate judge in Dallas  
 28-27 County, a court cost to preserve the record, in the absence of a  
 28-28 court reporter, by other means (Sec. 54.509, Government Code) . . .  
 28-29 as assessed by the referring court or associate judge; and

28-30 (35) at a hearing held by an associate judge in Duval  
 28-31 County, a court cost to preserve the record (Sec. 54.1151,  
 28-32 Government Code, as added by Chapter 1150, Acts of the 78th  
 28-33 Legislature, Regular Session, 2003) . . . as imposed by the  
 28-34 referring court or associate judge.

28-35 SECTION 1.56. Subdivision (2), Subsection (a), Section  
 28-36 411.114, Government Code, is amended to read as follows:

28-37 (2) The Department of Family and Protective [and  
 28-38 ~~Regulatory~~] Services shall obtain from the department criminal  
 28-39 history record information maintained by the department that  
 28-40 relates to a person who is:

28-41 (A) an applicant for a license, registration,  
 28-42 certification, or listing under Chapter 42, Human Resources Code,  
 28-43 or Chapter 249, Health and Safety Code[~~, or a person who registers  
 28-44 with or has been issued a certificate to operate under  
 28-45 accreditation by the Department of Protective and Regulatory  
 28-46 Services under Subchapter E, Chapter 42, Human Resources Code~~];

28-47 (B) an owner, operator, or employee of or an  
 28-48 applicant for employment by a child-care facility, child-placing  
 28-49 agency, family home, or maternity home licensed, registered,  
 28-50 certified, or listed under Chapter 42, Human Resources Code, or  
 28-51 Chapter 249, Health and Safety Code[~~, or by a child-care facility or  
 28-52 child placing agency that is seeking to register with or has been  
 28-53 issued a certificate to operate under accreditation by the  
 28-54 Department of Protective and Regulatory Services under Subchapter  
 28-55 E, Chapter 42, Human Resources Code~~];

28-56 (C) a person 14 years of age or older who will be  
 28-57 regularly or frequently working or staying in a child-care  
 28-58 facility, family home, or maternity home while children are being  
 28-59 provided care, other than a child in the care of the home or  
 28-60 facility;

28-61 (D) an applicant selected for a position with the  
 28-62 Department of Family and Protective [and ~~Regulatory~~] Services, the  
 28-63 duties of which include direct delivery of protective services to  
 28-64 children, elderly persons, or persons with a disability;

28-65 (E) an employee of, an applicant for employment  
 28-66 with, or a volunteer or an applicant volunteer with a business  
 28-67 entity or person that contracts with the Department of Family and  
 28-68 ~~Protective~~ [and ~~Regulatory~~] Services to provide direct delivery of  
 28-69 protective services to children, elderly persons, or persons with a

29-1 disability, if the person's duties or responsibilities include  
 29-2 direct contact with children, elderly persons, or persons with a  
 29-3 disability;

29-4 (F) a registered volunteer with the Department of  
 29-5 Family and Protective [and Regulatory] Services;

29-6 (G) a person providing or applying to provide  
 29-7 in-home, adoptive, or foster care for children in the care of the  
 29-8 Department of Family and Protective [and Regulatory] Services and  
 29-9 other persons living in the residence in which the child will  
 29-10 reside;

29-11 (H) a Department of Family and Protective [and  
 29-12 Regulatory] Services employee who is engaged in the direct delivery  
 29-13 of protective services to children, elderly persons, or persons  
 29-14 with a disability;

29-15 (I) a person who is the subject of a report the  
 29-16 Department of Family and Protective [and Regulatory] Services  
 29-17 receives alleging that the person has abused, neglected, or  
 29-18 exploited a child, an elderly person, or a person with a disability,  
 29-19 provided that:

29-20 (i) the report alleges the person has  
 29-21 engaged in conduct that meets the statutory definition of abuse,  
 29-22 neglect, or exploitation under Chapter 261, Family Code, or Chapter  
 29-23 48, Human Resources Code; and

29-24 (ii) the person who is the subject of the  
 29-25 report is not also the victim of the alleged conduct;

29-26 (J) a person providing child care for a child who  
 29-27 is in the care of the Department of Family and Protective [and  
 29-28 Regulatory] Services and who is or will be receiving adoptive,  
 29-29 foster, or in-home care;

29-30 (K) through a contract with a nonprofit  
 29-31 management center, an employee of, an applicant for employment  
 29-32 with, or a volunteer or an applicant volunteer with a nonprofit,  
 29-33 tax-exempt organization that provides any service that involves the  
 29-34 care of or access to children, elderly persons, or persons with a  
 29-35 disability; or

29-36 (L) an applicant for a child-care administrator  
 29-37 or child-placing agency administrator license under Chapter 43  
 29-38 [seeking accreditation as provided by Section 43.003], Human  
 29-39 Resources Code.

29-40 SECTION 1.57. (a) Subchapter B, Chapter 531, Government  
 29-41 Code, is amended by adding Section 531.078 to read as follows:

29-42 Sec. 531.078. POOLED FUNDING FOR FOSTER CARE PREVENTIVE  
 29-43 SERVICES. (a) The commission and the Department of Family and  
 29-44 Protective Services shall develop and implement a plan to combine,  
 29-45 to the extent and in the manner allowed by Section 51, Article III,  
 29-46 Texas Constitution, and other applicable law, funds of those  
 29-47 agencies with funds of other appropriate state agencies and local  
 29-48 governmental entities to provide services designed to prevent  
 29-49 children from being placed in foster care. The preventive services  
 29-50 may include:

- 29-51 (1) child and family counseling;
- 29-52 (2) instruction in parenting and homemaking skills;
- 29-53 (3) parental support services;
- 29-54 (4) temporary respite care; and
- 29-55 (5) crisis services.

29-56 (b) The plan must provide for:

29-57 (1) state funding to be distributed to other state  
 29-58 agencies, local governmental entities, or private entities only as  
 29-59 specifically directed by the terms of a grant or contract to provide  
 29-60 preventive services;

29-61 (2) procedures to ensure that funds received by the  
 29-62 commission by gift, grant, or interagency or interlocal contract  
 29-63 from another state agency, a local governmental entity, the federal  
 29-64 government, or any other public or private source for purposes of  
 29-65 this section are disbursed in accordance with the terms under which  
 29-66 the commission received the funds; and

29-67 (3) a reporting mechanism to ensure appropriate use of  
 29-68 funds.

29-69 (c) For the purposes of this section, the commission may

30-1 request and accept gifts and grants under the terms of a gift,  
 30-2 grant, or contract from a local governmental entity, a private  
 30-3 entity, or any other public or private source for use in providing  
 30-4 services designed to prevent children from being placed in foster  
 30-5 care. If required by the terms of a gift, grant, or contract or by  
 30-6 applicable law, the commission shall use the amounts received:

30-7 (1) from a local governmental entity to provide the  
 30-8 services in the geographic area of this state in which the entity is  
 30-9 located; and

30-10 (2) from the federal government or a private entity to  
 30-11 provide the services statewide or in a particular geographic area  
 30-12 of this state.

30-13 (b) Not later than November 1, 2006, the Health and Human  
 30-14 Services Commission shall provide to the governor and the  
 30-15 Legislative Budget Board a report on the status and progress of the  
 30-16 preventive services funding plan required by Section 531.078,  
 30-17 Government Code, as added by this section.

30-18 SECTION 1.58. Section 651.004, Government Code, is amended  
 30-19 by adding Subsection (e) to read as follows:

30-20 (e) The Department of Family and Protective Services is not  
 30-21 required to comply with management-to-staff ratio requirements of  
 30-22 this section with respect to caseworker supervisors, program  
 30-23 directors, and program administrators.

30-24 SECTION 1.59. (a) Subchapter C, Chapter 2155, Government  
 30-25 Code, is amended by adding Section 2155.1442 to read as follows:

30-26 Sec. 2155.1442. FOSTER CARE RESIDENTIAL CONTRACT  
 30-27 MANAGEMENT. (a) Subject to Subsection (d), the state auditor  
 30-28 shall conduct a management review of the residential contract  
 30-29 management employees of the Health and Human Services Commission  
 30-30 and the Department of Family and Protective Services and make  
 30-31 recommendations regarding the organization of, and skills and  
 30-32 educational requirements for, those employees. The state auditor  
 30-33 shall also make recommendations regarding the implementation of  
 30-34 financial accountability provisions and processes to ensure  
 30-35 effective and efficient expenditure of state and other contract  
 30-36 funds. The state auditor shall report annually to the governor, the  
 30-37 lieutenant governor, the speaker of the house of representatives,  
 30-38 and the comptroller on the auditor's recommendations and the  
 30-39 commission's and department's implementation of each  
 30-40 recommendation.

30-41 (b) The Health and Human Services Commission, in  
 30-42 coordination with the state auditor, shall perform complete on-site  
 30-43 financial audits of selected residential contractors as necessary.  
 30-44 The state auditor shall select the contractors based on the  
 30-45 contract's risk assessment rating, allegations of fraud or misuse  
 30-46 of state or other contract funds, or other appropriate audit  
 30-47 selection criteria. The state auditor shall include findings from  
 30-48 the on-site financial audits in the annual report to the governor  
 30-49 and other representatives of the state required by Subsection (a).  
 30-50 In addition, the state auditor shall immediately report to the  
 30-51 governor and each person listed in Subsection (a) any findings of  
 30-52 fraud or other misuse of state or other contract funds.

30-53 (c) The Department of Family and Protective Services may  
 30-54 develop an Internet-based system to enable residential contractors  
 30-55 to review their reimbursement accounts or other pertinent financial  
 30-56 data and reconcile their accounts.

30-57 (d) Work performed under Subsection (a) by the state auditor  
 30-58 is subject to approval by the legislative audit committee for  
 30-59 inclusion in the audit plan under Section 321.013(c).

30-60 (b) Section 2155.1442, Government Code, as added by this  
 30-61 section, applies only to a contract that is entered into or renewed  
 30-62 on or after the effective date of this section. A contract entered  
 30-63 into or renewed before that date is governed by the law in effect on  
 30-64 the date the contract is entered into or renewed, and the former law  
 30-65 is continued in effect for that purpose.

30-66 (c) Not later than December 1, 2005, the state auditor shall  
 30-67 complete and publish the management review and report required by  
 30-68 Subsection (a), Section 2155.1442, Government Code, as added by  
 30-69 this section. This subsection applies only if the auditor's work is

31-1 approved by the legislative audit committee in time to meet this  
 31-2 deadline.

31-3 (d) Not later than October 1, 2006, the Health and Human  
 31-4 Services Commission, in coordination with the state auditor, shall  
 31-5 begin the on-site financial reviews of selected contractors  
 31-6 required by Subsection (b), Section 2155.1442, Government Code, as  
 31-7 added by this section.

31-8 SECTION 1.60. (a) Section 32.055, Human Resources Code, is  
 31-9 amended to read as follows:

31-10 Sec. 32.055. CATASTROPHIC CASE MANAGEMENT. (a) In this  
 31-11 section, "medically fragile child" means a child who:

31-12 (1) is under 21 years of age;  
 31-13 (2) has a serious, chronic illness or condition that:  
 31-14 (A) has continued, or is anticipated to continue,  
 31-15 at least 12 months;

31-16 (B) requires daily hospitalization or has  
 31-17 required at least one month of hospitalization;  
 31-18 (C) requires ongoing medical treatment and  
 31-19 monitoring by appropriately trained personnel, including a parent  
 31-20 or other family member; and

31-21 (D) presents an ongoing threat to the child's  
 31-22 well-being; and

31-23 (3) requires the routine use of a medical device or the  
 31-24 use of assistive technology to compensate for the loss of a bodily  
 31-25 function necessary to participate in an activity of daily life.

31-26 (b) The department shall develop and implement a  
 31-27 catastrophic case management system to be used in providing medical  
 31-28 assistance to persons with catastrophic health problems, including  
 31-29 medically fragile children under the conservatorship of the  
 31-30 Department of Family and Protective Services who are placed in  
 31-31 foster care.

31-32 (c) [b] The system must provide for the assignment of a  
 31-33 case manager to a recipient of medical assistance with catastrophic  
 31-34 health problems that are likely to:

31-35 (1) require the services of multiple, specialized  
 31-36 health care providers; and

31-37 (2) result in major medical costs.

31-38 (d) [e] The department shall identify the services to be  
 31-39 provided by a case manager assigned under the system. The services  
 31-40 must include assessment of the recipient's needs and coordination  
 31-41 of all available medical services and payment options. The  
 31-42 services may include other support services such as:

31-43 (1) assistance with making arrangements to receive  
 31-44 care from medical facilities;

31-45 (2) assistance with travel and lodging in connection  
 31-46 with receipt of medical care;

31-47 (3) education of the recipient and the recipient's  
 31-48 family members or foster parent, as applicable, regarding the  
 31-49 nature of the recipient's health problems;

31-50 (4) referral to appropriate support groups; and  
 31-51 (5) any other service likely to result in better care  
 31-52 provided in a cost-effective manner.

31-53 (e) In implementing the system for medically fragile  
 31-54 children, the department shall coordinate with the Department of  
 31-55 Family and Protective Services and may contract with children's  
 31-56 hospitals or other health care providers to provide case management  
 31-57 services to foster children.

31-58 (f) [d] Not later than January 15 of each odd-numbered  
 31-59 year, the department shall report to the legislature on the  
 31-60 implementation of the system. The report must include a statement  
 31-61 of:

31-62 (1) the number of recipients of medical assistance who  
 31-63 received catastrophic case management services under the system  
 31-64 during the preceding two years; and

31-65 (2) the estimated savings under the medical assistance  
 31-66 program resulting from implementation of the system during the  
 31-67 preceding two years.

31-68 (b) Not later than January 1, 2006, the Health and Human  
 31-69 Services Commission shall implement the catastrophic case

management system for medically fragile children required by Section 32.055, Human Resources Code, as amended by this section.

SECTION 1.61. The heading to Subtitle D, Title 2, Human Resources Code, is amended to read as follows:

SUBTITLE D. DEPARTMENT OF FAMILY AND PROTECTIVE [AND REGULATORY]  
SERVICES; CHILD WELFARE AND PROTECTIVE SERVICES

SECTION 1.62. The heading to Chapter 40, Human Resources Code, is amended to read as follows:

CHAPTER 40. DEPARTMENT OF FAMILY AND PROTECTIVE [AND REGULATORY]  
SERVICES

SECTION 1.63. Subdivisions (3) and (5), Section 40.001, Human Resources Code, are amended to read as follows:

(3) "Department" means the Department of Family and Protective [and Regulatory] Services.

(5) "Family preservation" includes the provision of services designed to assist families including adoptive and

services designed to assist families, including adoptive and extended families, who are at risk or in crisis, including:

(A) preventive services designed to help a child

at risk of foster care placement remain safely with the child's family; and

(B) services designed to help a child return

(B) Services designed to help a child return, when the return is safe and appropriate, to the family from which the child was removed [the protection of parents and their children from needless family disruption because of unfounded accusations of child abuse or neglect. It does not include the provision of state social services for the rehabilitation of parents convicted of abusing or neglecting their children].

SECTION 1.64. Subsection (b), Section 40.002, Human Resources Code, is amended to read as follows:

(b) Notwithstanding any other law, the department shall:

(1) provide protective services for children and elderly and disabled persons, including investigations of alleged abuse, neglect, or exploitation in facilities of the Texas Department of Mental Health and Mental Retardation or its successor agency;

(2) provide family support and family preservation services that respect the fundamental right of parents to control the education and upbringing of their children;

(3) license, register, and enforce regulations applicable to child-care facilities, [and] child-care administrators, and child-placing agency administrators; and

(4) Implement and manage programs intended to provide early intervention or prevent at-risk behaviors that lead to child abuse, delinquency, running away, truancy, and dropping out of school.

SECTION 1.65. Section 40.003, Human Resources Code, is amended to read as follows:

Sec. 40.003. SUNSET PROVISION. The Department of Family and Protective [and Regulatory] Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2009.

SECTION 1.66. Subchapter A, Chapter 40, Human Resources Code, is amended by adding Section 40.009 to read as follows:

Sec. 40.009. QUALITY ASSURANCE PROGRAM FOR CHILD PROTECTIVE SERVICES; QUARTERLY REPORTS. (a) The department shall develop and implement a quality assurance program for child protective services provided by or on behalf of the department.

(b) The program must include periodic audits of the completeness and accuracy of investigatory and inspection-related reports prepared or required by the department, including:

(c) An audit must be conducted in accordance with professional standards and generally recognized sampling

33-1       techniques.

33-2       (d) The department shall retain the results of an audit  
 33-3       conducted under this section until at least the fifth anniversary  
 33-4       of the date the audit is completed.

33-5       (e) Each fiscal quarter the department shall file with the  
 33-6       governor and the presiding officer of each house of the legislature  
 33-7       a detailed written report assessing the delivery of child  
 33-8       protective services and examining the outcomes for children and  
 33-9       families served by child protective programs, foster care programs,  
 33-10       adoption programs, and other related programs in this state.

33-11       (f) The report required by Subsection (e) must include:

33-12       (1) a summary of the audits conducted under this  
 33-13       section during the preceding quarter; and

33-14       (2) a summary of the department's performance during  
 33-15       the preceding quarter on the most recent standards used by the  
 33-16       federal government to evaluate state child and family services  
 33-17       programs with regard to child safety, permanency, and well-being.

33-18       SECTION 1.67. (a) Subchapter A, Chapter 40, Human  
 33-19       Resources Code, is amended by adding Section 40.010 to read as  
 33-20       follows:

33-21       Sec. 40.010. PROTECTIVE SERVICES LEGISLATIVE OVERSIGHT  
 33-22       COMMITTEE. (a) The Protective Services Legislative Oversight  
 33-23       Committee is created to:

33-24       (1) facilitate the reformation of powers, duties,  
 33-25       functions, programs, and activities of the department; and  
 33-26       (2) monitor the effectiveness and efficiency of the  
 33-27       services provided by the department.

33-28       (b) The committee is composed of 14 members as follows:

33-29       (1) four members of the senate, appointed by the  
 33-30       lieutenant governor;

33-31       (2) four members of the house of representatives,  
 33-32       appointed by the speaker of the house of representatives; and

33-33       (3) six members of the public, appointed by the  
 33-34       governor as follows:

33-35       (A) one member with experience in a child-placing  
 33-36       agency;

33-37       (B) one member with experience in a foster family  
 33-38       association;

33-39       (C) one member with experience in a guardianship  
 33-40       program;

33-41       (D) one member with experience in mental health  
 33-42       care; and

33-43       (E) two members with experience in law

33-44       enforcement.

33-45       (c) The commissioner serves as an ex officio member of the  
 33-46       committee.

33-47       (d) A member of the committee serves at the pleasure of the  
 33-48       appointing official.

33-49       (e) The lieutenant governor and the speaker of the house of  
 33-50       representatives shall alternate designating a presiding officer  
 33-51       for a term of one year from among their respective appointments.

33-52       (f) A member of the committee may not receive compensation  
 33-53       for serving on the committee but is entitled to reimbursement for  
 33-54       travel expenses incurred by the member while conducting the  
 33-55       business of the committee as provided by the General Appropriations  
 33-56       Act.

33-57       (g) In addition to performing the duties prescribed by  
 33-58       Subsection (a), the committee shall:

33-59       (1) with assistance from the department and the  
 33-60       commission, advise the commissioner concerning the powers, duties,  
 33-61       functions, programs, and activities of the department and the funds  
 33-62       and obligations that are related to the powers, duties, functions,  
 33-63       programs, or activities;

33-64       (2) meet at the call of the presiding officer;

33-65       (3) research, take public testimony, and issue reports  
 33-66       on other appropriate issues or specific issues requested by the  
 33-67       lieutenant governor, speaker, or governor; and

33-68       (4) review specific recommendations for legislation  
 33-69       proposed by the department or commission.

34-1  
 34-2 (h) The committee may request reports and other information  
 34-3 from the commission, the department, and the attorney general  
 34-4 relating to protective services in this state and other appropriate  
 34-5 issues.

34-6 (i) The committee shall use existing staff of the senate and  
 34-7 house of representatives to assist the committee in performing its  
 34-8 duties under this section.

34-9 (j) Chapter 551, Government Code, applies to the committee.

34-10 (k) The committee shall report to the governor, the  
 34-11 lieutenant governor, and the speaker of the house of  
 34-12 representatives not later than November 15 of each even-numbered  
 34-13 year. The report must include:

34-14 (1) identification of significant issues in the  
 34-15 protective services system, with recommendations for action;

34-16 (2) an analysis of the effectiveness and efficiency of  
 34-17 the protective services system, with recommendations for any  
 34-18 necessary research; and

34-19 (3) recommendations for legislative action.

34-20 (b) The speaker, the lieutenant governor, and the governor  
 34-21 shall appoint the members of the Protective Services Legislative  
 34-22 Oversight Committee created by Section 40.010, Human Resources  
 34-23 Code, as added by this section, as soon as possible after the  
 34-24 effective date of this section. The lieutenant governor shall  
 34-25 designate the initial presiding officer of the committee. The  
 34-26 presiding officer shall call the initial meeting of the committee  
 34-27 as soon as possible after the committee members are appointed.

34-28 SECTION 1.68. Section 40.030, Human Resources Code, is  
 34-29 amended to read as follows:

34-30 Sec. 40.030. ADVISORY COMMITTEES. The executive  
 34-31 commissioner or the executive commissioner's designee [board] may  
 34-32 appoint advisory committees in accordance with Chapter 2110,  
 34-33 Government Code [Article 6252-33, Revised Statutes].

34-34 SECTION 1.69. The heading to Section 40.0305, Human  
 34-35 Resources Code, is amended to read as follows:

34-36 Sec. 40.0305. STRATEGIC USE OF TECHNOLOGY [~~STEERING~~  
 34-37 ~~COMMITTEE~~].

34-38 SECTION 1.70. Subsections (a) and (d), Section 40.0305,  
 34-39 Human Resources Code, are amended to read as follows:

34-40 (a) The department shall continually explore the strategic  
 34-41 use of technology as a means to improve services, reduce workload  
 34-42 burdens, increase accountability, and enhance the overall  
 34-43 efficiency and effectiveness of department operations. The  
 34-44 department shall develop strategic plans and seek funding to  
 34-45 implement technology enhancements that the department determines  
 34-46 are feasible and cost-effective [~~establish a strategic technology~~  
 34-47 ~~steering committee within the department to evaluate major~~  
 34-48 ~~information technology project proposals~~].

34-49 (d) In evaluating major information technology project  
 34-50 proposals, the department, in cooperation with the commission,  
 34-51 [~~steering committee~~] shall:

34-52 (1) assess the major information needs of the  
 34-53 department;

34-54 (2) define standard criteria for setting priorities  
 34-55 for the department's information needs;

34-56 (3) forecast the returns to the department on project  
 34-57 investments;

34-58 (4) evaluate the department's available information  
 34-59 resources; and

34-60 (5) review, approve, and evaluate the status of  
 34-61 projected costs and benefits related to project proposals.

34-62 SECTION 1.71. Section 40.031, Human Resources Code, is  
 34-63 amended to read as follows:

34-64 Sec. 40.031. DIVISIONS OF DEPARTMENT. (a) The executive  
 34-65 commissioner [board] may establish divisions within the department  
 34-66 as necessary for efficient administration and for the discharge of  
 34-67 the department's functions.

34-68 (b) The executive commissioner shall establish an  
 34-69 investigations division to oversee and direct the investigation  
 34-70 functions of the child protective services program, including the

35-1 receipt and screening of all reports of alleged child abuse or  
 35-2 neglect.

35-3       (c) The commissioner shall designate a person with law  
 35-4 enforcement experience as the director of the investigations  
 35-5 division.

35-6       (d) The investigations division shall, as appropriate,  
 35-7 refer children and families in need of services to other department  
 35-8 divisions or to other persons or entities with whom the department  
 35-9 contracts for the provision of the needed services.

35-10       (e) Reports of alleged child abuse or neglect investigated  
 35-11 under Subchapter E, Chapter 261, Family Code, are not subject to  
 35-12 investigation by the investigations division [board may allocate  
 35-13 and reallocate functions, programs, and activities among the  
 35-14 department's divisions].

35-15       SECTION 1.72. (a) Subchapter B, Chapter 40, Human  
 35-16 Resources Code, is amended by adding Section 40.0322 to read as  
 35-17 follows:

35-18       Sec. 40.0322. CASEWORKER REPLACEMENT PROGRAM. (a) To the  
 35-19 extent that funding is available, the department shall develop a  
 35-20 program to provide for the timely replacement of caseworkers with  
 35-21 trainees hired in anticipation of vacancies.

35-22       (b) In developing the program, the department shall  
 35-23 consider the turnover rate for caseworkers by region.

35-24       (b) Unless sufficient funds are not available, the  
 35-25 Department of Family and Protective Services shall develop the  
 35-26 program required under Section 40.0322, Human Resources Code, as  
 35-27 added by this section, not later than December 31, 2005.

35-28       SECTION 1.73. Subchapter B, Chapter 40, Human Resources  
 35-29 Code, is amended by adding Section 40.0323 to read as follows:

35-30       Sec. 40.0323. CASELOAD STANDARDS. Notwithstanding Section  
 35-31 531.048(d), Government Code, in an ongoing manner, the department  
 35-32 is encouraged to analyze and consider the appropriateness of hiring  
 35-33 caseworkers for the children's protective services division in  
 35-34 sufficient numbers to reduce those caseworkers' caseloads to the  
 35-35 maximum number of active caseloads recommended for best practice  
 35-36 casework by the Council on Accreditation for Children and Family  
 35-37 Services and the Child Welfare League of America.

35-38       SECTION 1.74. Subchapter B, Chapter 40, Human Resources  
 35-39 Code, is amended by adding Section 40.035 to read as follows:

35-40       Sec. 40.035. ENHANCED TRAINING OF CHILD PROTECTIVE SERVICES  
 35-41 CASEWORKERS. To improve the quality and consistency of training  
 35-42 provided to child protective services caseworkers, the department  
 35-43 shall:

35-44       (1) augment classroom-based training with a blended  
 35-45 learning environment using computer-based modules, structured  
 35-46 field experience, and simulation for skills development;

35-47       (2) use a core curriculum for all new department  
 35-48 caseworkers and specialized training for specific jobs;

35-49       (3) require that department caseworkers transferring  
 35-50 from one specialty to another must complete the core curriculum and  
 35-51 advanced training for the new specialty before assuming their new  
 35-52 responsibilities; and

35-53       (4) centralize accountability and oversight of all  
 35-54 department training in order to ensure statewide consistency.

35-55       SECTION 1.75. Subsection (c), Section 40.0525, Human  
 35-56 Resources Code, is amended to read as follows:

35-57       (c) Subject to Section 40.031(b), this [This] section does  
 35-58 not require the department to establish separate departments for  
 35-59 investigations and service delivery.

