

By: Thompson of Harris

H. B. No. 914

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to the administration of services provided by the  
3 Department of Family and Protective Services, including foster  
4 care, child protective, and prevention and early intervention  
5 services.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter A, Chapter 261, Family Code, is  
8 amended by adding Section 261.004 to read as follows:

16 SECTION 2. Section 264.1075, Family Code, is amended by  
17 adding Subsection (c) to read as follows:

1    needs and to expedite delivery of appropriate services for the  
2    child.

3            SECTION 3. (a) Subchapter B, Chapter 264, Family Code, is  
4    amended by adding Sections 264.1261, 264.128, and 264.129 to read  
5    as follows:

6            Sec. 264.1261. FOSTER CARE CAPACITY NEEDS PLAN. (a) In  
7    this section, "catchment area" has the meaning assigned by Section  
8    264.151.

9            (b) Appropriate department management from a child  
10    protective services region that includes a catchment area, in  
11    collaboration with foster care providers, faith-based entities,  
12    and child advocates in that catchment area, shall use data  
13    collected by the department on foster care capacity needs and  
14    availability of each type of foster care placement in the catchment  
15    area to create a plan to address the foster care capacity needs in  
16    the catchment area. The plan must identify both short-term and  
17    long-term goals and strategies for addressing those capacity needs.

18            (c) A foster care capacity needs plan developed under  
19    Subsection (b) must be:

20            (1) submitted to, and approved by, the department; and  
21            (2) updated annually.

22            (d) The department shall publish each initial foster care  
23    capacity needs plan and each annual update to a plan on the  
24    department's Internet website.

25            Sec. 264.128. PILOT PROGRAM FOR INTEGRATED CASE MANAGEMENT  
26    FOR CERTAIN CHILDREN. (a) The department shall develop and  
27    implement in one child protective services region of the state a

1 pilot program under which the commission contracts with a nonprofit  
2 entity that has an organizational mission focused on child welfare  
3 to serve as a single service provider to provide integrated case  
4 management services for children in foster care in that region who  
5 have the most severe medical and behavioral health care needs. The  
6 contract must require the single service provider to coordinate the  
7 activities of all other providers of medical, placement, and  
8 behavioral health case management services for a child described by  
9 this subsection to ensure that all services are used effectively  
10 without duplication for the purpose of achieving a quality outcome.

11        (b) The executive commissioner shall set a payment rate for  
12 the contracted single service provider that is separate from  
13 standard foster care payment amounts provided under this chapter.

14        (c) The contract with the single service provider must  
15 include performance-based provisions that require the provider to  
16 achieve the following outcomes:

17            (1) an increase in child safety, placement stability,  
18 and permanency;

19            (2) a decrease in placements at residential treatment  
20 centers and in length of stay for a child placed at a residential  
21 treatment center; and

22            (3) a decrease in inpatient psychiatric placements and  
23 in length of stay for a child receiving inpatient psychiatric  
24 treatment.

25        (d) Not later than December 31, 2018, the department shall  
26 report to the appropriate standing committees of the legislature  
27 having jurisdiction over child protective services and foster care

1 matters on the progress of the pilot program. The report must  
2 include:

3                   (1) an evaluation of the single service provider's  
4 success in achieving the outcomes described by Subsection (c); and  
5                   (2) a recommendation as to whether the pilot program  
6 should be continued, expanded, or terminated.

7                   (e) This section expires December 31, 2019.

8                   Sec. 264.129. SINGLE CHILD PLAN OF SERVICE INITIATIVE. (a)  
9                   In this section, "foster care redesign" has the meaning assigned by  
10 Section 264.151.

11                   (b) In regions of the state where foster care redesign has  
12 not been implemented, the department shall:

13                   (1) collaborate with child-placing agencies to  
14 implement the single child plan of service model developed under  
15 the single child plan of service initiative; and  
16                   (2) ensure that a single child plan of service is  
17 developed for each child in foster care in those regions.

18                   (b) Notwithstanding Section 264.129(b), Family Code, as  
19 added by this section, the Department of Family and Protective  
20 Services shall develop and implement a single child plan of service  
21 for each child in foster care in a region of the state described by  
22 that section not later than December 1, 2017.

23                   SECTION 4. (a) Chapter 264, Family Code, is amended by  
24 adding Subchapter B-1 to read as follows:

25                   SUBCHAPTER B-1. FOSTER CARE REDESIGN

26                   Sec. 264.151. DEFINITIONS. In this subchapter:

27                   (1) "Catchment area" means a geographic service area

1 for providing child protective services that is identified as part  
2 of foster care redesign.

3 (2) "Foster care redesign" means the foster care  
4 redesign required by Chapter 598 (S.B. 218), Acts of the 82nd  
5 Legislature, Regular Session, 2011.

6 Sec. 264.153. READINESS REVIEW PROCESS FOR FOSTER CARE  
7 REDESIGN CONTRACTOR. (a) The department shall develop a formal  
8 review process to assess the ability of a single source continuum  
9 contractor to satisfy the responsibilities and administrative  
10 requirements of delivering foster care services, including the  
11 contractor's ability to provide:

12 (1) high-quality case management services;  
13 (2) evidence-based or promising practice services and  
14 supports for children and families; and  
15 (3) sufficient available capacity for inpatient and  
16 outpatient services and supports for children.