35-60       SECTION 1.76. Subchapter C, Chapter 40, Human Resources  
 35-61 Code, is amended by adding Section 40.0526 to read as follows:

35-62       Sec. 40.0526. BUILDING COMMUNITY PARTNERSHIPS TO SUPPORT  
 35-63 CHILDREN AND FAMILIES. (a) The department shall develop a  
 35-64 statewide strategy to build alliances and networks at the local  
 35-65 level that support the detection and treatment of child abuse and  
 35-66 neglect and enhance the coordination and delivery of services to  
 35-67 children and families.

35-68       (b) The strategy must include plans to:

35-69       (1) move staff from centralized office sites into

36-1 community-based settings to the greatest extent feasible; and  
 36-2 (2) enter into agreements for the establishment or  
 36-3 development of joint offices or workplaces with local officials and  
 36-4 organizations, including:

- 36-5 (A) children's advocacy centers;
- 36-6 (B) law enforcement officials;
- 36-7 (C) prosecutors;
- 36-8 (D) health care providers;
- 36-9 (E) schools;
- 36-10 (F) housing projects;
- 36-11 (G) domestic violence shelters; and
- 36-12 (H) the local juvenile probation department.

36-13 (c) The department may employ specialized staff, to the  
 36-14 extent that funds are appropriated for that purpose, to serve as:

36-15 (1) local legal liaisons who support the prosecution  
 36-16 in each region of legal cases through the judicial system by  
 36-17 improving coordination and cooperation in case consultation and  
 36-18 preparation of cases for court; and

36-19 (2) local community initiative specialists in each  
 36-20 region who focus on building community alliances and networks.

36-21 (d) An agreement made in accordance with this section for  
 36-22 the joint location of department personnel with other local  
 36-23 officials or organizations is not subject to Chapter 2167,  
 36-24 Government Code.

36-25 SECTION 1.77. Subchapter C, Chapter 40, Human Resources  
 36-26 Code, is amended by adding Section 40.0527 to read as follows:

36-27 Sec. 40.0527. COMPREHENSIVE STAFFING AND WORKLOAD  
 36-28 DISTRIBUTION PLAN FOR CHILD PROTECTIVE SERVICES. (a) The  
 36-29 department shall develop and implement a staffing and workload  
 36-30 distribution plan for the child protective services program to:

36-31 (1) enhance accountability;  
 36-32 (2) improve the quality of investigations;  
 36-33 (3) eliminate delays; and  
 36-34 (4) ensure the most efficient and effective use of  
 36-35 child protective services staff and resources.

36-36 (b) In developing and implementing the plan, the department  
 36-37 shall, subject to available funds:

36-38 (1) develop a methodology for the equitable  
 36-39 distribution of investigative and other staff to ensure an  
 36-40 equitable assignment of cases in each area of the state;

36-41 (2) evaluate the duties of investigators and  
 36-42 supervisors and identify and reassign functions that may be  
 36-43 performed more efficiently by support or other paraprofessional  
 36-44 staff;

36-45 (3) ensure that investigative and service units  
 36-46 contain adequate supervisory and support staff;

36-47 (4) provide incentives to recruit and retain:  
 36-48 (A) caseworkers and supervisors assigned to  
 36-49 investigative units; and

36-50 (B) specialized staff with law enforcement or  
 36-51 forensic investigation experience;

36-52 (5) ensure that caseworkers and supervisors who are  
 36-53 not in an investigations unit are paid appropriately to increase  
 36-54 employee retention;

36-55 (6) when appropriate, identify and use alternative  
 36-56 work schedules;

36-57 (7) use a system of regional hiring supervisors for  
 36-58 targeted recruitment efforts;

36-59 (8) improve staff recruitment and screening methods to  
 36-60 promote the hiring of the most qualified candidates and improve an  
 36-61 applicant's understanding of the job requirements;

36-62 (9) reduce the time necessary to complete a plan of  
 36-63 service for a child and family when providing family-based safety  
 36-64 services; and

36-65 (10) identify methods to reduce the administrative  
 36-66 area that a manager is responsible for to increase accountability.

36-67 SECTION 1.78. (a) Section 40.058, Human Resources Code, is  
 36-68 amended by amending Subsections (b) and (c) and adding Subsections  
 36-69 (b-1) and (f) through (i) to read as follows:

37-1 (b) A contract for the purchase of program-related client  
 37-2 services must include:

37-3       (1) clearly defined goals and outcomes that can be  
 37-4 measured to determine whether the objectives of the program are  
 37-5 being achieved;

37-6       (2) clearly defined sanctions or penalties for  
 37-7 noncompliance with contract terms; [and]

37-8       (3) clearly specified accounting, reporting, and  
 37-9 auditing requirements applicable to money received under the  
 37-10 contract; and

37-11       (4) if applicable, clearly defined performance  
 37-12 standards that relate directly to the quality of care provided to  
 37-13 residents of foster care facilities.

37-14       (b-1) A contract for the purchase of substitute care  
 37-15 services, as defined by Section 264.106, Family Code, must be  
 37-16 procured using:

37-17       (1) department procurement procedures; or

37-18       (2) procurement procedures approved by the executive  
 37-19 commissioner that promote open and fair competition.

37-20       (c) The department shall monitor a contractor's performance  
 37-21 under a contract for the purchase of program-related client  
 37-22 services. In monitoring performance, the department shall:

37-23       (1) use a risk-assessment methodology to ensure  
 37-24 compliance with financial and performance requirements under the  
 37-25 contract; [and]

37-26       (2) obtain and evaluate program cost information to  
 37-27 ensure that all costs, including administrative costs, are  
 37-28 reasonable and necessary to achieve program objectives; and

37-29       (3) review each foster care services contract and  
 37-30 evaluate the contract for compliance with the performance standards  
 37-31 of the contract prescribed by Subsection (b)(4).

37-32       (f) The department shall terminate a contract with a foster  
 37-33 care services provider if the contractor does not meet the  
 37-34 performance standards prescribed by Subsection (b)(4). The  
 37-35 department may not award or renew a foster care services contract  
 37-36 with a contractor if the contractor does not meet those performance  
 37-37 standards.

37-38       (g) The commission shall create a foster care performance  
 37-39 team to develop performance criteria for foster care services  
 37-40 contracts. The team shall include contracting experts from  
 37-41 multiple state agencies, foster care services providers and  
 37-42 clients, performance-based contract experts of the state auditor,  
 37-43 and other experts in outcome-based contracts. The team shall  
 37-44 develop clearly defined and measurable standards for foster care  
 37-45 services contracts that directly relate to factors within the  
 37-46 control of the providers. The department shall adopt the clearly  
 37-47 defined performance standards for inclusion in foster care services  
 37-48 contracts as developed and recommended by the team. The team shall  
 37-49 also develop performance standards that provide measurable  
 37-50 criteria for identification of foster care services providers:

37-51       (1) that do not provide quality care;

37-52       (2) that should not receive additional contract  
 37-53 awards; and

37-54       (3) whose contracts should be revoked.

37-55       (h) The commission shall create an alternative payment plan  
 37-56 in all foster care services contracts to encourage the reduction of  
 37-57 the period that children are in intensive levels of care. The  
 37-58 payment plan must provide several alternative payment mechanisms to  
 37-59 encourage foster care services contractors to improve the quality  
 37-60 of care, encourage efficient use of funding, and reduce the period  
 37-61 of intensive care for children under program-related client  
 37-62 services contracts for foster care. The payment plan may not be  
 37-63 designed in a manner that encourages or requires a reduction in the  
 37-64 level of care provided to medically fragile children, as defined by  
 37-65 Section 32.055, children with significant developmental  
 37-66 disabilities, or other children with chronic conditions that  
 37-67 require a constant level of care.

37-68       (i) A contract for the provision of foster care services  
 37-69 must contain a provision requiring the department's contract

38-1 management employees to make periodic unannounced visits to the  
 38-2 contractor's facilities in accordance with commission rules and to  
 38-3 report the employees' findings to the commission.

38-4 (b) Subdivision (4), Subsection (b), Subsection (b-1),  
 38-5 Subdivision (3), Subsection (c), and Subsections (f), (g), and (i),  
 38-6 Section 40.058, Human Resources Code, as added by this section,  
 38-7 apply only to a contract entered into or renewed on or after the  
 38-8 effective date of this section. A contract entered into or renewed  
 38-9 before that date is governed by the law in effect on the date the  
 38-10 contract is entered into or renewed, and the former law is continued  
 38-11 in effect for that purpose.

38-12 SECTION 1.79. (a) Subchapter C, Chapter 40, Human  
 38-13 Resources Code, is amended by adding Section 40.071 to read as  
 38-14 follows:

38-15 Sec. 40.071. MISSING CHILDREN WEBSITE. (a) The department  
 38-16 shall develop and implement a program to display on the  
 38-17 department's Internet website the name, age, and photograph of, and  
 38-18 location information relating to, any child in the foster care  
 38-19 system who has been reported missing. The department may also  
 38-20 display other relevant information that the department determines  
 38-21 will be useful in efforts to locate and ensure the safety of that  
 38-22 child.

38-23 (b) Notwithstanding any other law, information required to  
 38-24 be provided under this section is public information.

38-25 (c) The department shall regularly update the website by  
 38-26 adding additional information that becomes available and by  
 38-27 deleting the information relating to a child who is no longer  
 38-28 missing.

38-29 (b) Not later than January 1, 2006, the executive  
 38-30 commissioner of the Health and Human Services Commission shall  
 38-31 adopt rules and establish standards, policies, and procedures to  
 38-32 implement and administer Section 40.071, Human Resources Code, as  
 38-33 added by this section.

38-34 SECTION 1.80. Section 42.002, Human Resources Code, is  
 38-35 amended by adding Subdivisions (18) and (19) to read as follows:

38-36 (18) "Controlling person" means a person who, either  
 38-37 alone or in connection with others, has the ability to directly or  
 38-38 indirectly influence or direct the management, expenditures, or  
 38-39 policies of a residential child-care facility.

38-40 (19) "Residential child-care facility" means a  
 38-41 facility licensed or certified by the department to provide  
 38-42 assessment, care, training, education, custody, treatment, or  
 38-43 supervision for a child who is not related by blood, marriage, or  
 38-44 adoption to the owner or operator of the facility, for all of the  
 38-45 24-hour day, whether or not the facility is operated for profit or  
 38-46 charges for the services it offers. The term includes child-care  
 38-47 institutions, foster group homes, foster homes, agency foster group  
 38-48 homes, and agency foster homes.

38-49 SECTION 1.81. Subsections (b) and (d), Section 42.021,  
 38-50 Human Resources Code, are amended to read as follows:

38-51 (b) The commissioner [~~executive director of the department~~]  
 38-52 shall appoint as director of a division designated under Subsection  
 38-53 (a) a person who meets the qualifications set by the executive  
 38-54 commissioner [~~board~~].

38-55 (d) The commissioner [~~director~~] may divide the state into  
 38-56 regions for the purpose of administering this chapter.

38-57 SECTION 1.82. Subsections (a) and (b), Section 42.023,  
 38-58 Human Resources Code, are amended to read as follows:

38-59 (a) The department [~~executive director~~] shall prepare an  
 38-60 annual written report regarding the department's activities under  
 38-61 this chapter.

38-62 (b) The annual report shall include:

38-63 (1) a report by regions of applications for licensure  
 38-64 or certification, of initial [~~provisional~~] licenses issued,  
 38-65 denied, or revoked, of licenses issued, denied, suspended or  
 38-66 revoked, of emergency closures and injunctions, and of the  
 38-67 compliance of state-operated agencies with certification  
 38-68 requirements;

38-69 (2) a summary of the amount and kind of in-service

39-1 training and other professional development opportunities provided  
 39-2 for department staff;

39-3 (3) a summary of training and other professional  
 39-4 development opportunities offered to facilities' staffs; and

39-5 (4) a report of new administrative procedures, of the  
 39-6 number of staff and staff changes, and of plans for the coming year.

39-7 SECTION 1.83. (a) Subsection (c), Section 42.041, Human  
 39-8 Resources Code, is amended to read as follows:

39-9 (c) A single license that lists addresses and the  
 39-10 appropriate facilities may be issued to a child-care institution  
 39-11 that operates noncontiguous facilities that are across the street  
 39-12 from, in the same city block as, or on the same property as one  
 39-13 another [nearby] and that are demonstrably a single operation as  
 39-14 indicated by patterns of staffing, finance, administrative  
 39-15 supervision, and programs.

39-16 (b) Subsection (c), Section 42.041, Human Resources Code,  
 39-17 as amended by this section, applies only to a license issued or  
 39-18 renewed on or after the effective date of this section. A license  
 39-19 issued or renewed before the effective date of this section is  
 39-20 governed by the law in effect at the time the license is issued or  
 39-21 renewed, and the former law is continued in effect for that purpose.

39-22 SECTION 1.84. (a) Section 42.042, Human Resources Code, is  
 39-23 amended by adding Subsections (h-1) and (q) to read as follows:

39-24 (h-1) The executive commissioner shall adopt rules  
 39-25 governing:

39-26 (1) the placement and care of children by a  
 39-27 child-placing agency, as necessary to ensure the health and safety  
 39-28 of those children;

39-29 (2) the verification and monitoring of agency foster  
 39-30 homes, agency foster group homes, and adoptive homes by a  
 39-31 child-placing agency; and

39-32 (3) if appropriate, child-placing agency staffing  
 39-33 levels, office locations, and administration.

39-34 (q) Each residential child-care facility shall notify the  
 39-35 department and the appropriate local law enforcement agency  
 39-36 immediately on determining that a child is missing from the  
 39-37 facility.

39-38 (b) Not later than January 1, 2006, the executive  
 39-39 commissioner of the Health and Human Services Commission shall  
 39-40 adopt rules and establish standards, policies, and procedures to  
 39-41 implement and administer Subsections (h-1) and (q), Section 42.042,  
 39-42 Human Resources Code, as added by this section.

39-43 SECTION 1.85. Section 42.044, Human Resources Code, is  
 39-44 amended by adding Subsections (e) and (f) to read as follows:

39-45 (e) The department shall periodically conduct inspections  
 39-46 of a random sample of agency foster homes and agency foster group  
 39-47 homes. The department shall use the inspections to monitor and  
 39-48 enforce compliance by a child-placing agency with rules and  
 39-49 standards established under Section 42.042.

39-50 (f) The department shall use an inspection checklist that  
 39-51 includes a list of all required items for inspection in conducting a  
 39-52 monitoring inspection under this section.

39-53 SECTION 1.86. Section 42.0441, Human Resources Code, is  
 39-54 amended to read as follows:

39-55 Sec. 42.0441. INSPECTION RESULTS AND EXIT CONFERENCE.

39-56 (a) Immediately after completing a monitoring inspection of a  
 39-57 licensed day-care center, licensed group day-care home, or  
 39-58 registered family home under Section 42.044, the inspector  
 39-59 [authorized representative of the department] shall review the  
 39-60 results of the monitoring inspection with a representative of the  
 39-61 facility and give the facility an opportunity to respond to the  
 39-62 inspection results.

39-63 (b) Immediately after completing a monitoring inspection of  
 39-64 a residential child-care facility under Section 42.044, the  
 39-65 inspector shall hold an exit conference with a representative of  
 39-66 the facility. The inspector shall provide to the representative:

39-67 (1) a copy of the inspection checklist used by the  
 39-68 inspector; and

39-69 (2) a list of violations discovered during the

40-1 inspection that includes specific references to the rules and  
 40-2 minimum standards related to the violations.

40-3 (c) An inspector acting under Subsection (b) shall provide  
 40-4 the residential child-care facility representative an opportunity  
 40-5 to respond to the violations discovered during the inspection.

40-6 (d) If after holding an exit conference under Subsection (b)  
 40-7 the inspector finds additional violations in a subsequent  
 40-8 inspection of the residential child-care facility, the inspector  
 40-9 shall conduct another exit conference to provide the information  
 40-10 required by Subsection (b) with respect to the additional  
 40-11 violations.

40-12 SECTION 1.87. Subchapter C, Chapter 42, Human Resources  
 40-13 Code, is amended by adding Section 42.04411 to read as follows:

40-14 Sec. 42.04411. INFORMAL DISPUTE RESOLUTION. (a) The  
 40-15 executive commissioner by rule shall establish an informal dispute  
 40-16 resolution process under which a disinterested individual may  
 40-17 resolve a dispute between the department and a residential  
 40-18 child-care facility regarding a violation discovered during an  
 40-19 inspection, a proposed enforcement action relating to the  
 40-20 violation, or another related proceeding under this chapter. The  
 40-21 process must require:

40-22 (1) the aggrieved residential child-care facility to  
 40-23 request informal dispute resolution not later than the 15th day  
 40-24 after the date the facility is notified of the violation, proposed  
 40-25 enforcement action, or other proceeding that is the basis of the  
 40-26 dispute; and

40-27 (2) an individual representing the aggrieved  
 40-28 residential child-care facility in the process to register with the  
 40-29 commission and disclose the following:

40-30 (A) the individual's employment history during  
 40-31 the preceding five years, including employment with a regulatory  
 40-32 agency of this state or another state;

40-33 (B) the ownership, including the identity of the  
 40-34 controlling person or persons, of the aggrieved residential  
 40-35 child-care facility the individual is representing; and

40-36 (C) the identity of other entities the individual  
 40-37 is representing, or has represented during the preceding 24 months,  
 40-38 before the commission.

40-39 (b) The executive commissioner shall adopt rules to resolve  
 40-40 disputes under the informal dispute resolution process. The rules  
 40-41 must require that the process be completed not later than the 30th  
 40-42 day after the date the aggrieved residential child-care facility  
 40-43 requests informal dispute resolution.

40-44 (c) The commission may not delegate to another state agency  
 40-45 the responsibility to administer the informal dispute resolution  
 40-46 process established under this section.

40-47 SECTION 1.88. Subchapter C, Chapter 42, Human Resources  
 40-48 Code, is amended by adding Section 42.04431 to read as follows:

40-49 Sec. 42.04431. RESIDENTIAL CHILD-CARE INSPECTION  
 40-50 INFORMATION DATABASE. (a) The department shall establish a  
 40-51 computerized database containing inspection information, including  
 40-52 violations of minimum standards, on residential child-care  
 40-53 facilities and child-placing agencies inspected under Section  
 40-54 42.044.

40-55 (b) The department shall make the information collected by  
 40-56 the department available to another state agency or political  
 40-57 subdivision of the state for the purpose of administering programs  
 40-58 or enforcing laws within the jurisdiction of that agency or  
 40-59 subdivision. If feasible using available information systems, the  
 40-60 department shall make the information directly available to the  
 40-61 Department of State Health Services and the commission through  
 40-62 electronic information systems. The department, the Department of  
 40-63 State Health Services, and the commission shall jointly plan the  
 40-64 development of inspection databases that, to the extent feasible,  
 40-65 are similar in their design and architecture to promote the sharing  
 40-66 of information.

40-67 (c) The department shall categorize information regarding  
 40-68 violations of minimum standards collected under this section by:

40-69 (1) the type and size of the residential child-care

41-1 facility in which the violation occurred;  
 41-2 (2) the region of this state in which the violation  
 41-3 occurred; and  
 41-4 (3) the type of violation.

41-5 (d) The department shall use the information to:  
 41-6 (1) identify trends in violations in relation to  
 41-7 regions of this state and types of residential child-care  
 41-8 facilities;  
 41-9 (2) identify minimum standards that are subject to  
 41-10 inconsistent interpretation;  
 41-11 (3) identify training needs;  
 41-12 (4) direct training and other resources to residential  
 41-13 child-care facilities that present the greatest risk to child  
 41-14 safety; and  
 41-15 (5) improve the quality of residential child-care  
 41-16 services without increasing expenditures.

41-17 SECTION 1.89. Section 42.046, Human Resources Code, is  
 41-18 amended by amending Subsection (c) and adding Subsection (e) to  
 41-19 read as follows:

41-20 (c) After receiving an application, the department shall  
 41-21 investigate the applicant and the plan of care for children, if  
 41-22 applicable. As part of the investigation of an applicant for a  
 41-23 license to operate a residential child-care facility, the  
 41-24 department shall require the applicant to provide information about  
 41-25 the applicant's and each controlling person's compliance history  
 41-26 with the regulatory requirements in any other state in which the  
 41-27 applicant or controlling person operates or previously operated a  
 41-28 residential child-care facility.

41-29 (e) The department may deny an application under this  
 41-30 section if the applicant:

41-31 (1) has a residential child-care facility license  
 41-32 revoked in another state; or  
 41-33 (2) is barred from operating a residential child-care  
 41-34 facility in another state.

41-35 SECTION 1.90. Subsections (f) and (g), Section 42.0461,  
 41-36 Human Resources Code, are amended to read as follows:

41-37 (f) A child-placing agency that proposes to verify an agency  
 41-38 foster home or agency foster group home that is located in a county  
 41-39 with a population of less than 300,000 that provides child care for  
 41-40 24 hours a day at a location other than the actual residence of a  
 41-41 child's primary caretaker shall:

41-42 (1) comply with the notice and hearing requirements  
 41-43 imposed by Subsections (a) and (b); and

41-44 (2) after conducting the required public hearing,  
 41-45 provide the department with information relating to the  
 41-46 considerations specified in Subsection (d).

41-47 (g) The department may prohibit the child-placing agency  
 41-48 from verifying the proposed agency foster home or agency foster  
 41-49 group home on the same grounds that the department may deny an  
 41-50 application under Subsection (e). The department may invalidate  
 41-51 the verification of an agency foster home or agency foster group  
 41-52 home that was not verified using the procedures required by  
 41-53 Subsection (f) on or after September 1, 1997.

41-54 SECTION 1.91. Section 42.051, Human Resources Code, is  
 41-55 amended to read as follows:

41-56 Sec. 42.051. INITIAL [PROVISIONAL] LICENSE. (a) The  
 41-57 department shall issue an initial [a provisional] license when a  
 41-58 facility's plans meet the department's licensing requirements and  
 41-59 one of the following situations exists:

41-60 (1) the facility is not currently operating;  
 41-61 (2) the facility has relocated and has made changes in  
 41-62 the type of child-care service it provides; or  
 41-63 (3) there is a change in ownership of the facility  
 41-64 resulting in changes in policy and procedure or in the staff who  
 41-65 have direct contact with the children.

41-66 (b) An initial [A provisional] license is valid for six  
 41-67 months from the date it is issued and may be renewed for an  
 41-68 additional six months.

41-69 SECTION 1.92. Subsection (b), Section 42.054, Human

42-1 Resources Code, is amended to read as follows:  
42-2 (b) The department shall charge each child-care facility a  
42-3 fee of \$35 for an initial [~~a provisional~~] license. The department  
42-4 shall charge each child-placing agency a fee of \$50 for an initial  
42-5 [~~a provisional~~] license.

42-6 SECTION 1.93. (a) Section 42.056, Human Resources Code, is  
42-7 amended by adding Subsections (a-1), (d), (e), and (f) and amending  
42-8 Subsection (b) to read as follows:

42-9 (a-1) In accordance with rules adopted by the executive  
42-10 commissioner, the director, owner, or operator of a residential  
42-11 child-care facility shall submit to the department for use in  
42-12 conducting background and criminal history checks the name of each  
42-13 prospective employee who will provide direct care or have direct  
42-14 access to a child in the residential child-care facility.

42-15 (b) The department shall conduct background and criminal  
42-16 history checks using:

42-17 (1) the information provided under Subsections  
42-18 [~~Subsection~~] (a) and (a-1);

42-19 (2) the information made available by the Department  
42-20 of Public Safety under Section 411.114, Government Code, and [~~or~~]  
42-21 by the Federal Bureau of Investigation or other criminal justice  
42-22 agency under Section 411.087, Government Code; and

42-23 (3) the department's records of reported abuse and  
42-24 neglect.

42-25 (d) A person described by Subsection (a) or (a-1) may not  
42-26 provide direct care or have direct access to a child in a  
42-27 residential child-care facility before completion of the person's  
42-28 background check and criminal history check.

42-29 (e) The department shall provide the results of a background  
42-30 or criminal history check conducted under this section regarding a  
42-31 prospective employee to a director, owner, or operator of a  
42-32 residential child-care facility.

42-33 (f) As part of a background check under this section, the  
42-34 department shall provide any relevant information available in the  
42-35 department's records regarding a person's previous employment in a  
42-36 residential child-care facility to the person submitting the  
42-37 request.

42-38 (b) The director, owner, or operator of a residential  
42-39 child-care facility shall begin providing information to the  
42-40 Department of Family and Protective Services as required by  
42-41 Subsection (a-1), Section 42.056, Human Resources Code, as added by  
42-42 this section, as soon as possible after the effective date of this  
42-43 section and not later than January 1, 2006.

42-44 SECTION 1.94. (a) Subchapter C, Chapter 42, Human  
42-45 Resources Code, is amended by adding Section 42.057 to read as  
42-46 follows:

42-47 Sec. 42.057. DRUG TESTING. (a) Each residential  
42-48 child-care facility shall establish a drug testing policy for  
42-49 employees. A residential child-care facility may adopt the model  
42-50 employee drug testing policy adopted by the executive commissioner  
42-51 under Subsection (b) or may use another employee drug testing  
42-52 policy approved by the executive commissioner.

42-53 (b) The executive commissioner by rule shall adopt a model  
42-54 employee drug testing policy for use by a residential child-care  
42-55 facility. The policy must be designed to ensure the safety of  
42-56 resident children through appropriate drug testing of employees  
42-57 while protecting the rights of employees. The model policy must  
42-58 require random, unannounced drug testing and at least one scheduled  
42-59 drug test each year of each employee who has direct contact with a  
42-60 resident child in the residential child-care facility.

42-61 (c) The department shall require a drug test of a person who  
42-62 directly cares for or has access to a child in a residential  
42-63 child-care facility within 24 hours after the department receives  
42-64 notice of an allegation that the person has abused drugs.

42-65 (d) An employee may not provide direct care or have direct  
42-66 access to a child in a residential child-care facility before  
42-67 completion of the employee's initial drug test.

42-68 (e) A residential child-care facility shall pay any fee or  
42-69 cost associated with performing the drug test for an employee.

43-1 (b) Not later than December 1, 2005, the executive  
 43-2 commissioner of the Health and Human Services Commission shall  
 43-3 adopt the model drug testing policy required by Section 42.057,  
 43-4 Human Resources Code, as added by this section.

43-5 (c) Not later than January 1, 2006, each residential  
 43-6 child-care facility shall adopt a drug testing policy required by  
 43-7 Section 42.057, Human Resources Code, as added by this section.

43-8 SECTION 1.95. (a) Subchapter C, Chapter 42, Human  
 43-9 Resources Code, is amended by adding Section 42.061 to read as  
 43-10 follows:

43-11 Sec. 42.061. RISK ASSESSMENT. (a) If an employee or  
 43-12 volunteer at a residential child-care facility has been convicted  
 43-13 of a crime, the department shall perform a risk assessment of the  
 43-14 person before the person is allowed access to a child in the  
 43-15 facility. The department shall also perform a similar risk  
 43-16 assessment of a person who is at least 14 years of age and who will  
 43-17 regularly or frequently be staying at the facility while children  
 43-18 are being provided care.

43-19 (b) The executive commissioner by rule shall develop and  
 43-20 maintain risk assessment criteria to ensure the safety and  
 43-21 well-being of a child's physical or mental health or welfare.

43-22 (b) Not later than January 1, 2006, the executive  
 43-23 commissioner of the Health and Human Services Commission shall  
 43-24 adopt rules required by Section 42.061, Human Resources Code, as  
 43-25 added by this section.

43-26 SECTION 1.96. Subchapter C, Chapter 42, Human Resources  
 43-27 Code, is amended by adding Section 42.062 to read as follows:

43-28 Sec. 42.062. CERTAIN EMPLOYMENT PROHIBITED. A residential  
 43-29 child-care facility may not employ in any capacity a person who is  
 43-30 not eligible to receive a license or certification for the  
 43-31 operation of a residential child-care facility under Section  
 43-32 42.072(c-1) or who has been denied a license under Section 42.046.

43-33 SECTION 1.97. Subchapter C, Chapter 42, Human Resources  
 43-34 Code, is amended by adding Section 42.063 to read as follows:

43-35 Sec. 42.063. REPORTING OF INCIDENTS AND VIOLATIONS.  
 43-36 (a) In this section, "serious incident" means a suspected or  
 43-37 actual incident that threatens or impairs the basic health, safety,  
 43-38 or well-being of a child. The term includes:

43-39 (1) the arrest, abuse, neglect, exploitation, running  
 43-40 away, attempted suicide, or death of a child;

43-41 (2) a critical injury of a child; and

43-42 (3) an illness of a child that requires  
 43-43 hospitalization.

43-44 (b) A person licensed under this chapter shall report to the  
 43-45 department each serious incident involving a child who receives  
 43-46 services from the person, regardless of whether the department is  
 43-47 the managing conservator of the child.

43-48 (c) An employee of a person described by Subsection (b)  
 43-49 shall report suspected abuse or neglect directly to the statewide  
 43-50 intake system.

43-51 (d) An employee or volunteer of a child-care institution,  
 43-52 child-placing agency, foster home, or foster group home shall  
 43-53 report any serious incident directly to the department if the  
 43-54 incident involves a child under the care of the institution,  
 43-55 agency, or home.

43-56 (e) A foster parent shall report any serious incident  
 43-57 directly to the department if the incident involves a child under  
 43-58 the care of the parent.

43-59 (f) The executive commissioner by rule shall prescribe:  
 43-60 (1) procedures governing reporting required under  
 43-61 this section; and

43-62 (2) the manner in which a report under this section  
 43-63 must be provided.

43-64 SECTION 1.98. (a) Section 42.0705, Human Resources Code,  
 43-65 is amended to read as follows:

43-66 Sec. 42.0705. RANGE OF PENALTIES. (a) The department  
 43-67 shall revoke, suspend, or refuse to renew a license or  
 43-68 registration, place on probation a person whose license or  
 43-69 registration has been suspended, or reprimand a license holder or

44-1 registration holder for a violation of this chapter or a rule of the  
 44-2 board.

44-3       (b) If a license or registration suspension is probated, the  
 44-4 department may require the license holder or registration holder  
 44-5 to:

44-6           (1) report regularly to the department on matters that  
 44-7 are the basis of the probation;

44-8           (2) limit services to the areas prescribed by the  
 44-9 department;

44-10           (3) continue or review professional education until  
 44-11 the license holder or registration holder attains a degree of skill  
 44-12 satisfactory to the department in those areas that are the basis of  
 44-13 the probation; or

44-14           (4) take corrective action relating to the violation  
 44-15 on which the probation is based.

44-16       (c) The executive commissioner by rule shall establish  
 44-17 gradations of penalties in accordance with the relative seriousness  
 44-18 of the violation. The rules shall prescribe the violations or  
 44-19 number of violations that will result in the department's  
 44-20 automatically revoking a facility's license, certification, or  
 44-21 registration under Section 42.072.

44-22       (d) In determining the penalty to impose, the department  
 44-23 shall consider any matter that justice may require, including:

44-24           (1) the gradations of penalties established under  
 44-25 Subsection (c);

44-26           (2) the seriousness of the violation, including the  
 44-27 nature, circumstances, extent, and gravity of the prohibited act  
 44-28 and the hazard or potential hazard created by the act to the health  
 44-29 or safety of a resident child;

44-30           (3) the history of previous violations;

44-31           (4) deterrence of future violations; and

44-32           (5) efforts to correct the violation.

44-33       (b) Not later than December 31, 2005, the executive  
 44-34 commissioner of the Health and Human Services Commission shall  
 44-35 establish the gradations of penalties required under Section  
 44-36 42.0705, Human Resources Code, as amended by this section.

44-37       SECTION 1.99. Section 42.072, Human Resources Code, is  
 44-38 amended by adding Subsection (c-1) to read as follows:

44-39       (c-1) Notwithstanding Subsection (c), the department shall  
 44-40 refuse to issue a license or certification for the operation of a  
 44-41 residential child-care facility to a person who previously held  
 44-42 more than a 20 percent ownership interest in or served as an  
 44-43 officer, director, board member, or administrator of a residential  
 44-44 child-care facility at the time of the occurrence of conduct that  
 44-45 resulted in:

44-46           (1) the license or certification of the facility being  
 44-47 revoked by the department or by court order; or

44-48           (2) the facility being voluntarily closed or its  
 44-49 license or certification relinquished after:

44-50           (A) the department took an action under  
 44-51 Subsection (a) in relation to the facility; or

44-52           (B) the facility received notice that the  
 44-53 department intended to take an action under Subsection (a) in  
 44-54 relation to the facility.

44-55       SECTION 1.100. Subsection (c), Section 42.073, Human  
 44-56 Resources Code, is amended to read as follows:

44-57       (c) An order is valid for 10 days after the effective date of  
 44-58 the order, except that an order relating to a residential  
 44-59 child-care facility is valid for 30 days after the effective date of  
 44-60 the order.

44-61       SECTION 1.101. Section 42.077, Human Resources Code, is  
 44-62 amended by adding Subsection (d-1) to read as follows:

44-63       (d-1) If the department determines that the license of a  
 44-64 residential child-care facility should be revoked or suspended, the  
 44-65 facility shall mail notification of the action or proposed action  
 44-66 by certified mail to a parent of each child served by the facility,  
 44-67 if the person's parental rights have not been terminated, and to the  
 44-68 child's managing conservator, as appropriate. The residential  
 44-69 child-care facility shall mail the notification not later than the

45-1 fifth day after the date the facility is notified of the  
 45-2 department's determination that revocation or suspension of the  
 45-3 license is appropriate.

45-4 SECTION 1.102. (a) Section 42.078, Human Resources Code,  
 45-5 is amended by amending Subsections (a) through (i) and (l), (m), and  
 45-6 (n) and adding Subsection (a-1) to read as follows:

45-7 (a) The department may impose an administrative penalty  
 45-8 against a facility or family home licensed or registered under this  
 45-9 chapter that violates this chapter or a rule or order adopted under  
 45-10 this chapter. In addition, the department may impose an  
 45-11 administrative penalty against a residential child-care facility  
 45-12 or a controlling person of a residential child-care facility if the  
 45-13 facility or controlling person:

45-14 (1) violates a term of a license or registration  
 45-15 issued under this chapter;

45-16 (2) makes a statement about a material fact that the  
 45-17 facility or person knows or should know is false:

45-18 (A) on an application for the issuance or renewal  
 45-19 of a license or registration or an attachment to the application; or

45-20 (B) in response to a matter under investigation;

45-21 (3) refuses to allow a representative of the  
 45-22 department to inspect:

45-23 (A) a book, record, or file required to be  
 45-24 maintained by the facility; or

45-25 (B) any part of the premises of the facility;

45-26 (4) purposefully interferes with the work of a  
 45-27 representative of the department or the enforcement of this  
 45-28 chapter; or

45-29 (5) fails to pay a penalty assessed under this chapter  
 45-30 on or before the date the penalty is due, as determined under this  
 45-31 section.

45-32 (a-1) Nonmonetary, administrative penalties or remedies,  
 45-33 including but not limited to corrective action plans, probation,  
 45-34 and evaluation periods, shall be imposed when appropriate before  
 45-35 monetary penalties.

45-36 (b) Each day a violation continues or occurs is a separate  
 45-37 violation for purposes of imposing a penalty. The penalty for a  
 45-38 violation may be in an amount not to exceed the following limits,  
 45-39 based on the maximum number of children for whom the facility or  
 45-40 family home was authorized to provide care or the number of children  
 45-41 under the care of the child-placing agency when the violation  
 45-42 occurred [receiving care at the facility or family home at the time  
 45-43 of the violation]:

45-44 (1) for violations that occur in a facility other than  
 45-45 a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$20
21-40	\$30
41-60	\$40
61-80	\$50
81-100	\$75
More than 100	\$100 and

45-53 (2) for violations that occur in a residential  
 45-54 child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$100
21-40	\$150
41-60	\$200
61-80	\$250
81-100	\$375
More than 100	\$500

45-62 (c) In addition to the number of children, the [The] amount  
 45-63 of the penalty shall be based on:

45-64 (1) the seriousness of the violation, including the  
 45-65 nature, circumstances, extent, and gravity of any prohibited acts,  
 45-66 and the hazard or potential hazard created to the health, safety, or  
 45-67 economic welfare of the public;

45-68 (2) the economic harm to property or the environment  
 45-69 caused by the violation;

46-1 (3) the history of previous violations;  
 46-2 (4) the amount necessary to deter future violations;  
 46-3 (5) efforts to correct the violation; and  
 46-4 (6) any other matter that justice may require.

46-5 (d) Monetary penalties shall not be assessed for violations  
 46-6 that are the result of clerical errors ~~[or standards which do not~~  
 46-7 ~~clearly apprise the facility or family home of the action required~~  
 46-8 ~~by the standard]~~.

46-9 (e) If the ~~department [executive director]~~ determines that  
 46-10 a violation has occurred, the ~~department [executive director]~~ may  
 46-11 issue a recommendation on the imposition of a penalty, including a  
 46-12 recommendation on the amount of the penalty.

46-13 (f) Within 14 days after the date the recommendation is  
 46-14 issued, the ~~department [executive director]~~ shall give written  
 46-15 notice of the recommendation to the person owning or operating the  
 46-16 facility or family home or to the controlling person, if  
 46-17 applicable. The notice may be given by certified mail. The notice  
 46-18 must include a brief summary of the alleged violation and a  
 46-19 statement of the amount of the recommended penalty and must inform  
 46-20 the person that the person has a right to a hearing on the  
 46-21 occurrence of the violation, the amount of the penalty, or both the  
 46-22 occurrence of the violation and the amount of the penalty.

46-23 (g) Within 20 days after the date the person receives the  
 46-24 notice, the person in writing may accept the determination and  
 46-25 recommended penalty of the ~~department [executive director]~~ or may  
 46-26 make a written request for a hearing on the occurrence of the  
 46-27 violation, the amount of the penalty, or both the occurrence of the  
 46-28 violation and the amount of the penalty.

46-29 (h) If the person accepts the determination and recommended  
 46-30 penalty of the ~~department [executive director]~~ or fails to respond  
 46-31 to the notice in a timely manner, the ~~department [executive~~  
 46-32 ~~director]~~ shall issue an order and impose the recommended penalty.

46-33 (i) If the person requests a hearing, the ~~department~~  
 46-34 ~~[executive director]~~ shall set a hearing and give notice of the  
 46-35 hearing to the person. The hearing shall be held by an  
 46-36 administrative law judge of the State Office of Administrative  
 46-37 Hearings. The administrative law judge shall make findings of fact  
 46-38 and conclusions of law and issue a final decision finding that a  
 46-39 violation has occurred and imposing a penalty or finding that no  
 46-40 violation occurred.

46-41 (l) Within the 30-day period, a person who acts under  
 46-42 Subsection (k)(3) may:

46-43 (1) stay enforcement of the penalty by:

46-44 (A) paying the amount of the penalty to the court  
 46-45 for placement in an escrow account; or

46-46 (B) giving to the court a supersedeas bond that  
 46-47 is approved by the court for the amount of the penalty and that is  
 46-48 effective until all judicial review of the order is final; or

46-49 (2) request the court to stay enforcement of the  
 46-50 penalty by:

46-51 (A) filing with the court a sworn affidavit of  
 46-52 the person stating that the person is financially unable to pay the  
 46-53 amount of the penalty and is financially unable to give the  
 46-54 supersedeas bond; and

46-55 (B) giving a copy of the affidavit to the  
 46-56 ~~department [executive director]~~ by certified mail.

46-57 (m) On receipt of a copy of an affidavit under Subsection  
 46-58 (1)(2), the ~~department [executive director]~~ may file with the  
 46-59 court, within five days after the date the copy is received, a  
 46-60 contest to the affidavit. The court shall hold a hearing on the  
 46-61 facts alleged in the affidavit as soon as practicable and shall stay  
 46-62 the enforcement of the penalty on finding that the alleged facts are  
 46-63 true. The person who files an affidavit has the burden of proving  
 46-64 that the person is financially unable to pay the amount of the  
 46-65 penalty and to give a supersedeas bond.

46-66 (n) If the person does not pay the amount of the penalty and  
 46-67 the enforcement of the penalty is not stayed, the ~~department~~  
 46-68 ~~[executive director]~~ may refer the matter to the attorney general  
 46-69 for collection of the amount of the penalty.

47-1  
47-2 (b) Section 42.078, Human Resources Code, as amended by this  
47-3 section, applies to conduct that occurs on or after the effective  
47-4 date of this section. Conduct that occurs before the effective date  
47-5 of this section is governed by Section 42.078, Human Resources  
47-6 Code, as it existed before amendment by this section, and the former  
47-7 law is continued in effect for that purpose.

47-8 SECTION 1.103. The heading to Chapter 43, Human Resources  
47-9 Code, is amended to read as follows:

47-10 CHAPTER 43. REGULATION OF CHILD-CARE  
47-11 AND CHILD-PLACING AGENCY ADMINISTRATORS

47-12 SECTION 1.104. Section 43.001, Human Resources Code, is  
47-13 amended by amending Subdivision (1) and adding Subdivisions (3) and  
(4) to read as follows:

47-14 (1) "Child-care institution" has the meaning assigned  
47-15 by Section 42.002 [~~means a profit or nonprofit children's home, orphanage, institution, or other place that receives and provides 24-hour-a-day care for more than six children who are dependent, neglected, handicapped, delinquent, in danger of becoming delinquent, or in need of group care.~~].

47-16 (3) "Child-placing agency" has the meaning assigned in  
47-17 Section 42.002.

47-18 (4) "Child-placing agency administrator" means a  
47-19 person who supervises and exercises direct control over a  
47-20 child-placing agency and who is responsible for the child-placing  
47-21 agency's program and personnel, regardless of whether the person  
47-22 has an ownership interest in the child-placing agency or shares  
47-23 duties with other persons.

47-24 SECTION 1.105. (a) Section 43.003, Human Resources Code,  
47-25 is amended by adding Subsection (c) to read as follows:

47-26 (c) A person may not serve as a child-placing agency  
47-27 administrator without a license issued by the department under this  
47-28 chapter.

47-29 (b) Notwithstanding Subsection (c), Section 43.003, Human  
47-30 Resources Code, as added by this section, a person is not required  
47-31 to hold a license issued under Chapter 43, Human Resources Code, to  
47-32 act as a child-placing agency administrator until January 1, 2006.

47-33 SECTION 1.106. (a) Section 43.004, Human Resources Code,  
47-34 is amended to read as follows:

47-35 Sec. 43.004. QUALIFICATIONS FOR LICENSE. (a) To be  
47-36 eligible for a child-care administrator's license a person must:

47-37 (1) provide information for the department's use in  
47-38 conducting a criminal history and background check under Subsection  
47-39 (c) [present evidence in writing of good moral character, ethical  
47-40 commitment, and sound physical and emotional health];

47-41 (2) pass an examination developed [devised] and  
47-42 administered by the department that demonstrates competence in the  
47-43 field of child-care administration;

47-44 (3) have one year of full-time experience in  
47-45 management or supervision of child-care personnel and programs; and

47-46 (4) have one of the following educational and  
47-47 experience qualifications:

47-48 (A) a master's or doctor of philosophy degree in  
47-49 social work or other area of study; or

47-50 (B) a bachelor's degree and two years' full-time  
47-51 experience in child care or a closely related field[+]

47-52 [C) an associate degree from a junior college  
47-53 and four years' experience in child care or a closely related field;  
47-54 or

47-55 [D) a high school diploma or its equivalent and  
47-56 six years' experience in child care or a closely related field].

47-57 (b) To be eligible for a child-placing agency  
47-58 administrator's license a person must:

47-59 (1) provide information for the department's use in  
47-60 conducting a criminal history and background check under Subsection  
47-61 (c);

47-62 (2) pass an examination developed and administered by  
47-63 the department that demonstrates competence in the field of placing  
47-64 children in residential settings or adoptive homes;

47-65 (3) have one year of full-time experience in

48-1 management or supervision of child-placing personnel and programs;  
 48-2 and

48-3 (4) have one of the following educational and  
 48-4 experience qualifications:

48-5 (A) a master's or doctor of philosophy degree in  
 48-6 social work or other area of study; or

48-7 (B) a bachelor's degree and two years' full-time  
 48-8 experience in the field of placing children in residential settings  
 48-9 or adoptive homes or a closely related field.

48-10 (c) Before the department issues a license under this  
 48-11 chapter, the department must conduct a criminal history and  
 48-12 background check of the applicant using:

48-13 (1) the information made available by the Department  
 48-14 of Public Safety under Section 411.114, Government Code, or by the  
 48-15 Federal Bureau of Investigation or other criminal justice agency  
 48-16 under Section 411.087, Government Code; and

48-17 (2) the information in the central registry of  
 48-18 reported cases of child abuse or neglect established under Section  
 48-19 261.002, Family Code.

48-20 (b) Subsection (a), Section 43.004, Human Resources Code,  
 48-21 as added by this section, applies only to a person who applies for a  
 48-22 license or license renewal on or after the effective date of this  
 48-23 section.

48-24 SECTION 1.107. (a) Section 43.0041, Human Resources Code,  
 48-25 is amended by adding Subsection (c) to read as follows:

48-26 (c) A person who fails an examination three times may not  
 48-27 submit a new application for a license until after the first  
 48-28 anniversary of the date the person last failed the examination.

48-29 (b) Subsection (c), Section 43.0041, Human Resources Code,  
 48-30 as added by this section, applies only to an examination taken on or  
 48-31 after the effective date of this section. An examination taken  
 48-32 before the effective date of this section is not considered in  
 48-33 determining whether a person is prohibited from seeking a new  
 48-34 license for the period specified by Subsection (c), Section  
 48-35 43.0041, Human Resources Code, as added by this section.

48-36 SECTION 1.108. Subsection (a), Section 43.0081, Human  
 48-37 Resources Code, is amended to read as follows:

48-38 (a) The department may issue a provisional child-care  
 48-39 administrator's license to an applicant licensed in another state  
 48-40 who applies for a license in this state. An applicant for a  
 48-41 provisional license under this section must:

48-42 (1) be licensed in good standing as a child-care  
 48-43 administrator for at least two years in another state, the District  
 48-44 of Columbia, a foreign country, or a territory of the United States  
 48-45 that has licensing requirements that are substantially equivalent  
 48-46 to the requirements of this chapter;

48-47 (2) have passed a national or other examination  
 48-48 recognized by the department that demonstrates competence in the  
 48-49 field of child-care administration; and

48-50 (3) be sponsored by a person licensed by the  
 48-51 department under this chapter with whom the provisional license  
 48-52 holder may practice under this section.

48-53 SECTION 1.109. (a) Subsection (a), Section 43.009, Human  
 48-54 Resources Code, is amended to read as follows:

48-55 (a) To be eligible for license renewal, a license holder  
 48-56 shall present evidence to the department of participation in a  
 48-57 program of continuing education for 15 [approximating 15 actual]  
 48-58 hours of formal study each year during the two-year period before  
 48-59 the renewal.

48-60 (b) Subsection (a), Section 43.009, Human Resources Code,  
 48-61 as amended by this section, applies to a person who seeks license  
 48-62 renewal on or after September 1, 2007. A person who seeks license  
 48-63 renewal before September 1, 2007, is governed by the law in effect  
 48-64 before amendment by this section, and the former law is continued in  
 48-65 effect for that purpose.

48-66 SECTION 1.110. The heading to Section 43.010, Human  
 48-67 Resources Code, is amended to read as follows:

48-68 Sec. 43.010. LICENSE DENIAL, REVOCATION, SUSPENSION, OR  
 48-69 REFUSAL TO RENEW; REPRIMAND OR PROBATION.

49-1 SECTION 1.111. (a) Subsections (a), (b), and (d), Section  
 49-2 43.010, Human Resources Code, are amended to read as follows:

49-3 (a) The department may deny, [shall] revoke, suspend, or  
 49-4 refuse to renew a license, or place on probation [a person whose  
 49-5 license has been suspended] or reprimand a license holder for:

49-6 (1) violating [a violation by the license holder of]  
 49-7 this chapter or a rule adopted under this chapter;

49-8 (2) circumventing or attempting to circumvent the  
 49-9 requirements of this chapter or a rule adopted under this chapter;

49-10 (3) engaging in fraud or deceit related to the  
 49-11 requirements of this chapter or a rule adopted under this chapter;

49-12 (4) providing false or misleading information to the  
 49-13 department during the license application or renewal process for  
 49-14 any person's license;

49-15 (5) making a statement about a material fact during  
 49-16 the license application or renewal process that the person knows or  
 49-17 should know is false;

49-18 (6) having a criminal history or central registry  
 49-19 record that would prohibit a person from working in a child-care  
 49-20 facility, as defined by Section 42.002, under rules applicable to  
 49-21 that type of facility;

49-22 (7) using drugs or alcohol in a manner that  
 49-23 jeopardizes the person's ability to function as an administrator;  
 49-24 or

49-25 (8) [of the board.]

49-26 [(b) The department may revoke a license if the license  
 49-27 holder is:

49-28 [(1) convicted of a felony;

49-29 [(2) convicted of a misdemeanor involving fraud or  
 49-30 deceit;

49-31 [(3) addicted to a dangerous drug or intemperate in  
 49-32 the use of alcohol; or

49-33 [(4) grossly negligent in] performing duties as a  
 49-34 child-care administrator in a negligent manner.

49-35 (b) A person whose license is revoked under Subsection (a)  
 49-36 is not eligible to apply for another license under this chapter.

49-37 (d) If a license holder is placed on probation [suspension  
 49-38 is probated], the department may require the license holder:

49-39 (1) to report regularly to the department on the  
 49-40 conditions of the probation;

49-41 (2) to limit practice to the areas prescribed by the  
 49-42 department; or

49-43 (3) to continue or renew professional education until  
 49-44 the practitioner attains a degree of skill satisfactory to the  
 49-45 department in those areas in which improvement is a condition of the  
 49-46 probation.

49-47 (b) Subsection (b), Section 43.010, Human Resources Code,  
 49-48 as amended by this section, applies only to a person whose license  
 49-49 is revoked on or after the effective date of this section. A person  
 49-50 whose license is revoked before the effective date of this section  
 49-51 is governed by the law in effect at the time of the revocation, and  
 49-52 the former law is continued in effect for that purpose.

49-53 SECTION 1.112. Section 43.0105, Human Resources Code, is  
 49-54 amended to read as follows:

49-55 Sec. 43.0105. REVOCATION OF PROBATION. The department may  
 49-56 revoke the probation of a license holder [whose license is  
 49-57 suspended] if the license holder violates a term of the conditions  
 49-58 of probation.

49-59 SECTION 1.113. Section 43.0106, Human Resources Code, is  
 49-60 amended to read as follows:

49-61 Sec. 43.0106. ADMINISTRATIVE [DISCIPLINARY] HEARING.

49-62 (a) If the department denies a license or proposes to suspend,  
 49-63 revoke, or refuse to renew a person's license, the person is  
 49-64 entitled to a hearing conducted by the State Office of  
 49-65 Administrative Hearings. Proceedings for a disciplinary action are  
 49-66 governed by the administrative procedure law, Chapter 2001,  
 49-67 Government Code. Rules of practice adopted by the executive  
 49-68 commissioner [board] under Section 2001.004, Government Code,

49-69 applicable to the proceedings for a disciplinary action may not

50-1 conflict with rules adopted by the State Office of Administrative  
 50-2 Hearings.

50-3 (b) A person may not continue to operate as a licensed  
 50-4 child-care administrator or child-placing agency administrator  
 50-5 during the appeal process if the department determines that the  
 50-6 person is an immediate threat to the health or safety of a child.

50-7 (c) The department must notify the person, and if  
 50-8 applicable, the governing body of the facility that employs the  
 50-9 person, of the department's determination under Subsection (b).

50-10 SECTION 1.114. Section 43.012, Human Resources Code, is  
 50-11 amended to read as follows:

50-12 Sec. 43.012. PENALTY. A person who serves as a child-care  
 50-13 or child-placing agency administrator without the license required  
 50-14 by this chapter commits a Class C misdemeanor.

50-15 SECTION 1.115. Subdivision (3), Article 56.01, Code of  
 50-16 Criminal Procedure, is amended to read as follows:

50-17 (3) "Victim" means a person who is the victim of the  
 50-18 offense of sexual assault, kidnapping, [or] aggravated robbery, or  
 50-19 injury to a child, elderly individual, or disabled individual or  
 50-20 who has suffered bodily injury or death as a result of the criminal  
 50-21 conduct of another.

50-22 SECTION 1.116. (a) Section 22.04, Penal Code, is amended  
 50-23 by amending Subsections (b) through (g) and adding Subsection (a-1)  
 50-24 to read as follows:

50-25 (a-1) A person commits an offense if the person is an owner,  
 50-26 operator, or employee of a group home, nursing facility, assisted  
 50-27 living facility, intermediate care facility for persons with mental  
 50-28 retardation, or other institutional care facility and the person  
 50-29 intentionally, knowingly, recklessly, or with criminal negligence  
 50-30 by omission causes to a child, elderly individual, or disabled  
 50-31 individual who is a resident of that group home or facility:

- 50-32 (1) serious bodily injury;
- 50-33 (2) serious mental deficiency, impairment, or injury;
- 50-34 (3) bodily injury; or
- 50-35 (4) exploitation.

50-36 (b) An omission that causes a condition described by  
 50-37 Subsection (a)(1), (2), or (3) or (a-1)(1), (2), (3), or (4)  
 50-38 [Subsections (a)(1) through (a)(3)] is conduct constituting an  
 50-39 offense under this section if:

50-40 (1) the actor has a legal or statutory duty to act; or  
 50-41 (2) the actor has assumed care, custody, or control of  
 50-42 a child, elderly individual, or disabled individual.

50-43 (c) In this section:

50-44 (1) "Child" means a person 14 years of age or younger.  
 50-45 (2) "Elderly individual" means a person 65 years of  
 50-46 age or older.

50-47 (3) "Disabled individual" means a person older than 14  
 50-48 years of age who by reason of age or physical or mental disease,  
 50-49 defect, or injury is substantially unable to protect himself from  
 50-50 harm or to provide food, shelter, or medical care for himself.

50-51 (4) "Exploitation" means the illegal or improper use  
 50-52 of an individual or of the resources of the individual for monetary  
 50-53 or personal benefit, profit, or gain.

50-54 (d) For purposes of an omission that causes a condition  
 50-55 described by Subsection (a)(1), (2), or (3), the [The] actor has  
 50-56 assumed care, custody, or control if he has by act, words, or course  
 50-57 of conduct acted so as to cause a reasonable person to conclude that  
 50-58 he has accepted responsibility for protection, food, shelter, and  
 50-59 medical care for a child, elderly individual, or disabled  
 50-60 individual. For purposes of an omission that causes a condition  
 50-61 described by Subsection (a-1)(1), (2), (3), or (4), the actor  
 50-62 acting during the actor's capacity as owner, operator, or employee  
 50-63 of a group home or facility described by Subsection (a-1) is  
 50-64 considered to have accepted responsibility for protection, food,  
 50-65 shelter, and medical care for the child, elderly individual, or  
 50-66 disabled individual who is a resident of the group home or facility.

50-67 (e) An offense under Subsection (a)(1) or (2) or (a-1)(1) or  
 50-68 (2) is a felony of the first degree when the conduct is committed  
 50-69 intentionally or knowingly. When the conduct is engaged in

51-1 recklessly, the offense is ~~[it shall be]~~ a felony of the second  
 51-2 degree.

51-3 (f) An offense under Subsection (a)(3) or (a-1)(3) or (4) is  
 51-4 a felony of the third degree when the conduct is committed  
 51-5 intentionally or knowingly. When the conduct is engaged in  
 51-6 recklessly, the offense is ~~[it shall be]~~ a state jail felony.

51-7 (g) An offense under Subsection (a) is a state jail felony  
 51-8 when the person acts with criminal negligence ~~[shall be a state jail~~  
 51-9 ~~felony]~~. An offense under Subsection (a-1) is a state jail felony  
 51-10 when the person, with criminal negligence and by omission, causes a  
 51-11 condition described by Subsection (a-1)(1), (2), (3), or (4).

51-12 (b) The change in law made by this section applies only to an  
 51-13 offense committed on or after the effective date of this section.  
 51-14 An offense committed before the effective date of this section is  
 51-15 covered by the law in effect when the offense was committed, and the  
 51-16 former law is continued in effect for that purpose. For the  
 51-17 purposes of this subsection, an offense was committed before the  
 51-18 effective date of this section if any element of the offense was  
 51-19 committed before that date.

51-20 SECTION 1.117. AT-RISK PREVENTION SERVICES TASK FORCE.

51-21 (a) In this section:

51-22 (1) "Department" means the Department of Family and  
 51-23 Protective Services.

51-24 (2) "Executive commissioner" means the executive  
 51-25 commissioner of the Health and Human Services Commission.

51-26 (3) "Prevention service" means a community-based  
 51-27 prevention program to alleviate the conditions that lead to child  
 51-28 abuse or neglect and juvenile crime.

51-29 (4) "Task force" means the at-risk prevention services  
 51-30 task force established under this section.

51-31 (b) The at-risk prevention services task force is  
 51-32 established to create a strategic plan to improve the availability  
 51-33 of prevention services in this state and the manner in which those  
 51-34 services are provided.

51-35 (c) The task force is composed of 11 members appointed by  
 51-36 the governor.

51-37 (d) Each member of the task force must have demonstrated  
 51-38 experience in the prevention of child abuse or neglect, or juvenile  
 51-39 crime. Consideration shall be given to inclusion of prevention  
 51-40 service providers, research professionals, representatives from  
 51-41 mental health and juvenile justice fields, and the judicial system.

51-42 (e) The task force shall:

51-43 (1) examine the provision of prevention services in  
 51-44 this state and identify gaps in services and opportunities to  
 51-45 coordinate service delivery;

51-46 (2) identify federal, state, and community sources of  
 51-47 funding for prevention services and methods for combining resources  
 51-48 for those services; and

51-49 (3) create a strategic plan that would address current  
 51-50 gaps in services and would result in the extension of prevention  
 51-51 services that are evidence-based and utilize best practices to more  
 51-52 at-risk families in this state.

51-53 (f) To the extent that money is appropriated for this  
 51-54 purpose, the department shall establish and administer a child  
 51-55 abuse and neglect prevention grant program that addresses gaps and  
 51-56 strategies recommended by the task force. The grant program shall  
 51-57 fund evidence-based programs offered by community-based or county  
 51-58 organizations that are designed to prevent or ameliorate child  
 51-59 abuse and neglect. The task force shall advise the department in  
 51-60 the evaluation of the evidence-based abuse and neglect prevention  
 51-61 programs to determine the continued effectiveness of the programs.

51-62 (g) The department shall provide administrative support and  
 51-63 services to the task force.

51-64 (h) Not later than September 1, 2006, the task force shall  
 51-65 present to the department and executive commissioner the strategic  
 51-66 plan created under Subsection (e) of this section.

51-67 (i) Not later than the 90th day after the date on which the  
 51-68 task force presents the strategic plan, the executive commissioner  
 51-69 shall submit to the governor, the lieutenant governor, the speaker

52-1 of the house of representatives, and the presiding officer of each  
 52-2 house and senate standing committee having jurisdiction over family  
 52-3 protective services a written report concerning the strategic plan  
 52-4 of the task force. The report shall include:

52-5 (1) recommendations for implementing the strategic  
 52-6 plan of the task force, if appropriate;

52-7 (2) recommendations for modifications to the  
 52-8 strategic plan of the task force; and

52-9 (3) recommendations for legislation that the task  
 52-10 force or executive commissioner considers necessary to implement  
 52-11 the strategic plan.

52-12 (j) This section expires and the task force is abolished  
 52-13 June 1, 2007.

52-14 SECTION 1.118. THINK TANK MEETING ON CHILD ABUSE AND  
 52-15 NEGLECT INVESTIGATIONS. Not later than January 1, 2006, the  
 52-16 Department of Family and Protective Services shall conduct a  
 52-17 meeting with employees of the department and law enforcement  
 52-18 professionals who have responsibility for investigating reports of  
 52-19 child abuse and neglect to explore standards for:

52-20 (1) training to be provided for personnel who conduct  
 52-21 investigations of child abuse and neglect, including techniques for  
 52-22 interviewing, investigating, and communicating with children with  
 52-23 disabilities;

52-24 (2) protocols for conducting investigations; and

52-25 (3) the coordination of investigations between the  
 52-26 department and law enforcement agencies.

52-27 SECTION 1.119. CASEWORKER FUNCTION STUDY. (a) The  
 52-28 Department of Family and Protective Services shall conduct a study  
 52-29 on the merits of revising the functions performed by caseworkers  
 52-30 employed by the department. In conducting the study required by  
 52-31 this section, the department shall explore the benefits of using  
 52-32 one caseworker to coordinate efforts on behalf of the child and the  
 52-33 child's parents.

52-34 (b) The department shall report the results of the study  
 52-35 conducted under Subsection (a) of this section to the lieutenant  
 52-36 governor and the speaker of the house of representatives not later  
 52-37 than January 1, 2006.

52-38 SECTION 1.120. USE OF LOCAL CASEWORKERS. If the Department  
 52-39 of Family and Protective Services places a child in a home in an  
 52-40 administrative region other than the region in which the child's  
 52-41 caseworker is located, the department shall consider using a  
 52-42 caseworker from the region in which the child is placed to conduct  
 52-43 home visits for that child.

52-44 SECTION 1.121. The following provisions of the Human  
 52-45 Resources Code are repealed:

52-46 (1) Subdivision (1), Section 40.001;

52-47 (2) Section 40.028;

52-48 (3) Section 40.029;

52-49 (4) Subsections (b), (c), and (e), Section 40.0305;

52-50 and

52-51 (5) Subsection (c), Section 43.010.

52-52 ARTICLE 2. ADULT PROTECTIVE SERVICES

52-53 SECTION 2.01. Subchapter B, Chapter 40, Human Resources  
 52-54 Code, is amended by adding Section 40.0315 to read as follows:

52-55 Sec. 40.0315. INVESTIGATION UNIT FOR ADULT PROTECTIVE  
 52-56 SERVICES. (a) The adult protective services division of the  
 52-57 department shall maintain an investigation unit to investigate  
 52-58 allegations of abuse, neglect, and exploitation of elderly and  
 52-59 disabled persons reported to the division.

52-60 (b) An investigator in the unit shall determine whether an  
 52-61 elderly or disabled person who is the subject of a report made under  
 52-62 Section 48.051(a) may have suffered from abuse, neglect, or  
 52-63 exploitation as a result of the criminal conduct of another person.  
 52-64 If the investigator determines that criminal conduct may have  
 52-65 occurred, the investigator shall immediately notify the  
 52-66 appropriate law enforcement agency.

52-67 (c) Not later than the 30th day after the date a law  
 52-68 enforcement agency is notified by an investigator as provided by  
 52-69 Subsection (b), the agency shall, if feasible, provide to the unit

53-1 information regarding the disposition of the agency's  
 53-2 investigation of the conduct that was the subject of the notice.

53-3 SECTION 2.02. Subchapter B, Chapter 40, Human Resources  
 53-4 Code, is amended by adding Section 40.0323 to read as follows:

53-5 Sec. 40.0323. QUALIFICATIONS FOR ADULT PROTECTIVE SERVICES  
 53-6 PERSONNEL. (a) In hiring department employees whose duties  
 53-7 include providing services as part of, or relating to, the  
 53-8 provision of adult protective services directly to an elderly or  
 53-9 disabled person, the commissioner shall ensure that the department  
 53-10 gives preference to applicants with professional credentials  
 53-11 related to adult protective services, including applicants who are  
 53-12 licensed master social workers, as defined by Section 505.002,  
 53-13 Occupations Code, or licensed professional counselors.

53-14 (b) Subject to the availability of funds, the executive  
 53-15 commissioner by rule shall develop and the department shall  
 53-16 implement an incentive program to encourage each department  
 53-17 employee whose duties include the duties described by Subsection  
 53-18 (a) to obtain professional credentials described by that subsection  
 53-19 if the employee does not have those credentials.

53-20 SECTION 2.03. Subchapter B, Chapter 40, Human Resources  
 53-21 Code, is amended by adding Section 40.035 to read as follows:

53-22 Sec. 40.035. TRAINING PROGRAM FOR ADULT PROTECTIVE  
 53-23 SERVICES; CONTINUING EDUCATION. (a) The department shall develop  
 53-24 and implement a training program that each newly hired or assigned  
 53-25 department employee must complete before:

53-26 (1) initiating an investigation of a report of alleged  
 53-27 abuse, neglect, or exploitation of an elderly or disabled person  
 53-28 under Chapter 48; or

53-29 (2) providing protective services to elderly or  
 53-30 disabled persons under that chapter.

53-31 (b) The training program must:

53-32 (1) provide the person with appropriate comprehensive  
 53-33 information regarding:

53-34 (A) the incidence and types of reports of abuse,  
 53-35 neglect, and exploitation of elderly or disabled persons that are  
 53-36 received by the department, including information concerning false  
 53-37 reports; and

53-38 (B) the use and proper implementation of:

53-39 (i) the risk assessment criteria developed  
 53-40 under Section 48.004; and

53-41 (ii) the legal procedures available under  
 53-42 Chapter 48 for the protection of elderly or disabled persons,  
 53-43 including the procedures for obtaining a court order for emergency  
 53-44 protective services under Section 48.208;

53-45 (2) include best practices for management of a case  
 53-46 from the intake process to the provision of protective services, if  
 53-47 any, including criteria that specify the circumstances under which  
 53-48 an employee should:

53-49 (A) consult a supervisor regarding a case; or

53-50 (B) refer an elderly or disabled person to an  
 53-51 appropriate public agency or community service provider for  
 53-52 guardianship or other long-term services after the delivery of  
 53-53 protective services to that person has been completed;

53-54 (3) provide appropriate specialized training in any  
 53-55 necessary topics, including:

53-56 (A) investigation of suspected financial  
 53-57 exploitation and self-neglect; and

53-58 (B) establishment and maintenance of working  
 53-59 relationships with community organizations and other local  
 53-60 providers who provide services to elderly and disabled persons;

53-61 (4) include on-the-job training, which must require:

53-62 (A) a supervisor to accompany and train a  
 53-63 department caseworker in the field throughout the first case  
 53-64 assigned to the caseworker; and

53-65 (B) the supervisor to make a detailed, written  
 53-66 progress report regarding the caseworker's performance during a  
 53-67 three-month review period that:

53-68 (i) identifies the strengths and weaknesses  
 53-69 of the caseworker that the supervisor observed during that period;

54-1 and

54-2 (ii) specifies the policies and tools the  
54-3 caseworker used during that period;

54-4 (5) provide for the development of individualized  
54-5 training plans;

54-6 (6) include training in working with law enforcement  
54-7 agencies and the court system when legal intervention is sought for  
54-8 investigations or emergency orders; and

54-9 (7) to the maximum extent possible, include nationally  
54-10 recognized best practices in addition to the best practices  
54-11 required under Subdivision (2).

54-12 (c) The department at least annually shall provide  
54-13 comprehensive case management training to supervisors of  
54-14 department employees who conduct investigations under Chapter 48.  
54-15 The training must be designed to enable the supervisors to provide  
54-16 guidance on investigations of reports of alleged abuse, neglect, or  
54-17 exploitation that are complex or present unique problems.

54-18 (d) The department shall develop and implement appropriate  
54-19 continuing education programs for employees of the adult protective  
54-20 services division who have completed initial training under this  
54-21 section. The continuing education programs must include nationally  
54-22 recognized best practices to the maximum extent possible and must  
54-23 be designed to provide an annual update regarding changes in:

54-24 (1) adult protective services division policies and  
54-25 procedures; and

54-26 (2) applicable law, including statutory changes  
54-27 affecting the adult protective services division or elderly or  
54-28 disabled persons served by the division.

54-29 (e) A department employee required to participate in a  
54-30 continuing education program under this section must complete the  
54-31 program at least once each calendar year.

54-32 (f) The department shall:

54-33 (1) make curriculum developed for a training or  
54-34 continuing education program under this section readily available  
54-35 to department employees in written form; and

54-36 (2) periodically revise a training and continuing  
54-37 education program established under this section as necessary to  
54-38 satisfy training needs identified by the department or department  
54-39 employees.

54-40 (g) The circumstances specified under Subsection (b)(2)  
54-41 under which an employee should consult a supervisor regarding a  
54-42 case must be consistent with the risk assessment criteria developed  
54-43 under Section 48.004 that require consultation with a supervisor.

54-44 (h) The executive commissioner by rule shall provide  
54-45 policies and procedures by which the department incorporates  
54-46 examples of actual cases investigated by the department in the  
54-47 training programs under this section for use as training tools.

54-48 (i) In implementing the training program and continuing  
54-49 education programs under this section, the department, to the  
54-50 maximum extent possible, shall contract with persons who are not  
54-51 department employees to conduct the programs.

54-52 SECTION 2.04. (a) Subchapter C, Chapter 40, Human  
54-53 Resources Code, is amended by adding Section 40.0515 to read as  
54-54 follows:

54-55 Sec. 40.0515. QUALITY ASSURANCE PROGRAM FOR ADULT  
54-56 PROTECTIVE SERVICES; QUARTERLY REPORTS. (a) The department shall  
54-57 develop and implement a quality assurance program for adult  
54-58 protective services provided by or on behalf of the department.

54-59 (b) In developing the program, the department shall  
54-60 establish:

54-61 (1) client-centered outcome measures for each of the  
54-62 following functions of the adult protective services program:

54-63 (A) intake process;

54-64 (B) investigations;

54-65 (C) risk assessment determinations; and

54-66 (D) delivery of protective services;

54-67 (2) minimum job performance standards for personnel  
54-68 and each work department of the adult protective services division  
54-69 of the department; and

(3) procedures for conducting periodic performance reviews to monitor compliance with the standards established under Subdivision (2), which must include requirements that, for each caseworker in the adult protective services division of the department, a supervisor shall conduct:

(A) at least two performance reviews each year, if the employee has less than two years of adult protective services casework experience; and

(B) at least one performance review each year, if the employee has at least two years of adult protective services casework experience.

(c) The department shall promptly address a person's or work department's failure to meet minimum job performance standards established under Subsection (b)(2):

(1) by issuing to the person or work department, as appropriate, a corrective action plan detailing the actions required to comply with the standards; or

(2) if necessary, through disciplinary action, including a person's demotion or discharge, for repeated failure to meet the standards.

(d) A performance review conducted under Subsection (b) (3) is considered a performance evaluation for purposes of Section 40.032(c). The department shall ensure that disciplinary or other corrective action is taken against a supervisor or other managerial employee who is required to conduct a performance evaluation under Section 40.032(c) or a performance review under Subsection (b) (3) and who fails to complete that evaluation or review in a timely manner.

(e) The annual performance evaluation required under Section 40.032(c) of the performance of a supervisor in the adult protective services division must:

(1) be performed by an appropriate program administrator; and

(2) include:

(A) an evaluation of the supervisor with respect to the job performance standards applicable to the supervisor's assigned duties; and

assigned duties; and  
(B) an evaluation of the supervisor with respect  
to the compliance of employees supervised by the supervisor with  
the job performance standards applicable to those employees'  
assigned duties.

(f) A summary of the findings of outcome measures established and performance reviews conducted under this section must be reported to regional directors and other senior management employees of the adult protective services division.

(g) Each fiscal quarter the department shall file with the governor and the presiding officer of each house of the legislature a report that includes:

(1) a comprehensive review of the adult protective services division's overall performance during the preceding quarter; and

(2) a summary of the adult protective services division's performance during the preceding quarter on each of the outcome measures established under Subsection (b)(1).

(b) The Department of Family and Protective Services shall submit the initial report required under Section 40.0515, Human Resources Code, as added by this section, not later than October 1, 2005.

SECTION 2.05. Subdivision (4), Subsection (a), Section 48.002, Human Resources Code, is amended to read as follows:

(4) "Neglect" means the failure to provide for one's self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide such goods or services. This term includes a person leaving a facility that provides medical care, against medical advice, if leaving places the person at imminent risk of physical or emotional harm and a physician has issued a written letter or certificate stating the person is not mentally competent.

56-1 SECTION 2.06. Subchapter A, Chapter 48, Human Resources  
 56-2 Code, is amended by adding Section 48.004 to read as follows:

56-3 Sec. 48.004. RISK ASSESSMENT. The executive commissioner  
 56-4 by rule shall develop and maintain risk assessment criteria for use  
 56-5 by department personnel in determining whether an elderly or  
 56-6 disabled person is in imminent risk of abuse, neglect, or  
 56-7 exploitation or in a state of abuse, neglect, or exploitation and  
 56-8 needs protective services. The criteria must:

56-9 (1) provide for a comprehensive assessment of the  
 56-10 person's:

56-11 (A) environmental, physical, medical, mental  
 56-12 health, and financial condition;

56-13 (B) social interaction and support; and

56-14 (C) need for legal intervention; and

56-15 (2) specify the circumstances under which a caseworker  
 56-16 must consult with a supervisor regarding a case.

56-17 SECTION 2.07. Subchapter A, Chapter 48, Human Resources  
 56-18 Code, is amended by adding Sections 48.005 and 48.006 to read as  
 56-19 follows:

56-20 Sec. 48.005. MAINTENANCE OF RECORDS. Notwithstanding  
 56-21 Chapter 441, Government Code, or any other law, the department  
 56-22 shall maintain in an electronic format a summary of all records  
 56-23 related to investigations of reports made under Section 48.051 that  
 56-24 includes only critical information with respect to those  
 56-25 investigations that will enable the department to research the  
 56-26 history of a person's involvement in the investigated cases.

56-27 Sec. 48.006. COMMUNITY SATISFACTION SURVEY. (a) The  
 56-28 department shall develop a community satisfaction survey that  
 56-29 solicits information regarding the department's performance with  
 56-30 respect to providing investigative and adult protective services.  
 56-31 In each region, the department shall send the survey at least  
 56-32 annually to:

56-33 (1) stakeholders in the adult protective services  
 56-34 system, including local law enforcement agencies and prosecutors'  
 56-35 offices;

56-36 (2) protective services agencies, including nonprofit  
 56-37 agencies; and

56-38 (3) courts with jurisdiction over probate matters.

56-39 (b) The department shall send the results of each region's  
 56-40 survey to:

56-41 (1) the region for evaluation by regional and program  
 56-42 administrators and implementation of changes necessary to address  
 56-43 community concerns;

56-44 (2) the presiding judge of the statutory probate  
 56-45 courts in that region; and

56-46 (3) courts with jurisdiction over probate matters in  
 56-47 that region.

56-48 (c) The department may not include any confidential  
 56-49 information in the results of the survey provided under Subsection  
 56-50 (b)(2) or (3) unless ordered by a court.

56-51 SECTION 2.08. Section 48.051, Human Resources Code, is  
 56-52 amended by adding Subsection (e) to read as follows:

56-53 (e) If a person who makes a report under this section  
 56-54 chooses to give self-identifying information, the caseworker who  
 56-55 investigates the report shall contact the person if necessary to  
 56-56 obtain any additional information required to assist the person who  
 56-57 is the subject of the report.

56-58 SECTION 2.09. Section 48.101, Human Resources Code, is  
 56-59 amended by amending Subsections (d) and (e) and adding Subsections  
 56-60 (d-1), (e-1), (g), and (g-1) to read as follows:

56-61 (d) The executive commissioner shall adopt rules providing  
 56-62 [department or investigating state agency by rule shall provide]  
 56-63 for the release, on request, to a person who is the subject of a  
 56-64 report of abuse, neglect, or exploitation or to that person's legal  
 56-65 representative of otherwise confidential information relating to  
 56-66 that report. The department or investigating state agency shall  
 56-67 edit the information before release to protect the confidentiality  
 56-68 of information relating to the reporter's identity and to protect  
 56-69 any other individual whose safety or welfare may be endangered by

57-1 disclosure.

57-2 (d-1) Subject to Subsection (e-1), the executive  
 57-3 commissioner shall adopt rules providing for the release, on  
 57-4 request, by the department or investigating state agency of  
 57-5 otherwise confidential information relating to a person who is the  
 57-6 subject of a report or investigation of abuse, neglect, or  
 57-7 exploitation or to whom the department has provided protective  
 57-8 services, to:

57-9 (1) a court that has a matter pending before it that  
 57-10 involves the person;

57-11 (2) the attorney ad litem or any other legal  
 57-12 representative, other than a guardian, appointed for the person;  
 57-13 and

57-14 (3) the person's legal guardian.

57-15 (e) The executive commissioner ~~[department or investigating~~  
 57-16 ~~state agency]~~ may adopt rules relating to the release of  
 57-17 information by the department or investigating state agency that is  
 57-18 contained in the record of a deceased individual who was the subject  
 57-19 of an investigation conducted by the department or investigating  
 57-20 state agency or to whom the department has provided protective  
 57-21 services. The rules must be consistent with the purposes of this  
 57-22 chapter and any applicable state or federal law. The executive  
 57-23 commissioner shall adopt rules, subject to Subsection (e-1), that  
 57-24 provide for the release, on request, of otherwise confidential  
 57-25 information in the deceased person's record to the personal  
 57-26 representative appointed for the person's estate.

57-27 (e-1) Information released by the department or an  
 57-28 investigating state agency under Subsection (d-1) or to a personal  
 57-29 representative under Subsection (e) may not include the identity of  
 57-30 the person who made the report of abuse, neglect, or exploitation.

57-31 (g) The department may establish procedures to exchange  
 57-32 with a community service provider or local governmental entity  
 57-33 confidential information relating to a report made under Section  
 57-34 48.051(a) that is necessary for the department, provider, or entity  
 57-35 to provide protective services, health care services, housing  
 57-36 services, or social services to the person who is the subject of the  
 57-37 report. An exchange of information under this subsection does not  
 57-38 affect whether the information is subject to disclosure under  
 57-39 Chapter 552, Government Code.

57-40 (g-1) The executive commissioner by rule shall provide  
 57-41 policies and procedures that are designed to guard against the  
 57-42 unauthorized release or dissemination of confidential information  
 57-43 that is exchanged under Subsection (g).

57-44 SECTION 2.10. (a) Subchapter D, Chapter 48, Human  
 57-45 Resources Code, is amended by adding Section 48.1521 to read as  
 57-46 follows:

57-47 Sec. 48.1521. INVESTIGATION OF COMPLEX CASES. (a) The  
 57-48 department shall develop and implement a system to ensure that, to  
 57-49 the greatest extent possible, investigations conducted by the  
 57-50 department that involve especially complex issues of abuse,  
 57-51 neglect, or exploitation, such as issues associated with  
 57-52 self-neglect, mental health, or financial exploitation, are:

57-53 (1) assigned to personnel who have experience and  
 57-54 training in those issues; and  
 57-55 (2) monitored by a special task unit for complex  
 57-56 cases.

57-57 (b) Each county with a population of 250,000 or more shall  
 57-58 appoint persons to serve as standing members of a special task unit  
 57-59 to monitor cases that arise in the county and require monitoring as  
 57-60 provided by Subsection (a). The standing members of each special  
 57-61 task unit must include:

57-62 (1) a provider of mental health services or aging  
 57-63 services or a representative of a nonprofit entity serving persons  
 57-64 with disabilities;

57-65 (2) a representative of a law enforcement agency; and

57-66 (3) a legal expert.

57-67 (c) In addition to the standing members specified by  
 57-68 Subsection (b), the special task unit:

57-69 (1) must include, for purposes of monitoring a

58-1 particular case, the caseworker on the case and the caseworker's  
58-2 supervisor; and

58-3 (2) may include a financial forensics expert and any  
58-4 other person with expertise that would be useful in monitoring a  
58-5 particular case.

58-6 (d) The department shall develop and make available to each  
58-7 county described by Subsection (b) a manual to assist the county in  
58-8 establishing and operating the special task unit required by this  
58-9 section. The manual must describe:

58-10 (1) the purpose and potential benefits of the unit;

58-11 (2) a description of the monitoring process the unit  
58-12 is expected to follow and potential problems the unit may  
58-13 encounter;

58-14 (3) the composition and administration of the unit;  
58-15 and

58-16 (4) the department's criteria for selecting cases to  
58-17 be monitored by the unit.

58-18 (e) Before the special task unit makes a recommendation that  
58-19 a guardian be appointed for a person in a case being monitored by  
58-20 the unit, the unit shall thoroughly consider all less-restrictive  
58-21 alternatives for legal intervention in the case.

58-22 (b) Subchapter D, Chapter 48, Human Resources Code, is  
58-23 amended by adding Section 48.1521 to read as follows:

58-24 Sec. 48.1521. INVESTIGATION OF COMPLEX CASES. (a) In this  
58-25 section, "local aging and disabled authority" means a local aging  
58-26 and disabled authority that provides aging and disabled services in  
58-27 a local service region under Subchapter M, Chapter 531, Government  
58-28 Code.

58-29 (b) The department shall develop and implement a system to  
58-30 ensure that, to the greatest extent possible, investigations  
58-31 conducted by the department that involve especially complex issues  
58-32 of abuse, neglect, or exploitation, such as issues associated with  
58-33 self-neglect, mental health, or financial exploitation, are:

58-34 (1) assigned to personnel who have experience and  
58-35 training in those issues; and

58-36 (2) monitored by a special task unit for complex  
58-37 cases.

58-38 (c) Each local aging and disabled authority shall appoint  
58-39 persons to serve as standing members of a special task unit to  
58-40 monitor cases that arise in the authority's local service region  
58-41 and require monitoring as provided by Subsection (b). The standing  
58-42 members of each special task unit must include:

58-43 (1) a provider of mental health services or aging  
58-44 services or a representative of a nonprofit entity serving persons  
58-45 with disabilities;

58-46 (2) a representative of a law enforcement agency; and  
58-47 (3) a legal expert.

58-48 (d) In addition to the standing members specified by  
58-49 Subsection (c), the special task unit:

58-50 (1) must include, for purposes of monitoring a  
58-51 particular case, the caseworker on the case and the caseworker's  
58-52 supervisor; and

58-53 (2) may include a financial forensics expert and any  
58-54 other person with expertise that would be useful in monitoring a  
58-55 particular case.

58-56 (e) The department shall develop and make available to each  
58-57 local aging and disabled authority a manual to assist the authority  
58-58 in establishing and operating the special task unit required by  
58-59 this section. The manual must describe:

58-60 (1) the purpose and potential benefits of the unit;

58-61 (2) a description of the monitoring process the unit  
58-62 is expected to follow and potential problems the unit may  
58-63 encounter;

58-64 (3) the composition and administration of the unit;  
58-65 and

58-66 (4) the department's criteria for selecting cases to  
58-67 be monitored by the unit.

58-68 (f) Before the special task unit makes a recommendation that  
58-69 a guardian be appointed for a person in a case being monitored by

59-1 the unit, the unit shall thoroughly consider all less-restrictive  
 59-2 alternatives for legal intervention in the case.

59-3 (c) The Department of Family and Protective Services shall  
 59-4 develop the manual required by Subsection (d), Section 48.1521,  
 59-5 Human Resources Code, as added by Subsection (a) of this section, or  
 59-6 Subsection (e), Section 48.1521, Human Resources Code, as added by  
 59-7 Subsection (b) of this section, as soon as possible after the  
 59-8 effective date of this article. In developing the manual, the  
 59-9 department shall use Wisconsin's Elder Abuse Interdisciplinary  
 59-10 Team Manual as a model.

59-11 (d) Section 48.1521, Human Resources Code, as added by  
 59-12 Subsection (a) of this section, takes effect only if neither Senate  
 59-13 Bill 194 nor House Bill 470, proposed by the 79th Legislature,  
 59-14 Regular Session, 2005, relating to the local delivery of aging,  
 59-15 disability, behavioral health, and mental retardation services, is  
 59-16 enacted and becomes law. If Senate Bill 194 or House Bill 470 is  
 59-17 enacted and becomes law, Subsection (a) of this section has no  
 59-18 effect and Section 48.1521, Human Resources Code, as added by  
 59-19 Subsection (b) of this section, takes effect. If neither bill is  
 59-20 enacted or becomes law, Subsection (b) of this section has no  
 59-21 effect.

59-22 SECTION 2.11. Subchapter D, Chapter 48, Human Resources  
 59-23 Code, is amended by adding Section 48.1522 to read as follows:

59-24 Sec. 48.1522. MANAGEMENT REVIEW FOLLOWING CERTAIN  
 59-25 INVESTIGATIONS. If the department receives and investigates a  
 59-26 report made under Section 48.051, the subject of which is a person  
 59-27 with respect to whom the department received and investigated two  
 59-28 previous reports under that section and closed those  
 59-29 investigations, an adult protective services supervisor shall:

59-30 (1) classify the case as a recidivist case;  
 59-31 (2) review the reports and investigation files  
 59-32 concerning that person; and  
 59-33 (3) assist the caseworker and supervisor  
 59-34 investigating the third report in developing a long-term plan for  
 59-35 resolving the issues involved in the case.

59-36 SECTION 2.12. Subchapter D, Chapter 48, Human Resources  
 59-37 Code, is amended by adding Section 48.158 to read as follows:

59-38 Sec. 48.158. STATUS REPORT OF INVESTIGATION.  
 59-39 (a) Notwithstanding any other law, the department, on written  
 59-40 request, shall provide to a person who makes a report of alleged  
 59-41 abuse, neglect, or exploitation under Section 48.051(a)  
 59-42 information on the status of the investigation conducted with  
 59-43 respect to the report, unless the department determines that  
 59-44 providing the information would:

59-45 (1) jeopardize the investigation; or  
 59-46 (2) endanger the safety or welfare of the person who is  
 59-47 the subject of the report.

59-48 (b) For purposes of Subsection (a), the status of an  
 59-49 investigation must be designated as:

59-50 (1) ongoing;  
 59-51 (2) closed, with a determination that the person who  
 59-52 was the subject of the report needs protective services; or  
 59-53 (3) closed, with a determination that the person who  
 59-54 was the subject of the report does not need protective services.

59-55 (c) The information provided under Subsection (a) must  
 59-56 include information relating to whether protective services are  
 59-57 being provided to the person who was the subject of the report.

59-58 SECTION 2.13. Subchapter D, Chapter 48, Human Resources  
 59-59 Code, is amended by adding Section 48.159 to read as follows:

59-60 Sec. 48.159. INTERNAL REVIEW OF DEPARTMENT INVESTIGATION.  
 59-61 (a) The department shall establish procedures for conducting an  
 59-62 internal review of completed investigations conducted by the  
 59-63 department under this chapter to:

59-64 (1) determine whether information obtained during the  
 59-65 intake process was sufficient and accurate;  
 59-66 (2) assess whether telephone calls were appropriately  
 59-67 routed;  
 59-68 (3) assess whether investigations were appropriately  
 59-69 classified and prioritized;

60-1 (4) evaluate the case reports for any special issues  
 60-2 or requirements;

60-3 (5) assess whether appropriate law enforcement  
 60-4 agencies were notified of any suspected criminal conduct; and  
 60-5 (6) identify other relevant information to enable the  
 60-6 department to take any corrective action necessary to improve the  
 60-7 process of conducting investigations under this chapter.

60-8 (b) The department shall ensure that an internal review of a  
 60-9 completed investigation is conducted before the investigation is  
 60-10 closed or before the case results in the delivery of protective  
 60-11 services.

60-12 SECTION 2.14. Section 48.202, Human Resources Code, is  
 60-13 amended to read as follows:

60-14 Sec. 48.202. SERVICE DETERMINATION BY DEPARTMENT OR AGENCY.  
 60-15 (a) In an investigation the department or state agency, as  
 60-16 appropriate, shall determine:

60-17 (1) whether the person needs protective services from  
 60-18 the department;

60-19 (2) what services are needed;

60-20 (3) whether services are available from the  
 60-21 department, from the state agency, or in the community and how they  
 60-22 can be provided;

60-23 (4) whether the person, acting alone, would be capable  
 60-24 of obtaining needed services and could bear the cost or would be  
 60-25 eligible for services from the department or state agency;

60-26 (5) whether a caretaker would be willing to provide  
 60-27 services or would agree to their provision [provisions];

60-28 (6) whether the elderly or disabled person desires the  
 60-29 services; [and]

60-30 (7) whether the person needs legal intervention to  
 60-31 resolve the person's abuse, neglect, or exploitation and, if so,  
 60-32 what type of intervention is needed; and

60-33 (8) other pertinent data.

60-34 (b) If the department or state agency, as appropriate,  
 60-35 determines under Subsection (a)(1) that a person needs protective  
 60-36 services, the department or agency shall, in determining how those  
 60-37 services can be provided as required by Subsection (a)(3),  
 60-38 determine whether the person is eligible for community-based  
 60-39 long-term care services and whether those services are available.  
 60-40 If the person is eligible for those services, but the services are  
 60-41 not immediately available, the department or state agency shall  
 60-42 ensure that the person is placed on an appropriate waiting list for  
 60-43 the services and that the person's abuse, neglect, or exploitation  
 60-44 is resolved before the department closes the case.

60-45 SECTION 2.15. Subchapter E, Chapter 48, Human Resources  
 60-46 Code, is amended by adding Section 48.2055 to read as follows:

60-47 Sec. 48.2055. TEMPORARY EMERGENCY SHELTERS. (a) The  
 60-48 department, in conjunction with the Department of Aging and  
 60-49 Disability Services and the Department of State Health Services,  
 60-50 shall develop and implement a program to provide, subject to  
 60-51 availability of funds, temporary emergency shelter to an elderly or  
 60-52 disabled person for whom the department obtains an emergency order  
 60-53 under Section 48.208 requiring that the person be moved to safer  
 60-54 surroundings.

60-55 (b) The department, the Department of Aging and Disability  
 60-56 Services, and the Department of State Health Services shall enter  
 60-57 into a memorandum of understanding to clearly define the  
 60-58 responsibilities of each agency under this section.

60-59 (c) Temporary emergency shelter under this section:

60-60 (1) may not be provided for more than 30 days; and

60-61 (2) must be provided in a community-based facility  
 60-62 that is the least restrictive environment available, if possible.

60-63 (d) If temporary emergency shelter described by Subsection  
 60-64 (c)(2) is not available and a person is placed in an institution,  
 60-65 including a nursing facility, an ICF-MR, as defined by Section  
 60-66 531.002, Health and Safety Code, and an institution for the  
 60-67 mentally retarded licensed by a health and human services agency,  
 60-68 as defined by Section 531.001, Government Code, the department  
 60-69 shall ensure that the person is evaluated for community-based

61-1 services and, if appropriate, is provided transition services  
 61-2 through Department of Aging and Disability Services programs to  
 61-3 enable the person to leave the institution and receive  
 61-4 community-based services.

61-5 (e) The executive commissioner shall adopt rules to  
 61-6 implement this section.

61-7 SECTION 2.16. Section 48.208, Human Resources Code, is  
 61-8 amended by amending Subsections (c) and (e) and adding Subsections  
 61-9 (c-1), (c-2), and (c-3) to read as follows:

61-10 (c) The petition shall be verified and shall include:  
 61-11 (1) the name, age, and address of the elderly or  
 61-12 disabled person who needs protective services;  
 61-13 (2) the nature of the abuse, neglect, or exploitation;  
 61-14 (3) the services needed; and  
 61-15 (4) a medical report signed by a physician, physician  
 61-16 assistant, registered nurse, or advanced practice nurse, subject to  
 61-17 Subsection (c-3), that contains the information required by  
 61-18 Subsection (c-1) or a psychological report signed by a psychologist  
 61-19 licensed under Chapter 501, Occupations Code, or a licensed master  
 61-20 social worker, as defined by Section 505.002, Occupations Code,  
 61-21 that contains the information required by Subsection (c-2),  
 61-22 [stating that the person is suffering from abuse, neglect, or  
 61-23 exploitation presenting a threat to life or physical safety and  
 61-24 stating that the person is physically or mentally incapable of  
 61-25 consenting to services] unless the court finds that an immediate  
 61-26 danger to the health or safety of the elderly or disabled person  
 61-27 exists and there is not sufficient time to obtain the medical or  
 61-28 psychological report.

61-29 (c-1) A medical report obtained from a physician, physician  
 61-30 assistant, registered nurse, or advanced practice nurse under  
 61-31 Subsection (c)(4) must state:

61-32 (1) that the person is reported to be suffering from  
 61-33 abuse, neglect, or exploitation, which may present a threat to life  
 61-34 or physical safety;

61-35 (2) that the person has impaired judgment that results  
 61-36 in the person being physically or mentally incapable of consenting  
 61-37 to services; and

61-38 (3) whether the person has provided the person's  
 61-39 medical history to the physician, physician assistant, registered  
 61-40 nurse, or advanced practice nurse, as applicable.

61-41 (c-2) A psychological report obtained from a licensed  
 61-42 psychologist or licensed master social worker under Subsection  
 61-43 (c)(4) must state that the person:

61-44 (1) is reported to be suffering from abuse, neglect,  
 61-45 or exploitation, which may present a threat to life or physical  
 61-46 safety; and

61-47 (2) is believed to be mentally incapable of consenting  
 61-48 to services.

61-49 (c-3) The department shall determine whether a medical or  
 61-50 psychological report required under Subsection (c)(4) is most  
 61-51 appropriate, considering the circumstances of the person with  
 61-52 respect to whom the petition is filed under Subsection (b), and  
 61-53 shall obtain that report from the appropriate professional. If the  
 61-54 department determines that a medical report is most appropriate,  
 61-55 the department may obtain that report from a physician assistant,  
 61-56 registered nurse, or advanced practice nurse only if a physician is  
 61-57 not available.

61-58 (e) The emergency order expires at the end of 72 hours from  
 61-59 the time of the order unless the 72-hour period ends on a Saturday,  
 61-60 Sunday, or legal holiday in which event the order is automatically  
 61-61 extended to 4 p.m. on the first succeeding business day. An order  
 61-62 may be renewed for not more than 30 [14] additional days. A renewal  
 61-63 order that ends on a Saturday, Sunday, or legal holiday is  
 61-64 automatically extended to 4 p.m. on the first succeeding business  
 61-65 day. The court may modify or terminate the emergency order on  
 61-66 petition of the department, the incapacitated person, or any person  
 61-67 interested in his welfare.

61-68 SECTION 2.17. Chapter 48, Human Resources Code, is amended  
 61-69 by adding Subchapter J to read as follows:

## SUBCHAPTER J. OPTION FOR LOCAL PROVISION OF SERVICES

Sec. 48.451. DEFINITION. In this subchapter, "local entity" means a local public or private agency, corporation, board, or organization.

Sec. 48.452. PRELIMINARY INFORMATION PROVIDED BY DEPARTMENT. On the request of the commissioners court of a county or the commissioners courts of two or more counties that want to explore forming a cooperative for purposes of this subchapter, the department shall provide sufficient information to the commissioners court or commissioners courts, as applicable, to enable an assessment of whether one or more functions and duties of the department under this chapter could be performed by the county or counties directly, through contracts with local entities, or both, in a more efficient and effective manner than the manner in which the functions and duties are performed by the department.

Sec. 48.453. PROVISION OF SERVICES BY COUNTIES AUTHORIZED.

(a) A county or two or more counties that form a cooperative as provided by Section 48.454 may, subject to the requirements of this subchapter, opt to perform one or more functions and duties of the department under this chapter if the county or counties, as applicable, determine that those functions and duties could be performed more efficiently and effectively in the manner described by Section 48.452.

(b) Functions and duties of the department that a county or counties may opt to perform include:

(1) conducting investigations of reports of abuse, neglect, or exploitation of an elderly or disabled person, other than an investigation under Subchapter F, G, or H; and

(2) providing protective services as necessary to a person who is the subject of an investigation.

(c) A county or cooperative that opts to conduct investigations described by Subsection (b)(1) and to provide protective services described by Subsection (b)(2) shall ensure that:

(1) if the county or cooperative directly conducts investigations, the county or cooperative does not also directly provide protective services; and

(2) if a local entity conducts investigations under a contract with the county or cooperative, that local entity does not also provide protective services.

counties may form a cooperative to perform functions and duties of the department as authorized by Section 48.453. To form a cooperative, the counties must:

(1) enter into an interlocal cooperation contract under Chapter 791, Government Code; and

(2) designate one of the counties that is a party to the interlocal cooperation contract as the entity that, on behalf of the cooperative, will contract with the department under this subchapter and monitor and enforce any contracts the cooperative enters into with local entities.

Sec. 48.455. LOCAL ADULT PROTECTIVE SERVICES PLAN.

(a) Before a county or cooperative may perform one or more functions and duties of the department as authorized by Section 48.453, the county or cooperative must submit to the department for approval a local adult protective services plan under which the county or cooperative will assume and provide for the performance of those functions and duties.

(b) If a county or cooperative intends to perform all or part of those functions and duties through contracts with local entities, the county or cooperative, as applicable, shall solicit and accept proposals from local entities for performing those functions and duties.

(c) A local adult protective services plan required under this section must:

(1) specify which of the department's functions and duties the county or cooperative is proposing to perform directly or through contracts with local entities;

(2) include proposals submitted to the county or

63-1 cooperative, as applicable, by local entities, if the county or  
63-2 cooperative intends to perform all or part of the specified  
63-3 functions and duties through contracts with local entities; and

63-4 (3) demonstrate that the county or cooperative or the  
63-5 local entities through which the county or cooperative would  
63-6 perform the specified functions and duties will:

63-7 (A) on entering into a contract to perform the  
63-8 functions and duties, have sufficient resources, including  
63-9 personnel, and adequate technological support, training, and  
63-10 expertise to perform those functions and duties; and

63-11 (B) if appropriate, provide persons needing  
63-12 adult protective services with immediate access to community-based  
63-13 services that may prevent the need for the appointment of guardians  
63-14 for those persons.

63-15 (d) The department shall evaluate the local adult  
63-16 protective services plan submitted under Subsection (a) and, not  
63-17 later than the 60th day after the plan is submitted, approve or  
63-18 disapprove the plan in writing. If during the 60-day period the  
63-19 department determines that additional information is needed to  
63-20 adequately assess the plan, the department shall:

63-21 (1) notify the county or cooperative, as applicable,  
63-22 of that determination;

63-23 (2) request the necessary information with sufficient  
63-24 specificity as to allow the county or cooperative, as applicable,  
63-25 to respond with the information; and

63-26 (3) provide the county or cooperative, as applicable,  
63-27 a reasonable period in which to respond with the necessary  
63-28 information.

63-29 Sec. 48.456. DEPARTMENT CONTRACT WITH COUNTY OR  
63-30 COOPERATIVE. (a) Not later than the 30th day after the date the  
63-31 department approves a local adult protective services plan under  
63-32 Section 48.455, the department shall enter into a contract with the  
63-33 county or cooperative, as applicable, under which the county or  
63-34 cooperative, either directly or through contracts with the local  
63-35 entities whose proposals were included in the plan, performs the  
63-36 department's functions and duties that are specified in the plan.

63-37 (b) The department may not pay less under the terms of a  
63-38 contract under this section for the performance of the functions  
63-39 and duties specified in the contract than the department would  
63-40 otherwise spend in directly performing those functions and duties  
63-41 in the county or counties included in the cooperative.

63-42 (c) A contract under Subsection (a) between the department  
63-43 and a county or cooperative must:

63-44 (1) provide for a 90-day transition period during  
63-45 which:

63-46 (A) the performance of functions and duties  
63-47 specified in the contract will transfer from the department to the  
63-48 county, cooperative, or local entity that will ultimately perform  
63-49 the functions and duties; and

63-50 (B) the department will cooperate with each  
63-51 county, cooperative, or local entity that will perform the  
63-52 specified functions and duties to provide technical assistance,  
63-53 adequate training, and expertise to the county, cooperative, or  
63-54 entity before the transfer occurs;

63-55 (2) require the county or cooperative to file a report  
63-56 with the department once each calendar quarter that includes  
63-57 information required by rules adopted by the executive commissioner  
63-58 regarding the performance of the functions and duties; and

63-59 (3) include provisions:  
63-60 (A) imposing fiscal accountability measures; and  
63-61 (B) allowing the department to monitor the  
63-62 performance of the functions and duties by local entities with  
63-63 which the county or cooperative contracts under Section 48.457, if  
63-64 applicable.

63-65 (d) The department shall ensure that, under a contract  
63-66 entered into with a county or cooperative under this section, the  
63-67 department's functions and duties under this chapter are performed  
63-68 in accordance with all applicable laws. The department shall  
63-69 monitor and enforce the terms of the contract, including the fiscal

64-1 accountability measures. The department shall include a provision  
 64-2 in the contract that allows the department to terminate the  
 64-3 contract and resume performing the functions and duties specified  
 64-4 in the contract if, under the contract between the department and  
 64-5 the county or cooperative or under a contract between the county or  
 64-6 cooperative and a local entity, the functions and duties are not  
 64-7 performed in accordance with all applicable laws or the terms of the  
 64-8 applicable contract.

64-9 Sec. 48.457. COUNTY OR COOPERATIVE CONTRACTS WITH LOCAL  
 64-10 ENTITIES. (a) A county or cooperative may contract with a local  
 64-11 entity whose proposal was included in the county's or cooperative's  
 64-12 local adult protective services plan to perform one or more of the  
 64-13 department's functions and duties specified in the plan. The  
 64-14 county or cooperative may contract with any other local entity to  
 64-15 perform one or more of those functions and duties with the  
 64-16 department's written approval.

64-17 (b) A contract under this section must require the local  
 64-18 entity to provide the county or cooperative with information as  
 64-19 needed to enable the county or cooperative to comply with the  
 64-20 reporting requirement specified by Section 48.456(c)(2). The  
 64-21 contract must also specify that the department is authorized to  
 64-22 monitor the local entity's performance of functions and duties  
 64-23 specified in the contract and require the entity to cooperate with  
 64-24 that monitoring.

64-25 Sec. 48.458. DEPARTMENT PROHIBITED FROM DIRECT PROVISION OF  
 64-26 CERTAIN SERVICES. Except as provided by Section 48.456(d) and  
 64-27 notwithstanding any other provision of this chapter, beginning on  
 64-28 the 91st day after the date the department enters into a contract  
 64-29 with a county or cooperative under Section 48.456:

64-30 (1) the department may not directly perform the  
 64-31 functions and duties specified in the contract; and

64-32 (2) the county or cooperative and any local entities  
 64-33 with which the county or cooperative contracts under Section 48.457  
 64-34 have all powers and privileges granted to and duties imposed on the  
 64-35 department under this chapter with respect to those functions and  
 64-36 duties.

64-37 SECTION 2.18. (a) Subchapter B, Chapter 531, Government  
 64-38 Code, is amended by adding Section 531.0551 to read as follows:

64-39 Sec. 531.0551. MEMORANDUM OF UNDERSTANDING ON SERVICES FOR  
 64-40 CERTAIN ELDERLY OR DISABLED PERSONS NEEDING MULTIAGENCY SERVICES.

64-41 (a) In this section, "disabled person," "elderly person," and  
 64-42 "protective services" have the meanings assigned by Section 48.002,  
 64-43 Human Resources Code.

64-44 (b) The commission and each health and human services agency  
 64-45 shall adopt a joint memorandum of understanding to implement a  
 64-46 system of local-level interagency staffing groups to coordinate  
 64-47 services for an elderly or disabled person who needs multiagency  
 64-48 services in addition to receiving protective services from or on  
 64-49 behalf of the Department of Family and Protective Services.

64-50 (c) The memorandum must:

64-51 (1) clarify the financial and statutory  
 64-52 responsibilities of each agency with respect to elderly or disabled  
 64-53 persons needing multiagency services in addition to protective  
 64-54 services, including subcategories of funding for different  
 64-55 services such as case management, arranging for psychiatric and  
 64-56 health evaluation, home care, health care, and investigation  
 64-57 services;

64-58 (2) include a functional definition of "elderly and  
 64-59 disabled persons needing multiagency services in addition to  
 64-60 protective services";

64-61 (3) define procedures for cost sharing among the  
 64-62 commission and the health and human services agencies adopting the  
 64-63 memorandum;

64-64 (4) define procedures aimed at eliminating  
 64-65 duplication of services relating to assessment and diagnosis,  
 64-66 treatment, social services, residential placement and care, and  
 64-67 case management of elderly and disabled persons needing multiagency  
 64-68 services in addition to protective services;

64-69 (5) define procedures for addressing disputes between

65-1 the agencies that relate to the agencies' areas of service  
 65-2 responsibilities;

65-3 (6) provide that each local-level interagency  
 65-4 staffing group includes:

65-5 (A) a local representative of each agency;

65-6 (B) one or more representatives of local private  
 65-7 sector agencies;

65-8 (C) a representative of a local law enforcement  
 65-9 agency;

65-10 (D) a health care provider; and

65-11 (E) one or more family members or caregivers of  
 65-12 elderly or disabled persons needing multiagency services in  
 65-13 addition to protective services;

65-14 (7) provide that the local representative of each  
 65-15 agency has authority to contribute agency resources to solving  
 65-16 problems identified by the local-level interagency staffing group;

65-17 (8) provide that if an elderly or disabled person's  
 65-18 needs exceed the resources of an agency or an agency is not able to  
 65-19 provide all the services an elderly or disabled person requires,  
 65-20 the agency may, with the consent of the person's legal guardian, if  
 65-21 applicable, submit a referral on behalf of the person or the  
 65-22 person's case history to the local-level interagency staffing group  
 65-23 for consideration;

65-24 (9) provide that a local-level interagency staffing  
 65-25 group may be called together by a representative of any member  
 65-26 agency;

65-27 (10) provide that an agency representative may be  
 65-28 excused from attending a meeting if the staffing group determines  
 65-29 that the age or needs of the person to be considered are clearly not  
 65-30 within the agency's service responsibilities, provided that each  
 65-31 agency representative is encouraged to attend all meetings to  
 65-32 contribute to the collective ability of the staffing group to solve  
 65-33 an elderly or disabled person's need for multiagency services in  
 65-34 addition to protective services;

65-35 (11) provide that records that are used or developed  
 65-36 by a local-level interagency staffing group or its members and that  
 65-37 relate to a particular elderly or disabled person are confidential  
 65-38 and may not be released to any other person or agency except as  
 65-39 provided by this section or by other law; and

65-40 (12) subject to the requirements of the Health  
 65-41 Insurance Portability and Accountability Act of 1996 (42 U.S.C.  
 65-42 Section 1320d et seq.), provide a procedure that permits the  
 65-43 agencies and local-level interagency staffing groups to share  
 65-44 confidential information while preserving the confidential nature  
 65-45 of the information.

65-46 (d) The agencies that participate in the formulation of the  
 65-47 memorandum of understanding shall consult with and solicit input  
 65-48 from advocacy and consumer groups.

65-49 (e) Each agency shall adopt the memorandum of understanding  
 65-50 and all revisions to the memorandum. Not later than the last month  
 65-51 of each state fiscal year, each agency shall review and update the  
 65-52 memorandum. The agencies shall develop revisions as necessary to  
 65-53 reflect major agency reorganizations or statutory changes  
 65-54 affecting the agencies.

65-55 (f) The agencies shall ensure that a state-level  
 65-56 interagency staffing group provides to the executive commissioner  
 65-57 of the Health and Human Services Commission, the commissioner of  
 65-58 each agency, the governor, the lieutenant governor, the speaker of  
 65-59 the house of representatives, and the presiding officers of each  
 65-60 house and senate standing committee having jurisdiction over adult  
 65-61 protective services a biennial report that includes:

65-62 (1) the number of elderly or disabled persons served  
 65-63 through the local-level interagency staffing groups established  
 65-64 under this section and the outcomes of the services provided;

65-65 (2) a description of any barriers identified to the  
 65-66 state's ability to provide effective services to elderly or  
 65-67 disabled persons needing multiagency services in addition to  
 65-68 protective services; and

65-69 (3) any other information relevant to improving the

66-1 delivery of services to elderly or disabled persons needing  
 66-2 multiagency services in addition to protective services.

66-3 (b) Not later than March 1, 2006, the Department of Family  
 66-4 and Protective Services, the Health and Human Services Commission,  
 66-5 the Department of Aging and Disability Services, the Department of  
 66-6 State Health Services, and the Department of Assistive and  
 66-7 Rehabilitative Services shall adopt a joint memorandum of  
 66-8 understanding as prescribed by Section 531.0551, Government Code,  
 66-9 as added by this section.

66-10 SECTION 2.19. The heading of Section 531.055, Government  
 66-11 Code, is amended to read as follows:

66-12 Sec. 531.055. MEMORANDUM OF UNDERSTANDING ON SERVICES FOR  
 66-13 CERTAIN PERSONS NEEDING MULTIAGENCY SERVICES.

66-14 SECTION 2.20. Subsections (a), (b), and (e), Section  
 66-15 531.055, Government Code, are amended to read as follows:

66-16 (a) Each health and human services agency, the Texas Council  
 66-17 on Offenders with Mental Impairments, the Texas Department of  
 66-18 Criminal Justice, the Texas Department of Housing and Community  
 66-19 Affairs, the Texas Education Agency, the Texas Workforce  
 66-20 Commission, and the Texas Youth Commission shall adopt a joint  
 66-21 memorandum of understanding to promote a system of local-level  
 66-22 interagency staffing groups to coordinate services for persons  
 66-23 needing multiagency services other than elderly or disabled persons  
 66-24 served through the local-level interagency staffing groups  
 66-25 established under Section 531.0551.

66-26 (b) The memorandum must:

66-27 (1) clarify the statutory responsibilities of each  
 66-28 agency in relation to persons needing multiagency services other  
 66-29 than elderly or disabled persons served under Section 531.0551,  
 66-30 including subcategories for different services such as prevention,  
 66-31 family preservation and strengthening, aging in place, emergency  
 66-32 shelter, diagnosis and evaluation, residential care, after-care,  
 66-33 information and referral, medical care, and investigation  
 66-34 services;

66-35 (2) include a functional definition for purposes of  
 66-36 this section of "persons needing multiagency services";

66-37 (3) outline membership, officers, and necessary  
 66-38 standing committees of local-level interagency staffing groups;

66-39 (4) define procedures aimed at eliminating  
 66-40 duplication of services relating to assessment and diagnosis,  
 66-41 treatment, residential placement and care, and case management of  
 66-42 persons needing multiagency services;

66-43 (5) define procedures for addressing disputes between  
 66-44 the agencies that relate to the agencies' areas of service  
 66-45 responsibilities;

66-46 (6) provide that each local-level interagency  
 66-47 staffing group includes:

66-48 (A) a local representative of each agency;  
 66-49 (B) representatives of local private sector  
 66-50 agencies; and

66-51 (C) family members or caregivers of persons  
 66-52 other than elderly or disabled persons served under Section  
 66-53 531.0551, who need [needing] multiagency services or other current  
 66-54 or previous consumers of multiagency services acting as general  
 66-55 consumer advocates;

66-56 (7) provide that the local representative of each  
 66-57 agency has authority to contribute agency resources to solving  
 66-58 problems identified by the local-level interagency staffing group;

66-59 (8) provide that if a person's needs exceed the  
 66-60 resources of an agency, the agency may, with the consent of the  
 66-61 person's legal guardian, if applicable, submit a referral on behalf  
 66-62 of the person to the local-level interagency staffing group for  
 66-63 consideration;

66-64 (9) provide that a local-level interagency staffing  
 66-65 group may be called together by a representative of any member  
 66-66 agency;

66-67 (10) provide that an agency representative may be  
 66-68 excused from attending a meeting if the staffing group determines  
 66-69 that the age or needs of the person to be considered are clearly not

67-1 within the agency's service responsibilities, provided that each  
 67-2 agency representative is encouraged to attend all meetings to  
 67-3 contribute to the collective ability of the staffing group to solve  
 67-4 a person's need for multiagency services;

67-5 (11) define the relationship between state-level  
 67-6 interagency staffing groups and local-level interagency staffing  
 67-7 groups in a manner that defines, supports, and maintains local  
 67-8 autonomy;

67-9 (12) provide that records that are used or developed  
 67-10 by a local-level interagency staffing group or its members that  
 67-11 relate to a particular person are confidential and may not be  
 67-12 released to any other person or agency except as provided by this  
 67-13 section or by other law; and

67-14 (13) provide a procedure that permits the agencies to  
 67-15 share confidential information while preserving the confidential  
 67-16 nature of the information.

67-17 (e) The agencies shall ensure that a state-level  
 67-18 interagency staffing group provides a biennial report to the  
 67-19 executive director of each agency, the legislature, and the  
 67-20 governor that includes:

67-21 (1) the number of persons served through the  
 67-22 local-level interagency staffing groups established under this  
 67-23 section and the outcomes of the services provided;

67-24 (2) a description of any barriers identified to the  
 67-25 state's ability to provide effective services to persons needing  
 67-26 multiagency services other than elderly or disabled persons served  
 67-27 through the local-level interagency staffing groups established  
 67-28 under Section 531.0551; and

67-29 (3) any other information relevant to improving the  
 67-30 delivery of services to persons needing multiagency services other  
 67-31 than elderly or disabled persons described by Subdivision (2).

67-32 SECTION 2.21. IMPLEMENTATION MONITORING; REPORT. (a) In  
 67-33 this section, "caseload" means the total number of open cases that  
 67-34 an adult protective services caseworker is assigned, regardless of  
 67-35 the number of cases with respect to which the caseworker performs  
 67-36 functions on a specified day.

67-37 (b) The Legislative Budget Board shall:

67-38 (1) monitor the implementation of this article by the  
 67-39 Department of Family and Protective Services; and

67-40 (2) not later than January 1, 2007, report to the  
 67-41 legislature regarding:

67-42 (A) the status of the implementation of this  
 67-43 article;

67-44 (B) whether department personnel are meeting  
 67-45 expectations with respect to the client-centered outcome measures  
 67-46 and minimum job performance standards established under Section  
 67-47 40.0515, Human Resources Code, as added by this article;

67-48 (C) the average caseload of each adult protective  
 67-49 services caseworker;

67-50 (D) the average amount of time spent  
 67-51 investigating an adult protective services case from the initial  
 67-52 report made under Section 48.051, Human Resources Code, as amended  
 67-53 by this article, to final disposition of the case, including the  
 67-54 average amount of time a caseworker spends writing reports and  
 67-55 completing other documentation in the case;

67-56 (E) the incidence of reports made under Section  
 67-57 48.051, Human Resources Code, as amended by this article, that  
 67-58 involve as their subject an elderly or disabled person with respect  
 67-59 to whom a report was previously made under that section; and

67-60 (F) the average amount of time department  
 67-61 personnel spend providing non-investigative services to a person  
 67-62 who is the subject of a report made under Section 48.051, Human  
 67-63 Resources Code, as amended by this article.

67-64 SECTION 2.22. LOCAL ADULT PROTECTIVE SERVICES BOARDS.

67-65 (a) The standing committee of the senate having jurisdiction over  
 67-66 adult protective services shall conduct a study regarding the  
 67-67 feasibility of establishing a system by which adult protective  
 67-68 services are provided through a statewide network of local adult  
 67-69 protective services boards. Each local adult protective services

68-1 board would:

68-2 (1) serve a designated local adult protective services  
 68-3 area;  
 68-4 (2) develop a local adult protective services plan for  
 68-5 approval by the Department of Family and Protective Services; and  
 68-6 (3) receive a block grant through the department to  
 68-7 provide adult protective services in accordance with the approved  
 68-8 local adult protective services plan.

68-9 (b) The standing committee of the senate having  
 68-10 jurisdiction over adult protective services must include the  
 68-11 results of the study conducted under this section and  
 68-12 recommendations regarding implementation of the local adult  
 68-13 protective services board system in the committee's interim report  
 68-14 to the 80th Legislature.

68-15 ARTICLE 3. GUARDIANSHIP AND RELATED SERVICES

68-16 SECTION 3.01. The heading to Subchapter E, Chapter 48,  
 68-17 Human Resources Code, is amended to read as follows:

68-18 SUBCHAPTER E. PROVISION OF SERVICES; [GUARDIANSHIP SERVICES;]  
 68-19 EMERGENCY PROTECTION

68-20 SECTION 3.02. The heading to Section 48.209, Human  
 68-21 Resources Code, is amended to read as follows:

68-22 Sec. 48.209. SUBMISSION OF INFORMATION TO PROBATE COURT  
 68-23 [GUARDIANSHIPS].

68-24 SECTION 3.03. Subsections (a), (b), and (c), Section  
 68-25 48.209, Human Resources Code, are amended to read as follows:

68-26 (a) At least six months before the individual's 18th  
 68-27 birthday, the [The] department shall submit to the appropriate  
 68-28 court having probate jurisdiction an information letter about [file  
 68-29 an application under Section 682 or 875, Texas Probate Code, to be  
 68-30 appointed guardian of the person or estate or both of] an individual  
 68-31 who is a minor, is a conservatee of the department, and, because of  
 68-32 a physical or mental condition, will be substantially unable to  
 68-33 provide food, clothing, or shelter for himself or herself, to care  
 68-34 for the individual's own physical health, or to manage the  
 68-35 individual's own financial affairs when the individual becomes an  
 68-36 adult. The information letter must satisfy the requirements of  
 68-37 Section 683A, Texas Probate Code. If a less restrictive  
 68-38 alternative to guardianship is available for an individual, the  
 68-39 department shall pursue the alternative before submitting the  
 68-40 information letter. On exhausting the alternative and determining  
 68-41 that no other less restrictive alternative to guardianship is  
 68-42 available, the department shall inform the appropriate court that a  
 68-43 guardianship may be necessary for the individual by submitting the  
 68-44 letter under this section [instead of applying for appointment as a  
 68-45 guardian].

68-46 (b) The [As a last resort, the] department shall submit to  
 68-47 the appropriate court having probate jurisdiction an information  
 68-48 letter about [may apply to be appointed guardian of the person or  
 68-49 estate of] an elderly or disabled person who is found by the  
 68-50 department to be in a state of abuse, neglect, or exploitation, and  
 68-51 who, because of a physical or mental condition, will be  
 68-52 substantially unable to provide food, clothing, or shelter for  
 68-53 himself or herself, to care for the individual's own physical  
 68-54 health, or to manage the individual's own financial affairs. The  
 68-55 information letter must:

68-56 (1) satisfy the requirements of Section 683A, Texas  
 68-57 Probate Code;

68-58 (2) include information relating to whether the  
 68-59 department is providing protective services to the individual;

68-60 (3) state whether [A representative of the department  
 68-61 shall take the oath required by the Texas Probate Code on behalf of  
 68-62 the department if the department is appointed guardian. If] the  
 68-63 department is aware of any [knows that an] individual who is willing  
 68-64 and able to serve as the guardian; and

68-65 (4) be submitted not later than the 14th day after the  
 68-66 date the department finds the individual [, the department may  
 68-67 inform the court of that individual's willingness and ability].

68-68 (c) [If appropriate, the department may contract with a  
 68-69 political subdivision of this state, a private agency, or another

69-1 state agency for the provision of guardianship services under this  
 69-2 section.] The department [or a political subdivision of the state  
 69-3 or state agency with which the department contracts under this  
 69-4 section] is not required to [post a bond or] pay any cost or fee  
 69-5 otherwise required by the Texas Probate Code, including a fee  
 69-6 associated with the appointment of a guardian ad litem or attorney  
 69-7 ad litem.

69-8 SECTION 3.04. Section 161.071, Human Resources Code, is  
 69-9 amended to read as follows:

69-10 Sec. 161.071. GENERAL POWERS AND DUTIES OF DEPARTMENT. The  
 69-11 department is responsible for administering human services  
 69-12 programs for the aging and disabled, including:

69-13 (1) administering and coordinating programs to  
 69-14 provide community-based care and support services to promote  
 69-15 independent living for populations that would otherwise be  
 69-16 institutionalized;

69-17 (2) providing institutional care services, including  
 69-18 services through convalescent and nursing homes and related  
 69-19 institutions under Chapter 242, Health and Safety Code;

69-20 (3) providing and coordinating programs and services  
 69-21 for persons with disabilities, including programs for the  
 69-22 treatment, rehabilitation, or benefit of persons with  
 69-23 developmental disabilities or mental retardation;

69-24 (4) operating state facilities for the housing,  
 69-25 treatment, rehabilitation, or benefit of persons with  
 69-26 disabilities, including state schools for persons with mental  
 69-27 retardation;

69-28 (5) serving as the state unit on aging required by the  
 69-29 federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.)  
 69-30 and its subsequent amendments, including performing the general  
 69-31 functions under Section 101.022 to ensure:

69-32 (A) implementation of the federal Older  
 69-33 Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) and its  
 69-34 subsequent amendments, including implementation of services and  
 69-35 volunteer opportunities under that Act for older residents of this  
 69-36 state through area agencies on aging;

69-37 (B) advocacy for residents of nursing facilities  
 69-38 through the office of the state long-term care ombudsman;

69-39 (C) fostering of the state and community  
 69-40 infrastructure and capacity to serve older residents of this state;  
 69-41 and

69-42 (D) availability of a comprehensive resource for  
 69-43 state government and the public on trends related to and services  
 69-44 and programs for an aging population;

69-45 (6) performing all licensing and enforcement  
 69-46 activities and functions related to long-term care facilities,  
 69-47 including licensing and enforcement activities related to  
 69-48 convalescent and nursing homes and related institutions under  
 69-49 Chapter 242, Health and Safety Code;

69-50 (7) performing all licensing and enforcement  
 69-51 activities related to assisted living facilities under Chapter 247,  
 69-52 Health and Safety Code;

69-53 (8) performing all licensing and enforcement  
 69-54 activities related to intermediate care facilities for persons with  
 69-55 mental retardation under Chapter 252, Health and Safety Code; [and]

69-56 (9) performing all licensing and enforcement  
 69-57 activities and functions related to home and community support  
 69-58 services agencies under Chapter 142, Health and Safety Code; and

69-59 (10) serving as last resort as the guardian of the  
 69-60 person or estate, or both, of an incapacitated person under Chapter  
 69-61 XIII, Texas Probate Code.

69-62 SECTION 3.05. Subchapter D, Chapter 161, Human Resources  
 69-63 Code, is amended by adding Section 161.074 to read as follows:

69-64 Sec. 161.074. GUARDIANSHIP SERVICES AS LAST RESORT. (a) A  
 69-65 representative of the department shall take the oath required by  
 69-66 the Texas Probate Code on behalf of the department if the department  
 69-67 is appointed guardian of the person or estate, or both, of a ward  
 69-68 under Chapter XIII of that code.

69-69 (b) The department is not required to post a bond or pay any

70-1 cost or fee associated with a guardianship proceeding under the  
 70-2 Texas Probate Code, including any fee associated with the  
 70-3 appointment of a guardian ad litem or attorney ad litem.

70-4       (c) If the department is appointed guardian, the department  
 70-5 is not liable for funding services provided to the department's  
 70-6 ward, including long-term care or burial expenses.

70-7       (d) The department shall review each of the department's  
 70-8 pending guardianship cases at least annually to determine whether a  
 70-9 more suitable person, including a guardianship program or private  
 70-10 professional guardian, is willing and able to serve as successor  
 70-11 guardian for a ward of the department. If the department becomes  
 70-12 aware of any person's willingness and ability to serve as successor  
 70-13 guardian, the department shall notify the court in which the  
 70-14 guardianship is pending as required by Section 695A, Texas Probate  
 70-15 Code.

70-16       (e) The number of wards of the department at any one time may  
 70-17 not exceed 1,500.

70-18       SECTION 3.06. Section 601, Texas Probate Code, is amended  
 70-19 by amending Subdivisions (13), (21), and (24) and adding  
 70-20 Subdivision (12-a) to read as follows:

70-21       (12-a) "Guardianship Alliance Office" means the  
 70-22 Guardianship Alliance Office established under Chapter 111,  
 70-23 Government Code.

70-24       (13) "Guardianship program" has the meaning assigned  
 70-25 by Section 111.001, Government Code [means a local, county, or  
 70-26 regional program that provides guardianship and related services to  
 70-27 an incapacitated person or other person who needs assistance in  
 70-28 making decisions concerning the person's own welfare or financial  
 70-29 affairs].

70-30       (21) "Person" includes natural persons, corporations,  
 70-31 governmental entities, private professional guardians, and  
 70-32 guardianship programs.

70-33       (24) "Private professional guardian" has the meaning  
 70-34 assigned by Section 111.001, Government Code [means a person, other  
 70-35 than an attorney or a corporate fiduciary, who is engaged in the  
 70-36 business of providing guardianship services].

70-37       SECTION 3.07. Section 625, Texas Probate Code, is amended  
 70-38 to read as follows:

70-39       Sec. 625. CASE FILES. (a) The county clerk shall maintain  
 70-40 a case file for each person's filed guardianship proceedings. The  
 70-41 case file must contain all orders, judgments, and proceedings of  
 70-42 the court and any other guardianship filing with the court,  
 70-43 including all:

70-44       (1) applications for the granting of guardianship;  
 70-45       (2) citations and notices, whether published or  
 70-46 posted, with the returns on the citations and notices;  
 70-47       (3) bonds and official oaths;  
 70-48       (4) inventories, appraisements, and lists of claims;  
 70-49       (5) exhibits and accounts;  
 70-50       (6) reports of hiring, renting, or sale;  
 70-51       (7) applications for sale or partition of real estate  
 70-52 and reports of sale and of commissioners of partition;  
 70-53       (8) applications for authority to execute leases for  
 70-54 mineral development, or for pooling or unitization of lands,  
 70-55 royalty, or other interest in minerals, or to lend or invest money;  
 70-56       (9) reports of lending or investing money; and  
 70-57       (10) reports of guardians of the persons.

70-58       (b) The county clerk may not post any information contained  
 70-59 in a person's case file on the Internet.

70-60       SECTION 3.08. The heading to Subpart J, Part 2, Chapter  
 70-61 XIII, Texas Probate Code, is amended to read as follows:

70-62       SUBPART J. LIABILITY OF GUARDIAN [FOR CONDUCT OF WARD]

70-63       SECTION 3.09. The heading to Section 673, Texas Probate  
 70-64 Code, is amended to read as follows:

70-65       Sec. 673. LIABILITY OF GUARDIAN FOR CONDUCT OF WARD.

70-66       SECTION 3.10. Subpart J, Part 2, Chapter XIII, Texas  
 70-67 Probate Code, is amended by adding Section 674 to read as follows:

70-68       Sec. 674. IMMUNITY OF GUARDIANSHIP PROGRAM. A guardianship  
 70-69 program is not liable for civil damages arising from an action taken

71-1 or omission made by a person while providing guardianship services  
 71-2 to a ward on behalf of the guardianship program, unless the action  
 71-3 or omission:

71-4 (1) was wilfully wrongful;

71-5 (2) was taken or made with conscious indifference or  
 71-6 reckless disregard to the safety of the incapacitated person or  
 71-7 another;

71-8 (3) was taken or made in bad faith or with malice; or

71-9 (4) was grossly negligent.

71-10 SECTION 3.11. Section 677, Texas Probate Code, is amended  
 71-11 by adding Subsection (f) to read as follows:

71-12 (f) If there is no eligible person willing and able to serve  
 71-13 as guardian, the court shall determine whether it is in the adult  
 71-14 individual's best interests to appoint as guardian a guardianship  
 71-15 program, a private professional guardian, or, as last resort, the  
 71-16 Department of Aging and Disability Services. Before appointing the  
 71-17 department as guardian, the court must enter a specific finding  
 71-18 that the department is the most suitable person to serve as guardian  
 71-19 for the proposed ward and that the appointment is in the best  
 71-20 interest of the proposed ward.

71-21 SECTION 3.12. Section 682, Texas Probate Code, is amended  
 71-22 to read as follows:

71-23 Sec. 682. APPLICATION; CONTENTS. Any person may commence a  
 71-24 proceeding for the appointment of a guardian by filing a written  
 71-25 application in a court having jurisdiction and venue. The  
 71-26 application must be sworn to by the applicant and state:

71-27 (1) the name, sex, date of birth, and address of the  
 71-28 proposed ward;

71-29 (2) the name, relationship, and address of the person  
 71-30 the applicant desires to have appointed as guardian;

71-31 (3) whether guardianship of the person or estate, or  
 71-32 both, is sought;

71-33 (4) the nature and degree of the alleged incapacity,  
 71-34 the specific areas of protection and assistance requested, and the  
 71-35 limitation of rights requested to be included in the court's order  
 71-36 of appointment;

71-37 (5) the facts requiring that a guardian be appointed  
 71-38 and the interest of the applicant in the appointment;

71-39 (6) the nature and description of any guardianship of  
 71-40 any kind existing for the proposed ward in any other state;

71-41 (7) the name and address of any person or institution  
 71-42 having the care and custody of the proposed ward;

71-43 (8) the approximate value and description of the  
 71-44 proposed ward's property, including any compensation, pension,  
 71-45 insurance, or allowance to which the proposed ward may be entitled;

71-46 (9) the name and address of any person whom the  
 71-47 applicant knows to hold a power of attorney signed by the proposed  
 71-48 ward and a description of the type of power of attorney;

71-49 (10) if the proposed ward is a minor and if known by  
 71-50 the applicant:

71-51 (A) the name of each parent of the proposed ward  
 71-52 and state the parent's address or that the parent is deceased;

71-53 (B) the name and age of each sibling, if any, of  
 71-54 the proposed ward and state the sibling's address or that the  
 71-55 sibling is deceased; and

71-56 (C) if each of the proposed ward's parents and  
 71-57 siblings are deceased, the names and addresses of the proposed  
 71-58 ward's next of kin who are adults;

71-59 (11) if the proposed ward is a minor, whether the minor  
 71-60 was the subject of a legal or conservatorship proceeding within the  
 71-61 preceding two-year period and, if so, the court involved, the  
 71-62 nature of the proceeding, and the final disposition, if any, of the  
 71-63 proceeding;

71-64 (12) if the proposed ward is an adult and if known by  
 71-65 the applicant:

71-66 (A) the name of the proposed ward's spouse, if  
 71-67 any, and state the spouse's address or that the spouse is deceased;

71-68 (B) the name of each of the proposed ward's  
 71-69 parents and state the parent's address or that the parent is

72-1 deceased;

72-2 (C) the name and age of each of the proposed  
72-3 ward's siblings, if any, and state the sibling's address or that the  
72-4 sibling is deceased;

72-5 (D) the name and age of each of the proposed  
72-6 ward's children, if any, and state the child's address or that the  
72-7 child is deceased; and

72-8 (E) if the proposed ward's spouse and each of the  
72-9 proposed ward's parents, siblings, and children are deceased, or,  
72-10 if there is no spouse, parent, adult sibling, or adult child, the  
72-11 names and addresses of the proposed ward's next of kin who are  
72-12 adults;

72-13 (13) facts showing that the court has venue over the  
72-14 proceeding; and

72-15 (14) if applicable, that the person whom the applicant  
72-16 desires to have appointed as a guardian is a private professional  
72-17 guardian who is certified under Subchapter D, Chapter 111,  
72-18 Government Code, and has complied with the requirements of Section  
72-19 697 of this code.

72-20 SECTION 3.13. Section 683, Texas Probate Code, is amended  
72-21 by amending Subsection (a) and adding Subsection (a-1) to read as  
72-22 follows:

72-23 (a) If a court has probable cause to believe that a person  
72-24 domiciled or found in the county in which the court is located is an  
72-25 incapacitated person, including the receipt of an information  
72-26 letter about a person submitted under Section 48.209, Human  
72-27 Resources Code, and the person does not have a guardian in this  
72-28 state, the court, except as provided by Subsection (a-1) of this  
72-29 section, shall appoint a guardian ad litem or court investigator to  
72-30 investigate and file an application for the appointment of a  
72-31 guardian of the person or estate, or both, of the person believed to  
72-32 be incapacitated.

72-33 (a-1) The court in a county that does not have a statutory  
72-34 probate court, in lieu of appointing a guardian ad litem under  
72-35 Subsection (a) of this section, may appoint the Department of  
72-36 Family and Protective Services, subject to the availability of  
72-37 funds, to investigate and file a report with the court as to whether  
72-38 a guardian may be necessary or whether a less restrictive  
72-39 alternative to guardianship might meet the needs of the proposed  
72-40 ward. If the court, after considering the report filed under this  
72-41 subsection, determines that a guardianship may be necessary, the  
72-42 court shall appoint a guardian ad litem, the county attorney, the  
72-43 district attorney, or a guardianship program, to file an  
72-44 application for the appointment of a suitable person to serve as  
72-45 guardian for the proposed ward.

72-46 SECTION 3.14. Section 684, Texas Probate Code, is amended  
72-47 by amending Subsection (b) and adding Subsection (b-1) to read as  
72-48 follows:

72-49 (b) Before appointing a guardian and except as provided by  
72-50 Subsection (b-1) of this section, the court must find by a  
72-51 preponderance of the evidence that:

72-52 (1) the court has venue of the case;

72-53 (2) the person to be appointed guardian is eligible to  
72-54 act as guardian and is entitled to appointment, or, if no eligible  
72-55 person entitled to appointment applies, the person appointed is:

72-56 (A) a proper person to act as guardian; and

72-57 (B) the most suitable person to serve as guardian

72-58 for the proposed ward;

72-59 (3) if a guardian is appointed for a minor, the  
72-60 guardianship is not created for the primary purpose of enabling the  
72-61 minor to establish residency for enrollment in a school or school  
72-62 district for which the minor is not otherwise eligible for  
72-63 enrollment; and

72-64 (4) the proposed ward is totally without capacity as  
72-65 provided by this code to care for himself or herself and to manage  
72-66 the individual's property, or the proposed ward lacks the capacity  
72-67 to do some, but not all, of the tasks necessary to care for himself  
72-68 or herself or to manage the individual's property.

72-69 (b-1) Before appointing the Department of Aging and

Disability Services as guardian, the court, in addition to making the findings required by Subsection (a) of this section, must:

(1) make the findings required by Subsections (b)(1), (b)(3), and (b)(4) of this section; and

(2) find by clear and convincing evidence that the department is the person most suitable to serve as guardian of the proposed ward and that the appointment is in the proposed ward's best interest.

SECTION 3.15. Subpart A, Part 3, Chapter XIII, Texas Probate Code, is amended by adding Sections 691 and 691A to read as follows:

Sec. 691. STATE AS GUARDIAN OF LAST RESORT. (a) Except as a last resort, the court may not appoint the Department of Aging and Disability Services to serve as guardian of the person or estate, or both, of an incapacitated person.

(b) This section may not be construed to permit the appointment of a state entity other than the Department of Aging and Disability Services as a guardian under this chapter.

Sec. 691A. AGREEMENTS FOR APPOINTMENT AS PUBLIC GUARDIANS.  
(a) A county may enter into an agreement with a person operating a guardianship program located in the county or in an adjacent county or with a private professional guardian located in the county or in an adjacent county regarding the willingness and ability of the parties to provide guardianship and related services to incapacitated persons who:

(1) may need guardianship services or similar assistance; and

(2) do not have a family member, friend, or other interested person who is willing, able, and qualified to serve as guardian of the person or estate, or both.

(b) Consideration for an agreement under Subsection (a) of this section may be monetary or in-kind, such as office space, transportation, or utilities.

(c) On execution of the agreement, the county shall provide a copy of the agreement to the Guardianship Alliance Office and to each of the courts having probate jurisdiction over a county participating in the agreement.

(d) A county that enters into an agreement under Subsection (a) of this section may determine that the county or each other party to the agreement may not be the person most suitable to serve as guardian for an incapacitated person residing in the county, and, if the court appoints the Department of Aging and Disability Services as guardian of last resort for the incapacitated person, the county shall reimburse the department for a portion of the costs incurred in providing guardianship services to the incapacitated person if the person's estate is insufficient to pay for the services.

(e) A person, including the court, may infer that a county, by failing to enter into or submit a copy of an agreement to the court under this section, has made a determination that the state may be more suitable than the county to provide guardianship and related services to residents of the county described by Subsection (a) of this section. If, as a last resort, the Department of Aging and Disability Services is appointed guardian of an incapacitated person residing in the county, the county shall reimburse the department for a portion of the costs incurred in providing guardianship services to the incapacitated person if the person's estate is insufficient to pay for the services.

(f) The amount to be reimbursed to the Department of Aging and Disability Services under Subsection (d) or (e) of this section must be a reasonable amount as determined jointly by the department and the Guardianship Alliance Office, and must be approved by the judge of the court having jurisdiction over the guardianship proceedings. Reimbursements paid to the Department of Aging and Disability Services by a county shall be paid from funds budgeted by the commissioners court of the county for that purpose.

(g) The Department of Aging and Disability Services shall deposit all amounts received from a county under Subsection (d) or (e) of this section to the credit of the guardianship services

74-1 account in the general revenue fund. Money in the account may be  
 74-2 appropriated only to the department for the provision of  
 74-3 guardianship services, as a last resort, to wards of the  
 74-4 department.

74-5 (h) A county or guardianship program that enters into an  
 74-6 agreement under this section remains eligible to receive  
 74-7 supplemental funds from the Guardianship Alliance Office under  
 74-8 Section 111.048, Government Code, to provide guardianship and  
 74-9 related services to incapacitated persons.

74-10 SECTION 3.16. Section 693, Texas Probate Code, is amended  
 74-11 by adding Subsection (f) to read as follows:

74-12 (f) An order appointing the Department of Aging and  
 74-13 Disability Services as guardian must specify that the department is  
 74-14 the most suitable person to serve as guardian for the proposed ward  
 74-15 and that the appointment is in the best interest of the proposed  
 74-16 ward.

74-17 SECTION 3.17. Section 695A, Texas Probate Code, is amended  
 74-18 by adding Subsections (a-1) and (d) to read as follows:

74-19 (a-1) If, while serving as a guardian for a ward under this  
 74-20 chapter, the Department of Aging and Disability Services becomes  
 74-21 aware of a guardianship program or private professional guardian  
 74-22 willing and able to serve as the ward's successor guardian and the  
 74-23 department is not aware of a family member or friend of the ward or  
 74-24 any other interested person who is willing and able to serve as the  
 74-25 ward's successor guardian, the department shall notify the court in  
 74-26 which the guardianship is pending of the guardianship program's or  
 74-27 private professional guardian's willingness and ability to serve.

74-28 (d) If the court finds under Subsection (a-1) of this  
 74-29 section that the proposed successor guardian for a ward is eligible  
 74-30 to be appointed as the ward's successor guardian and that the  
 74-31 appointment is in the ward's best interests, the Department of  
 74-32 Aging and Disability Services, or the court on the court's own  
 74-33 motion, may file an application to appoint the guardianship program  
 74-34 or private professional guardian as the ward's successor guardian.  
 74-35 Service of notice on an application filed under this subsection  
 74-36 shall be made as directed by the court.

74-37 SECTION 3.18. Section 696, Texas Probate Code, is amended  
 74-38 to read as follows:

74-39 Sec. 696. APPOINTMENT OF PRIVATE PROFESSIONAL GUARDIANS. A  
 74-40 court may not appoint a private professional guardian to serve as a  
 74-41 guardian or permit a private professional guardian to continue to  
 74-42 serve as a guardian under this code if the private professional  
 74-43 guardian:

74-44 (1) has not complied with the requirements of Section  
 74-45 697 of this code; or  
 74-46 (2) is not certified as provided by Section 697B of  
 74-47 this code.

74-48 SECTION 3.19. Subpart A, Part 3, Texas Probate Code, is  
 74-49 amended by adding Sections 696A and 696B to read as follows:

74-50 Sec. 696A. APPOINTMENT OF PUBLIC GUARDIANS. (a) An  
 74-51 individual employed by or contracting with a guardianship program  
 74-52 must be certified as provided by Section 697B of this code to  
 74-53 provide guardianship services to a ward of the guardianship  
 74-54 program.

74-55 (b) An employee of the Department of Aging and Disability  
 74-56 Services must be certified as provided by Section 697B of this code  
 74-57 to provide guardianship services to a ward of the department.

74-58 Sec. 696B. APPOINTMENT OF FAMILY MEMBERS OR FRIENDS. A  
 74-59 family member or friend of an incapacitated person is not required  
 74-60 to be certified under Subchapter D, Chapter 111, Government Code,  
 74-61 or any other law to serve as the person's guardian.

74-62 SECTION 3.20. Subsections (a), (c), and (e), Section 697,  
 74-63 Texas Probate Code, are amended to read as follows:

74-64 (a) A private professional guardian must apply annually to  
 74-65 the clerk of the county having venue over the proceeding for the  
 74-66 appointment of a guardian for a certificate of registration  
 74-67 [certification]. The application must include a sworn statement  
 74-68 containing the following information concerning a private  
 74-69 professional guardian or each person who represents or plans to

represent the interests of a ward as a guardian on behalf of the private professional guardian:

(1) educational background and professional experience;

(2) three or more professional references;

(3) the names of all of the wards the private professional guardian or person is or will be serving as a guardian;

(4) the aggregate fair market value of the property of

all wards that is being or will be managed by the private professional guardian or person;

(5) place of residence, business address, and business telephone number; and

(6) whether the private professional guardian or person has ever been removed as a guardian by the court or resigned as a guardian in a particular case and, if so, a description of the

as a guardian in a particular case, and, if so, a description of the circumstances causing the removal or resignation, and the style of the suit, the docket number, and the court having jurisdiction over

the suit, the docket number, and the court having jurisdiction over the proceeding.

(c) The term of the registration [~~certification~~] begins on the date that the requirements are met and extends through December 31 of the initial year. After the initial year of registration [~~certification~~], the term of the registration [~~certification~~] begins on January 1 and ends on December 31 of each year. A renewal application must be completed during December of the year preceding the year for which the renewal is requested.

(e) Not later than February 1 of each year, the clerk shall submit to the Guardianship Alliance Office [~~Health and Human Services Commission~~] the names and business addresses of private professional guardians who have satisfied the registration [~~certification~~] requirements under this section during the preceding year.

SECTION 3.21. Subpart A, Part 3, Texas Probate Code, is amended by adding Sections 697A and 697B to read as follows:

Sec. 697A. LIST OF PUBLIC GUARDIANS MAINTAINED BY COUNTY CLERKS. (a) Each guardianship program operating in a county shall submit annually to the county clerk a statement containing the name, address, and telephone number of each individual employed by or volunteering or contracting with the program to provide guardianship services to a ward or proposed ward of the program.

(b) The Department of Aging and Disability Services, if the department is appointed to serve as guardian of last resort for one or more incapacitated persons residing in the county, shall submit annually to the county clerk the information required under Subsection (a) of this section for each department employee who is or will be providing guardianship services in the county on the department's behalf.

department's behalf. (c) Not later than February 1 of each year, the county clerk shall submit to the Guardianship Alliance Office the information received under Subsection (a) of this section during the preceding year.

Sec. 697B. CERTIFICATION REQUIREMENT FOR PRIVATE  
PROFESSIONAL GUARDIANS AND PUBLIC GUARDIANS. (a) The following  
persons must be certified under Subchapter D, Chapter 111,  
Government Code:

government code. (1) an individual who is a private professional guardian;

(2) an individual who will represent the interests of a ward as a guardian on behalf of a private professional guardian;

(3) an individual providing guardianship services to a ward of a guardianship program on the program's behalf, except as provided by Subsection (d) of this section; and

(4) an employee of the Department of Aging and Disability Services providing guardianship services to a ward of the department.

(b) A person whose certification has expired must obtain a new certification under Subchapter D, Chapter 111, Government Code, to be allowed to provide or continue to provide guardianship services to a ward under this code.

(c) The court shall notify the Guardianship Alliance Office

76-1 if the court becomes aware of a person who is not complying with the  
 76-2 terms of a certification issued under Subchapter D, Chapter 111,  
 76-3 Government Code, or with the standards and rules adopted under that  
 76-4 subchapter.

76-5 (d) An individual volunteering with a guardianship program  
 76-6 is not required to be certified as provided by this section to  
 76-7 provide guardianship services on the program's behalf.

76-8 SECTION 3.22. Subsections (a) and (c), Section 698, Texas  
 76-9 Probate Code, are amended to read as follows:

76-10 (a) The clerk of the county having venue over the proceeding  
 76-11 for the appointment of a guardian shall obtain criminal history  
 76-12 record information that is maintained by the Department of Public  
 76-13 Safety or the Federal Bureau of Investigation identification  
 76-14 division relating to:

76-15 (1) a private professional guardian;

76-16 (2) each person who represents or plans to represent  
 76-17 the interests of a ward as a guardian on behalf of the private  
 76-18 professional guardian; [or]

76-19 (3) each person employed by a private professional  
 76-20 guardian who will:

76-21 (A) have personal contact with a ward or proposed  
 76-22 ward;

76-23 (B) exercise control over and manage a ward's  
 76-24 estate; or

76-25 (C) perform any duties with respect to the  
 76-26 management of a ward's estate;

76-27 (4) each person employed by or volunteering or  
 76-28 contracting with a guardianship program to provide guardianship  
 76-29 services to a ward of the program on the program's behalf; or

76-30 (5) an employee of the Department of Aging and  
 76-31 Disability Services who is or will be providing guardianship  
 76-32 services to a ward of the department.

76-33 (c) The court shall use the information obtained under this  
 76-34 section only in determining whether to appoint, remove, or continue  
 76-35 the appointment of a private professional guardian, a guardianship  
 76-36 program, or the Department of Aging and Disability Services.

76-37 SECTION 3.23. Subsection (b), Section 700, Texas Probate  
 76-38 Code, is amended to read as follows:

76-39 (b) A representative of the Department of Aging and  
 76-40 Disability [Protective and Regulatory] Services shall take the oath  
 76-41 required by Subsection (a) of this section if the department is  
 76-42 appointed guardian.

76-43 SECTION 3.24. Subsection (a), Section 767, Texas Probate  
 76-44 Code, is amended to read as follows:

76-45 (a) The guardian of the person is entitled to take [the]  
 76-46 charge [and control] of the person of the ward, and the duties of  
 76-47 the guardian correspond with the rights of the guardian. A guardian  
 76-48 of the person has:

76-49 (1) the right to have physical possession of the ward  
 76-50 and to establish the ward's legal domicile;

76-51 (2) the duty to provide [or] care, supervision  
 76-52 [control], and protection for [or] the ward;

76-53 (3) the duty to provide the ward with clothing, food,  
 76-54 medical care, and shelter;

76-55 (4) the power to consent to medical, psychiatric, and  
 76-56 surgical treatment other than the in-patient psychiatric  
 76-57 commitment of the ward; and

76-58 (5) on application to and order of the court, the power  
 76-59 to establish a trust in accordance with 42 U.S.C. Section  
 76-60 1396p(d)(4)(B), as amended, and direct that the income of the ward  
 76-61 as defined by that section be paid directly to the trust, solely for  
 76-62 the purpose of the ward's eligibility for medical assistance under  
 76-63 Chapter 32, Human Resources Code.

76-64 SECTION 3.25. Subsections (c) and (j), Section 875, Texas  
 76-65 Probate Code, are amended to read as follows:

76-66 (c) A sworn, written application for the appointment of a  
 76-67 temporary guardian shall be filed before the court appoints a  
 76-68 temporary guardian. The application must state:

76-69 (1) the name and address of the person who is the

77-1 subject of the guardianship proceeding;

77-2 (2) the danger to the person or property alleged to be

77-3 imminent;

77-4 (3) the type of appointment and the particular

77-5 protection and assistance being requested;

77-6 (4) the facts and reasons supporting the allegations

77-7 and requests;

77-8 (5) the name, address, and qualification of the

77-9 proposed temporary guardian;

77-10 (6) the name, address, and interest of the applicant;

77-11 and

77-12 (7) if applicable, that the proposed temporary

77-13 guardian is a private professional guardian who is certified under

77-14 Subchapter D, Chapter 111, Government Code, and has complied with

77-15 the requirements of Section 697 of this code.

77-16 (j) The court may not customarily or ordinarily appoint the

77-17 Department of Aging and Disability [Protective and Regulatory]

77-18 Services as a temporary guardian under this section. The

77-19 appointment of the department as a temporary guardian under this

77-20 section should be made only as a last resort.

77-21 SECTION 3.26. Title 2, Government Code, is amended by

77-22 adding Subtitle J to read as follows:

#### SUBTITLE J. GUARDIANSHIPS

##### CHAPTER 111. GUARDIANSHIP ALLIANCE OFFICE

###### SUBCHAPTER A. GENERAL PROVISIONS

###### Sec. 111.001. DEFINITIONS. In this chapter:

77-27 (1) "Administrative director" means the

77-28 administrative director of the courts as appointed by Chapter 72.

77-29 (2) "Board" means the Guardianship Alliance Board.

77-30 (3) "Corporate fiduciary" has the meaning assigned by

77-31 Section 601, Texas Probate Code.

77-32 (4) "Guardian" has the meaning assigned by Section

77-33 601, Texas Probate Code.

77-34 (5) "Guardianship program" means a local, county, or

77-35 regional program that provides guardianship and related services to

77-36 an incapacitated person or other person who needs assistance in

77-37 making decisions concerning the person's own welfare or financial

77-38 affairs.

77-39 (6) "Incapacitated person" has the meaning assigned by

77-40 Section 601, Texas Probate Code.

77-41 (7) "Office" means the Guardianship Alliance Office.

77-42 (8) "Office of Court Administration" means the Office

77-43 of Court Administration of the Texas Judicial System.

77-44 (9) "Private professional guardian" means a person,

77-45 other than an attorney or a corporate fiduciary, who is engaged in

77-46 the business of providing guardianship services.

77-47 (10) "Statutory probate court" has the meaning

77-48 assigned by Section 601, Texas Probate Code.

77-49 (11) "Ward" has the meaning assigned by Section 601,

77-50 Texas Probate Code.

77-51 Sec. 111.002. RULES. The supreme court may adopt rules

77-52 consistent with this chapter, including rules governing the

77-53 certification of individuals providing guardianship services.

77-54 Sec. 111.003. SUNSET PROVISION. The office is subject to

77-55 Chapter 325, Government Code (Texas Sunset Act). Unless continued

77-56 in existence as provided by that chapter, the office is abolished

77-57 and this chapter expires September 1, 2015.

77-58 [Sections 111.004-111.010 reserved for expansion]

###### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

77-60 Sec. 111.011. GUARDIANSHIP ALLIANCE OFFICE; ADMINISTRATIVE

77-61 ATTACHMENT. (a) The Guardianship Alliance Office is

77-62 administratively attached to the Office of Court Administration.

77-63 (b) Notwithstanding any other law, the Office of Court

77-64 Administration shall:

77-65 (1) provide administrative assistance, services, and

77-66 materials to the office;

77-67 (2) accept, deposit, and disburse money made available

77-68 to the office;

77-69 (3) accept gifts and grants on behalf of the office

78-1 from any public or private entity;

78-2 (4) pay the salaries and benefits of the director and  
78-3 staff of the office;

78-4 (5) reimburse the travel expenses and other actual and  
78-5 necessary expenses of the board, director, and staff of the office  
78-6 incurred in the performance of a function of the office, as provided  
78-7 by the General Appropriations Act;

78-8 (6) apply for and receive on behalf of the office any  
78-9 appropriations or other money from the state or federal government  
78-10 or any other public or private entity, subject to limitations and  
78-11 conditions prescribed by legislative appropriation; and

78-12 (7) provide the office with adequate computer  
78-13 equipment and support.

78-14 Sec. 111.012. BOARD. (a) The Guardianship Alliance Board  
78-15 is composed of:

78-16 (1) 11 members appointed by the presiding judge of the  
78-17 statutory probate courts, elected as provided by Chapter 25;

78-18 (2) three public members appointed by the supreme  
78-19 court from a list of nominees submitted by the governor; and

78-20 (3) a representative of the Department of Aging and  
78-21 Disability Services appointed by the supreme court from a list of  
78-22 nominees submitted by the commissioner of aging and disability  
78-23 services.

78-24 (b) The presiding judge of the statutory probate courts  
78-25 shall appoint members under Subsection (a)(1) from the different  
78-26 geographical areas of this state.

78-27 (c) In making an appointment under Subsection (a)(2), the  
78-28 supreme court may reject one or more of the nominees on a list  
78-29 submitted by the governor and request a new list of different  
78-30 nominees. In making an appointment under Subsection (a)(3), the  
78-31 supreme court may reject one or more of the nominees on a list  
78-32 submitted by the commissioner of aging and disability services and  
78-33 request a new list of different nominees.

78-34 (d) To be eligible for appointment to the board other than  
78-35 as a public member, an individual must have demonstrated experience  
78-36 working with:

78-37 (1) a guardianship program;

78-38 (2) an organization that advocates on behalf of or in  
78-39 the interest of elderly individuals;

78-40 (3) an organization that advocates on behalf of or in  
78-41 the interest of individuals with mental illness or mental  
78-42 retardation or individuals with physical disabilities; or

78-43 (4) incapacitated individuals.

78-44 (e) Appointments to the board shall be made without regard  
78-45 to the race, color, disability, sex, religion, age, or national  
78-46 origin of the appointees.

78-47 (f) The members of the board serve for staggered six-year  
78-48 terms, with the terms of one-third of the members expiring on  
78-49 February 1 of each odd-numbered year. Board members receive no  
78-50 compensation but are entitled to reimbursement of actual and  
78-51 necessary expenses incurred in the performance of their duties.

78-52 (g) The board shall elect from among its members a presiding  
78-53 officer and other officers considered necessary.

78-54 (h) The board shall meet at least quarterly at the call of  
78-55 the presiding officer.

78-56 (i) Any action taken by the board must be approved by a  
78-57 majority vote of the members present.

78-58 Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. A person is  
78-59 not eligible for appointment as a public member of the board if the  
78-60 person or the person's spouse:

78-61 (1) is registered, certified, or licensed by a  
78-62 regulatory agency in the field of guardianship;

78-63 (2) is employed by or participates in the management  
78-64 of a business entity or other organization regulated by the office  
78-65 or receiving money from the Office of Court Administration;

78-66 (3) owns or controls, directly or indirectly, more  
78-67 than a 10 percent interest in a business entity or other  
78-68 organization regulated by the office or receiving money from the  
78-69 Office of Court Administration; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the Office of Court Administration, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 111.014. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board or may not be an employee of the office employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of guardianship; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of guardianship.

(c) A person may not be a member of the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the office.

Sec. 111.015. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of appointment the qualifications required by Section 111.012;

(2) does not maintain during service on the board the qualifications required by Section 111.012;

or 111.014; (3) is ineligible for membership under Section 111.013

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the director of the office has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the board, who shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court that a potential ground for removal exists.

Sec. 111.016. POWERS AND DUTIES OF BOARD. (a) The board is charged with the executive functions necessary to carry out the purposes of this chapter under rules adopted by the supreme court.

(b) The board shall:

(1) administer and enforce this chapter;  
(2) develop and recommend proposed rules and  
procedures to the supreme court as necessary to implement this  
chapter;

(3) set the amount of each fee prescribed by Section 111.062, subject to the approval of the supreme court;

(4) establish the qualifications for obtaining

(5) issue certificates to individuals who meet the

80-1 certification requirements of Section 111.062; and  
80-2 (6) perform any other duty required by this chapter or  
80-3 other law.

80-4 (c) The board may appoint any necessary or proper  
80-5 subcommittee.

80-6 (d) The board shall maintain:  
80-7 (1) a complete record of each board proceeding; and  
80-8 (2) a complete record of each certification issued,  
80-9 renewed, suspended, or revoked under Section 111.062.

80-10 Sec. 111.017. TRAINING. (a) A person who is appointed to  
80-11 and qualifies for office as a member of the board may not vote,  
80-12 deliberate, or be counted as a member in attendance at a meeting of  
80-13 the board until the person completes a training program that  
80-14 complies with this section.

80-15 (b) The training program must provide the person with  
80-16 information regarding:

80-17 (1) this chapter;  
80-18 (2) the role and functions of the board;  
80-19 (3) the current budget for the office;  
80-20 (4) the results of the most recent formal audit of the  
80-21 office; and  
80-22 (5) any applicable ethics policies adopted by the  
80-23 board.

80-24 (c) A person appointed to the board is entitled to  
80-25 reimbursement, as provided by the General Appropriations Act, for  
80-26 the travel expenses incurred in attending the training program  
80-27 regardless of whether the attendance at the program occurs before  
80-28 or after the person qualifies for office.

80-29 Sec. 111.018. USE OF TECHNOLOGY. The Office of Court  
80-30 Administration shall research and propose appropriate  
80-31 technological solutions to improve the board's and office's ability  
80-32 to perform its functions. The technological solutions must:

80-33 (1) ensure that the public is able to easily find  
80-34 information about the board and office on the Internet;  
80-35 (2) ensure that persons who want to use the office's  
80-36 services are able to:

80-37 (A) interact with the board and office through  
80-38 the Internet; and

80-39 (B) access any service that can be provided  
80-40 effectively through the Internet; and  
80-41 (3) be cost-effective and developed through the  
80-42 board's and office's planning processes.

80-43 Sec. 111.019. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.  
80-44 (a) The board shall develop and implement a policy to encourage  
80-45 the use of appropriate alternative dispute resolution procedures to  
80-46 assist in the resolution of internal and external disputes under  
80-47 the office's jurisdiction.

80-48 (b) The procedures relating to alternative dispute  
80-49 resolution under this section must conform, to the extent possible,  
80-50 to any model guidelines issued by the State Office of  
80-51 Administrative Hearings for the use of alternative dispute  
80-52 resolution by state agencies.

80-53 Sec. 111.020. PUBLIC ACCESS. The board shall develop and  
80-54 implement policies that provide the public with a reasonable  
80-55 opportunity to appear before the board and to speak on any issue  
80-56 under the jurisdiction of the office.

80-57 Sec. 111.021. DIRECTOR OF OFFICE. The administrative  
80-58 director may hire a director and staff to perform the  
80-59 administrative duties of the office.

80-60 Sec. 111.022. DIVISION OF RESPONSIBILITIES. The board  
80-61 shall develop and implement policies that clearly separate the  
80-62 policymaking responsibilities of the board and the management  
80-63 responsibilities of the director and the staff of the office.

80-64 Sec. 111.023. QUALIFICATIONS AND STANDARDS OF CONDUCT  
80-65 INFORMATION. The director of the office or the director's designee  
80-66 shall provide to members of the board and to office staff, as often  
80-67 as necessary, information regarding the requirements for office or  
80-68 employment under this chapter, including information regarding a  
80-69 person's responsibilities under applicable laws relating to

81-1 standards of conduct for state officers or employees.

81-2 Sec. 111.024. STRATEGIC PLAN. (a) The office shall  
 81-3 develop a comprehensive, long-range strategic plan for its  
 81-4 operations. Each even-numbered year, the office shall issue a plan  
 81-5 covering five fiscal years beginning the next odd-numbered fiscal  
 81-6 year.

81-7 (b) The strategic plan must include measurable goals and a  
 81-8 system of performance measures that:

81-9 (1) relates directly to the purposes of the office;  
 81-10 and  
 81-11 (2) focuses on the results and outcomes of the office's  
 81-12 operations.

81-13 (c) Not later than December 15 of each year, the office  
 81-14 shall report the performance measures included in the strategic  
 81-15 plan under this section to:

81-16 (1) the administrative director;  
 81-17 (2) the supreme court;  
 81-18 (3) the Department of Aging and Disability Services;  
 81-19 (4) the governor;  
 81-20 (5) the lieutenant governor; and  
 81-21 (6) the speaker of the house of representatives.

81-22 (d) In preparing the budget for the Office of Court  
 81-23 Administration, the administrative director shall:

81-24 (1) consider the goals and performance measures  
 81-25 identified in the strategic plan; and  
 81-26 (2) identify additional goals and performance  
 81-27 measures as necessary.

81-28 [Sections 111.025-111.040 reserved for expansion]

#### 81-29 SUBCHAPTER C. POWERS AND DUTIES

81-30 Sec. 111.041. GENERAL POWERS AND DUTIES OF OFFICE REGARDING  
 81-31 GUARDIANSHIP MATTERS.

The office shall:

81-32 (1) develop a statewide, uniform system for use by  
 81-33 county clerks in identifying guardianships pending in each county;  
 81-34 (2) establish other methods to facilitate and  
 81-35 encourage use of appropriate and less restrictive alternatives to  
 81-36 guardianship in addition to the informational brochure developed  
 81-37 under Section 111.049;

81-38 (3) periodically review state funding received for the  
 81-39 provision of guardianship services or other less restrictive types  
 81-40 of assistance to incapacitated persons and make legislative  
 81-41 recommendations as necessary;

81-42 (4) apply for any grants or other sources of federal  
 81-43 funds for which the office may be eligible, including any federal  
 81-44 funds that may be available under the federal Older Americans Act of  
 81-45 1965 (42 U.S.C. Section 3001 et seq.);

81-46 (5) provide support and technical expertise regarding  
 81-47 guardianship-related issues to members of the judiciary;

81-48 (6) educate members of the judiciary and the public  
 81-49 about less restrictive alternatives to guardianship; and

81-50 (7) review and comment on the guardianship policies of  
 81-51 all health and human services agencies and recommend changes to the  
 81-52 policies the office considers necessary or advisable.

81-53 Sec. 111.042. REGISTRY OF GUARDIANSHIP PROGRAMS. The  
 81-54 office shall establish and maintain a central registry of all  
 81-55 guardianship programs operating in this state.

81-56 Sec. 111.043. REGISTRY OF PRIVATE PROFESSIONAL GUARDIANS.  
 81-57 The office shall establish and maintain a central registry of all  
 81-58 private professional guardians registered with county clerks under  
 81-59 Section 697, Texas Probate Code.

81-60 Sec. 111.044. COLLECTION OF GUARDIANSHIP STATISTICS.  
 81-61 (a) The Texas Judicial Council shall collect, maintain, and  
 81-62 publish statistics by county relating to guardianship proceedings  
 81-63 of incapacitated persons other than minors, as defined by Section  
 81-64 601, Texas Probate Code, in the form and manner prescribed by  
 81-65 Section 71.035.

81-66 (b) The Texas Judicial Council shall report:  
 81-67 (1) the number of court-initiated guardianship  
 81-68 requests under Section 683, Texas Probate Code;  
 81-69 (2) the number of applications filed for guardianship

82-1 of the person of an adult who is alleged to be incapacitated;

82-2 (3) the number of applications filed for guardianship

82-3 of the estate of an adult who is alleged to be incapacitated;

82-4 (4) the number of applications filed for guardianship

82-5 of both the person and estate of an adult who is alleged to be

82-6 incapacitated;

82-7 (5) whether the person applying for a guardianship is

82-8 a family member or friend of the proposed ward or is a guardian ad

82-9 litem, private professional guardian, or local guardianship

82-10 program;

82-11 (6) a categorical description of the alleged

82-12 incapacity of the proposed wards, such as dementia, stroke, mental

82-13 retardation, brain injury, or chronic mental illness;

82-14 (7) whether the filing fee was waived based on the fact

82-15 that the alleged incapacitated adult is indigent;

82-16 (8) the number of guardianships of the person granted

82-17 by the court during the period;

82-18 (9) the number of guardianships of the estate granted

82-19 by the court during the period;

82-20 (10) the number of guardianships of both the person

82-21 and estate that were granted by the court during the period;

82-22 (11) the number of applications for complete

82-23 restoration of a ward's capacity or for modification of a

82-24 guardianship filed during the period;

82-25 (12) the number of guardianships of the person closed

82-26 by the court during the period;

82-27 (13) the number of guardianships of the estate closed

82-28 by the court during the period;

82-29 (14) the number of guardianships of both the person

82-30 and estate that were closed by the court during the period; and

82-31 (15) any other information considered necessary by the

82-32 office.

82-33 Sec. 111.045. DIRECTORY. (a) The office shall compile, in

82-34 the most cost-efficient form, a directory of guardianship programs

82-35 and private professional guardians operating in this state.

82-36 (b) The office at least annually shall update the directory

82-37 and provide access to the directory on the Internet website of the

82-38 Office of Court Administration or in another written form.

82-39 Sec. 111.046. GUARDIANSHIP RESOURCE ACCOUNT. (a) The

82-40 guardianship resource account is created as a dedicated account in

82-41 the general revenue fund. Money in the fund may be appropriated

82-42 only to provide funding for purposes consistent with this chapter.

82-43 (b) The administrative director shall deposit in the

82-44 guardianship resource account all funds collected for the office or

82-45 appropriated to the Office of Court Administration for purposes of

82-46 the office as provided by:

82-47 (1) this chapter;

82-48 (2) Chapter X, Texas Probate Code; and

82-49 (3) Section 118.013(e), Local Government Code.

82-50 (c) Each fiscal year, the office shall set aside an amount

82-51 of funds from the guardianship resource account sufficient to pay

82-52 anticipated expenses and claims on the guardianship resource

82-53 account under Chapter X, Texas Probate Code.

82-54 Sec. 111.047. DONATIONS. The office may accept and solicit

82-55 gifts or grants of property from public or private sources for the

82-56 purposes of this chapter. Funds received under this section shall

82-57 be deposited in the guardianship resource account.

82-58 Sec. 111.048. FUNDING FOR GUARDIANSHIP AND RELATED

82-59 SERVICES. (a) The office shall develop and implement a plan for

82-60 the distribution of state and other funds received for purposes of

82-61 this chapter to guardianship programs and other providers of

82-62 services that are considered alternatives to guardianship.

82-63 (b) The plan must provide for:

82-64 (1) state funding to be distributed to guardianship

82-65 programs and providers of services that are considered alternatives

82-66 to guardianship;

82-67 (A) only as specifically directed by the terms of

82-68 a grant or contract to provide guardianship and related services;

82-69 and

83-1 (B) in a manner that rewards a county that  
 83-2 chooses to make significant contributions to the funding of  
 83-3 guardianship programs operated by or located in the county;

83-4 (2) procedures to ensure that funds received by the  
 83-5 Office of Court Administration for purposes of the office are  
 83-6 disbursed in accordance with the terms under which that agency  
 83-7 received the funds; and

83-8 (3) a reporting mechanism to ensure appropriate use of  
 83-9 funds.

83-10 (c) The plan must also be designed in a manner that fosters  
 83-11 the establishment and growth of guardianship programs to provide  
 83-12 guardianships or other less restrictive types of assistance or  
 83-13 services to incapacitated individuals residing in the areas served  
 83-14 by those programs.

83-15 Sec. 111.049. INFORMATIONAL BROCHURE. (a) The office  
 83-16 shall develop and update as necessary an informational brochure  
 83-17 describing various types of less restrictive alternatives to  
 83-18 guardianship that are available to elderly or disabled persons,  
 83-19 including:

83-20 (1) a durable power of attorney;  
 83-21 (2) a special needs trust;  
 83-22 (3) a representative payee designated by a federal  
 83-23 agency to manage a person's federal benefits; and  
 83-24 (4) a bill payer.

83-25 (b) The board shall prescribe the form and contents of the  
 83-26 informational brochure.

83-27 (c) Instead of publishing the informational brochure in  
 83-28 written form, the office may distribute the informational brochure  
 83-29 to the Department of Aging and Disability Services for purposes of  
 83-30 displaying the contents of the brochure on the department's  
 83-31 Internet website.

83-32 [Sections 111.050-111.060 reserved for expansion]

83-33 SUBCHAPTER D. REGULATION OF CERTAIN GUARDIANS

83-34 Sec. 111.061. STANDARDS FOR CERTAIN GUARDIANSHIPS AND  
 83-35 ALTERNATIVES TO GUARDIANSHIP. (a) The board shall adopt minimum  
 83-36 standards for:

83-37 (1) the provision of guardianship services or other  
 83-38 similar but less restrictive types of assistance or services by:  
 83-39 (A) guardianship programs; and  
 83-40 (B) private professional guardians; and  
 83-41 (2) the provision of guardianship services by the  
 83-42 Department of Aging and Disability Services.

83-43 (b) The board shall design the standards to protect the  
 83-44 interests of an incapacitated person or other person needing  
 83-45 assistance making decisions concerning the person's own welfare or  
 83-46 financial affairs.

83-47 Sec. 111.062. CERTIFICATION REQUIRED FOR CERTAIN  
 83-48 GUARDIANS. (a) To provide guardianship services in this state,  
 83-49 the following individuals must hold a certificate issued under this  
 83-50 section:

83-51 (1) an individual who is a private professional  
 83-52 guardian;  
 83-53 (2) an individual who will provide those services to a  
 83-54 ward of a private professional guardian or the Department of Aging  
 83-55 and Disability Services on the guardian's or department's behalf;  
 83-56 and  
 83-57 (3) an individual, other than a volunteer, who will  
 83-58 provide those services to a ward of a guardianship program on the  
 83-59 program's behalf.

83-60 (b) An applicant for a certificate under this section must:  
 83-61 (1) apply to the office on a form prescribed by the  
 83-62 board; and

83-63 (2) submit with the application a nonrefundable  
 83-64 application fee in an amount determined by the board, subject to the  
 83-65 approval of the supreme court.

83-66 (c) The supreme court may adopt rules and procedures for  
 83-67 issuing a certificate and for renewing, suspending, or revoking a  
 83-68 certificate issued under this section. Any rules adopted by the  
 83-69 supreme court under this section must:

84-1 (1) ensure compliance with the standards adopted under  
 84-2 Section 111.061;  
 84-3 (2) provide that the board establish qualifications  
 84-4 for obtaining and maintaining certification;

84-5 (3) provide that the board issue certificates under  
 84-6 this section;

84-7 (4) provide that a certificate expires on the second  
 84-8 anniversary of the date the certificate is issued;

84-9 (5) prescribe procedures for accepting complaints and  
 84-10 conducting investigations of alleged violations of the minimum  
 84-11 standards adopted under Section 111.061 or other terms of the  
 84-12 certification by certificate holders; and

84-13 (6) prescribe procedures by which the office, after  
 84-14 notice and hearing, may suspend or revoke the certificate of a  
 84-15 holder who fails to substantially comply with appropriate standards  
 84-16 or other terms of the certification.

84-17 (d) If the requirements for issuing a certificate under this  
 84-18 section include passage of an examination covering guardianship  
 84-19 education requirements, the office shall:

84-20 (1) develop and administer the examination; or  
 84-21 (2) contract with another person or entity the board  
 84-22 determines has the expertise and resources to develop and  
 84-23 administer the examination.

84-24 (e) In lieu of the certification requirements imposed under  
 84-25 this section, the board may issue a certificate to an individual to  
 84-26 engage in business as a guardian or to provide guardianship  
 84-27 services in this state if the individual:

84-28 (1) submits an application to the office in the form  
 84-29 prescribed by the board;

84-30 (2) pays a fee in a reasonable amount determined by the  
 84-31 board, subject to the approval of the supreme court;

84-32 (3) is certified, registered, or licensed as a  
 84-33 guardian by a national organization or association the board  
 84-34 determines has requirements at least as stringent as those  
 84-35 prescribed by the board under this subchapter; and

84-36 (4) is in good standing with the organization or  
 84-37 association with whom the person is licensed, certified, or  
 84-38 registered.

84-39 (f) An application or other fee collected under this section  
 84-40 shall be deposited in the guardianship resource account.

84-41 Sec. 111.063. INFORMATION FROM PRIVATE PROFESSIONAL  
 84-42 GUARDIANS. In addition to the information submitted under Section  
 84-43 697(e), Texas Probate Code, the office may require a private  
 84-44 professional guardian or a person who represents or plans to  
 84-45 represent the interests of a ward as a guardian on behalf of the  
 84-46 private professional guardian to submit information considered  
 84-47 necessary to monitor the person's compliance with the applicable  
 84-48 standards adopted under Section 111.061 or with the certification  
 84-49 requirements of Section 111.062.

84-50 SECTION 3.27. Subsection (a), Section 118.011, Local  
 84-51 Government Code, is amended to read as follows:

84-52 (a) A county clerk shall collect the following fees for  
 84-53 services rendered to any person:

84-54 (1) Personal Property Records Filing (Sec.  
 84-55 118.012)...\$2.00

84-56 (2) Real Property Records Filing (Sec. 118.013):

84-57 for the first page...\$4.00 [\$3.00]

84-58 for each additional page or part of a page on which  
 84-59 there are visible marks of any kind...\$2.00

84-60 for all or part of each 8 1/2" X 14" attachment or  
 84-61 rider...\$2.00

84-62 for each name in excess of five names that has to be  
 84-63 indexed in all records in which the document must be  
 84-64 indexed...\$0.25

84-65 (3) Certified Papers (Sec. 118.014):

84-66 for the clerk's certificate...\$5.00

84-67 plus a fee for each page or part of a page...\$1.00

84-68 (4) Noncertified Papers (Sec. 118.0145):

84-69 for each page or part of a page...\$1.00

85-1 (5) Birth or Death Certificate (Sec. 118.015)...same  
 85-2 as state registrar  
 85-3 (6) Bond Approval (Sec. 118.016)...\$3.00  
 85-4 (7) Marriage License (Sec. 118.018)...\$30.00  
 85-5 (8) Declaration of Informal Marriage (Sec.  
 85-6 118.019)...\$25.00  
 85-7 (9) Brand Registration (Sec. 118.020)...\$5.00  
 85-8 (10) Oath Administration (Sec. 118.021)...\$1.00

85-9 SECTION 3.28. Section 118.013, Local Government Code, is  
 85-10 amended by adding Subsection (e) to read as follows:

85-11 (e) A county clerk who collects a fee under this section  
 85-12 shall deposit \$1 of the total amount of that fee to be sent to the  
 85-13 comptroller as provided by Subchapter B, Chapter 133, for deposit  
 85-14 in the guardianship resource account established under Section  
 85-15 111.046, Government Code.

85-16 SECTION 3.29. Section 3, Texas Probate Code, is amended by  
 85-17 adding Subsection (nn) to read as follows:

85-18 (nn) "Guardianship Alliance Office" means the Guardianship  
 85-19 Alliance Office established under Chapter 111, Government Code.

85-20 SECTION 3.30. The heading of Chapter X, Texas Probate Code,  
 85-21 is amended to read as follows:

85-22 CHAPTER X. PAYMENT OF ESTATES TO GUARDIANSHIP RESOURCE ACCOUNT  
 85-23 [INTO STATE TREASURY]

85-24 SECTION 3.31. Sections 427, 430, and 431, Texas Probate  
 85-25 Code, are amended to read as follows:

85-26 Sec. 427. WHEN ESTATES TO BE PAID TO GUARDIANSHIP RESOURCE  
 85-27 ACCOUNT [INTO STATE TREASURY]. (a) If any person entitled to a  
 85-28 portion of an estate, except a resident minor without a guardian,  
 85-29 shall not demand his portion from the executor or administrator  
 85-30 within six months after an order of court approving the report of  
 85-31 commissioners of partition, or within six months after the  
 85-32 settlement of the final account of an executor or administrator, as  
 85-33 the case may be, the court by written order shall require the  
 85-34 executor or administrator to pay so much of said portion as is in  
 85-35 money to the comptroller; and such portion as is in other property  
 85-36 he shall order the executor or administrator to sell on such terms  
 85-37 as the court thinks best, and, when the proceeds of such sale are  
 85-38 collected, the court shall order the same to be paid to the  
 85-39 comptroller, in all such cases allowing the executor or  
 85-40 administrator reasonable compensation for his services. A suit to  
 85-41 recover proceeds of the sale is governed by Section 433 of this  
 85-42 Code.

85-43 (b) The comptroller shall deposit funds received under this  
 85-44 section to the credit of the guardianship resource account  
 85-45 established under Subchapter C, Chapter 111, Government Code.

85-46 Sec. 430. RECEIPT [OF COMPTROLLER]. Whenever an executor  
 85-47 or administrator pays the comptroller any funds of the estate he  
 85-48 represents, under the preceding provisions of this Code, he shall  
 85-49 take from the comptroller a receipt for such payment, with official  
 85-50 seal attached, and shall file the same with the clerk of the court  
 85-51 ordering such payment; and such receipt shall be recorded in the  
 85-52 minutes of the court.

85-53 Sec. 431. PENALTY FOR FAILURE TO MAKE PAYMENTS [TO  
 85-54 COMPTROLLER]. When an executor or administrator fails to pay to the  
 85-55 comptroller any funds of an estate which he has been ordered by the  
 85-56 court so to pay, within 30 days after such order has been made, such  
 85-57 executor or administrator shall, after personal service of citation  
 85-58 charging such failure and after proof thereof, be liable to pay out  
 85-59 of his own estate to the comptroller damages thereon at the rate of  
 85-60 five per cent per month for each month, or fraction thereof, that he  
 85-61 fails to make such payment after 30 days from such order, which  
 85-62 damages may be recovered in any court of competent jurisdiction.

85-63 SECTION 3.32. Subsections (a) and (c), Section 433, Texas  
 85-64 Probate Code, are amended to read as follows:

85-65 (a) Mode of Recovery. When funds of an estate have been paid  
 85-66 to the comptroller under this chapter, any heir, devisee, or  
 85-67 legatee of the estate, or their assigns, or any of them, may recover  
 85-68 the portion of such funds to which he, she, or they are entitled.  
 85-69 The person claiming such funds shall institute suit on or before the

86-1 fourth anniversary of the date of the order requiring payment to the  
 86-2 comptroller, by petition filed in the district court of Travis  
 86-3 County, against the comptroller, setting forth the plaintiff's  
 86-4 right to such funds, and the amount claimed by him.

86-5 (c) Procedure. The proceedings in such suit shall be  
 86-6 governed by the rules for other civil suits; and, should the  
 86-7 plaintiff establish his right to the funds claimed, he shall have a  
 86-8 judgment therefor, which shall specify the amount to which he is  
 86-9 entitled; and a certified copy of such judgment shall be sufficient  
 86-10 authority for the comptroller to pay the same from the guardianship  
 86-11 resource account established under Subchapter C, Chapter 111,  
 86-12 Government Code. To the extent that funds are not available in the  
 86-13 guardianship resource account, the comptroller shall pay the amount  
 86-14 to which the plaintiff is entitled from the general revenue fund  
 86-15 until funds become available in the guardianship resource account.

86-16 SECTION 3.33. STUDY. (a) The Guardianship Alliance Office  
 86-17 shall conduct a study regarding the feasibility of establishing and  
 86-18 administering a pooled income trust for families of incapacitated  
 86-19 individuals in this state.

86-20 (b) Not later than January 1, 2007, the Guardianship  
 86-21 Alliance Office shall report the findings and conclusions of the  
 86-22 study required under this section to the governor, lieutenant  
 86-23 governor, speaker of the house of representatives, and presiding  
 86-24 officer of each standing committee of the senate and house of  
 86-25 representatives having jurisdiction over guardianship matters.

86-26 SECTION 3.34. TRANSFERS TO THE DEPARTMENT OF AGING AND  
 86-27 DISABILITY SERVICES. (a) On September 1, 2005:

86-28 (1) all powers, duties, functions, programs, and  
 86-29 activities of the Department of Family and Protective Services  
 86-30 related to providing guardianship services for incapacitated  
 86-31 persons under Chapter 48, Human Resources Code, Chapter XIII, Texas  
 86-32 Probate Code, or other law are transferred to the Department of  
 86-33 Aging and Disability Services;

86-34 (2) all employees of the Department of Family and  
 86-35 Protective Services who primarily perform duties related to  
 86-36 providing guardianship services for incapacitated persons under  
 86-37 Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code,  
 86-38 or other law become employees of the Department of Aging and  
 86-39 Disability Services;

86-40 (3) a rule or form adopted by the executive  
 86-41 commissioner of the Health and Human Services Commission that  
 86-42 relates to the provision of guardianship services by the Department  
 86-43 of Family and Protective Services for incapacitated persons under  
 86-44 Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code,  
 86-45 or other law, as those laws existed immediately before that date, is  
 86-46 a rule or form of the Department of Aging and Disability Services  
 86-47 and remains in effect until altered by the executive commissioner;

86-48 (4) a reference in law to the Department of Family and  
 86-49 Protective Services that relates to providing guardianship  
 86-50 services for incapacitated persons under Chapter 48, Human  
 86-51 Resources Code, Chapter XIII, Texas Probate Code, or other law  
 86-52 means the Department of Aging and Disability Services;

86-53 (5) a waiver in effect that was issued by the  
 86-54 Department of Family and Protective Services relating to the  
 86-55 provision of guardianship services for incapacitated persons under  
 86-56 Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code,  
 86-57 or other law is continued in effect as a waiver of the Department of  
 86-58 Aging and Disability Services;

86-59 (6) a proceeding involving the Department of Family  
 86-60 and Protective Services that is related to providing guardianship  
 86-61 services for incapacitated persons under Chapter 48, Human  
 86-62 Resources Code, Chapter XIII, Texas Probate Code, or other law is  
 86-63 transferred without change in status to the Department of Aging and  
 86-64 Disability Services, and the Department of Aging and Disability  
 86-65 Services assumes, without a change in status, the position of the  
 86-66 Department of Family and Protective Services in a proceeding  
 86-67 relating to guardianship matters to which the Department of Family  
 86-68 and Protective Services is a party;

86-69 (7) all money, contracts, leases, rights, and

87-1 obligations of the Department of Family and Protective Services  
87-2 related to providing guardianship services for incapacitated  
87-3 persons under Chapter 48, Human Resources Code, Chapter XIII, Texas  
87-4 Probate Code, or other law are transferred to the Department of  
87-5 Aging and Disability Services, subject to Subsection (b) of this  
87-6 section;

87-7 (8) all property and records in the custody of the  
87-8 Department of Family and Protective Services related to providing  
87-9 guardianship services for incapacitated persons under Chapter 48,  
87-10 Human Resources Code, Chapter XIII, Texas Probate Code, or other  
87-11 law shall be transferred to the Department of Aging and Disability  
87-12 Services; and

87-13 (9) all funds appropriated by the legislature to the  
87-14 Department of Family and Protective Services for purposes related  
87-15 to providing guardianship services for incapacitated persons under  
87-16 Chapter 48, Human Resources Code, Chapter XIII, Texas Probate Code,  
87-17 or other law are transferred to the Department of Aging and  
87-18 Disability Services.

87-19 (b) The Department of Aging and Disability Services shall  
87-20 administer a contract of the Department of Family and Protective  
87-21 Services transferred under Subdivision (7), Subsection (a), of this  
87-22 section, until the contract expires or is otherwise lawfully  
87-23 terminated. The Department of Aging and Disability Services,  
87-24 however, may not renew the contract.

87-25 SECTION 3.35. TRANSITION PLAN. The executive commissioner  
87-26 of the Health and Human Services Commission shall establish a plan  
87-27 for the transfer of guardianship cases of the Department of Family  
87-28 and Protective Services to the Department of Aging and Disability  
87-29 Services on or before the period prescribed by the executive  
87-30 commissioner.

87-31 SECTION 3.36. PLAN TO TRANSFER STATE GUARDIANSHIPS TO LOCAL  
87-32 ENTITIES. (a) Notwithstanding any other provision of this Act,  
87-33 the Guardianship Alliance Office established under Chapter 111,  
87-34 Government Code, as added by this Act, shall develop a plan for the  
87-35 transfer of all powers, duties, functions, programs, and activities  
87-36 of the Department of Aging and Disability Services related to  
87-37 providing guardianship services for incapacitated persons under  
87-38 Chapter 161, Human Resources Code, as amended by this Act, Chapter  
87-39 XIII, Texas Probate Code, as amended by this Act, or other law to  
87-40 the counties.

87-41 (b) Not later than November 1, 2006, the Guardianship  
87-42 Alliance Office shall submit to the 79th Legislature a report  
87-43 regarding the plan developed by the office under this section. The  
87-44 report must include the office's recommendations for any statutory  
87-45 changes required to facilitate the plan and any modifications to  
87-46 the Department of Aging and Disability Services' policies,  
87-47 procedures, or administration that are necessary to facilitate the  
87-48 transfer.

87-49 SECTION 3.37. ABOLITION OF GUARDIANSHIP ADVISORY BOARD. On  
87-50 the effective date of this Act:

87-51 (1) the term of a member of the Guardianship Advisory  
87-52 Board created under Subchapter D, Chapter 531, Government Code,  
87-53 repealed by this Act, serving immediately before that date expires;  
87-54 and

87-55 (2) the advisory board is abolished.

87-56 SECTION 3.38. PROPOSED RULES AND PROCEDURES. Not later  
87-57 than March 1, 2006, the Guardianship Alliance Board established  
87-58 under Chapter 111, Government Code, as added by this Act, shall  
87-59 develop rules and procedures for consideration by the supreme court  
87-60 as required by Chapter 111, Government Code, as added by this Act.

87-61 SECTION 3.39. APPOINTMENT OF BOARD MEMBERS. (a) As soon  
87-62 as practicable after the effective date of this Act, the presiding  
87-63 judge of the statutory probate courts shall appoint 11 members to  
87-64 the Guardianship Alliance Board in accordance with Chapter 111,  
87-65 Government Code, as added by this Act. In making the initial  
87-66 appointments, the presiding judge shall designate three members for  
87-67 terms expiring February 1, 2007, four members for terms expiring  
87-68 February 1, 2009, and four members for terms expiring February 1,  
87-69 2011.

(b) As soon as practicable after the effective date of this Act, the supreme court shall appoint four members to the Guardianship Alliance Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the supreme court shall designate two members for terms expiring February 1, 2007, one member for a term expiring February 1, 2009, and one member for a term expiring February 1, 2011.

SECTION 3.40. EFFECTIVE DATE OF CERTIFICATION. A person is not required to hold a certificate issued under Subchapter D, Chapter 111, Government Code, as added by this Act, to provide or continue to provide guardianship services to a ward before September 1, 2007.

SECTION 3.41. The following are repealed:

(1) Subsections (d), (e), and (f), Section 48.209, Human Resources Code; and

(2) Subchapter D, Chapter 531, Government Code.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. This Act takes effect September 1, 2005.

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