17 (b) The department must develop the review process under  
18 Subsection (a) before the department may expand foster care  
19 redesign outside of the initial catchment areas where foster care  
20 redesign has been implemented.

21 (c) If after conducting the review process developed under  
22 Subsection (a) the department determines that a single source  
23 continuum contractor is able to adequately deliver foster care  
24 services in advance of the projected readiness date stated in the  
25 foster care redesign timeline developed under Section  
26 264.152(a)(2), the department may adjust the timeline to allow for  
27 an earlier transition of service delivery to the contractor.

1        Sec. 264.154. QUALIFICATIONS OF SINGLE SOURCE CONTINUUM  
2        CONTRACTOR. To be eligible to enter into a contract with the  
3        commission to serve as a single source continuum contractor to  
4        provide foster care service delivery, an entity must be a nonprofit  
5        entity that has an organizational mission focused on child welfare.

6        Sec. 264.155. TRANSFER OF CASE MANAGEMENT SERVICES TO  
7        SINGLE SOURCE CONTINUUM CONTRACTOR. (a) In each initial catchment  
8        area where foster care redesign has been implemented, the  
9        department shall transfer to the single source continuum contractor  
10      providing foster care services in that area:

11        (1) the case management of children and families  
12      receiving services from that contractor; and

13        (2) family reunification support services to be  
14      provided for six months after a child receiving services from the  
15      contractor is returned to the child's family.

16        (b) The commission shall include a provision in a contract  
17      with a single source continuum contractor to provide foster care  
18      services in a catchment area to which foster care redesign is  
19      expanded after September 1, 2017, that requires the transfer to the  
20      contractor of the provision of:

21        (1) high-quality case management services for  
22      children and families receiving services from the contractor in the  
23      catchment area where the contractor will be operating; and

24        (2) family reunification support services to be  
25      provided for six months after a child receiving services from the  
26      contractor is returned to the child's family.

27        Sec. 264.156. PILOT PROGRAM FOR FAMILY-BASED SAFETY

1        SERVICES AND CASE MANAGEMENT. (a) The department shall develop and  
2        implement in two child protective services regions of the state a  
3        pilot program under which the commission contracts with a single  
4        nonprofit entity that has an organizational mission focused on  
5        child welfare in each region to provide family-based safety  
6        services and case management for children and families receiving  
7        family-based safety services. The contract must include a  
8        transition plan for the provision of services that ensures the  
9        continuity of services for children and families in the selected  
10      regions.

11            (b) The contract with an entity must include  
12      performance-based provisions that require the entity to achieve the  
13      following outcomes for families receiving services from the entity:

14                    (1) a decrease in recidivism; and  
15                    (2) an increase in home safety factors.

16            (c) The commission may only contract for implementation of  
17      the pilot program with entities that the department considers to  
18      have the capacity to provide, either directly or through  
19      subcontractors, an array of evidence-based services and support  
20      programs to children and families in the selected child protective  
21      services regions.

22            (d) Not later than December 31, 2018, the department shall  
23      report to the appropriate standing committees of the legislature  
24      having jurisdiction over child protective services and foster care  
25      matters on the progress of the pilot program. The report must  
26      include:

27                    (1) an evaluation of each contracted entity's success

1    in achieving the outcomes described by Subsection (b); and  
2            (2) a recommendation as to whether the pilot program  
3    should be continued, expanded, or terminated.

4            (e) This section expires December 31, 2019.

5            (b) Section 264.126, Family Code, is transferred to  
6 Subchapter B-1, Chapter 264, Family Code, as added by this section,  
7 redesignated as Section 264.152, Family Code, and amended to read  
8 as follows:

9            Sec. 264.152 [264.126]. REDESIGN IMPLEMENTATION PLAN.

10          (a) The department shall develop and maintain a plan for  
11 implementing [~~the~~] foster care redesign [~~required by Chapter 598~~  
~~(S.B. 218), Acts of the 82nd Legislature, Regular Session, 2011~~].

12          The plan must:

13            (1) describe the department's expectations, goals, and  
14 approach to implementing foster care redesign;

15            (2) include a timeline for implementing the foster  
16 care redesign throughout this state, any limitations related to the  
17 implementation, and a progressive intervention plan and a  
18 contingency plan to provide continuity of foster care service  
19 delivery if a contract with a single source continuum contractor  
20 ends prematurely;

21            (3) delineate and define the case management roles and  
22 responsibilities of the department and the department's  
23 contractors and the duties, employees, and related funding that  
24 will be transferred to the contractor by the department;

25            (4) identify any training needs and include long-range  
26 and continuous plans for training and cross-training staff;

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1 (5) include a plan for evaluating the costs and tasks  
2 associated with each contract procurement, including the initial  
3 and ongoing contract costs for the department and contractor;

4 (6) include the department's contract monitoring  
5 approach and a plan for evaluating the performance of each  
6 contractor and the foster care redesign system as a whole that  
7 includes an independent evaluation of processes and outcomes; and

10 (b) The department shall annually:

14 (2) post on the department's Internet website the  
15 progress the department has made toward its goals for implementing  
16 the foster care redesign.

17 (c) Section 264.154, Family Code, as added by this section,  
18 applies only to a contract entered into with a single source  
19 continuum contractor on or after the effective date of this  
20 section.

21 SECTION 5. Subchapter A, Chapter 265, Family Code, is  
22 amended by adding Sections 265.0041 and 265.0042 to read as  
23 follows:

24                   Sec. 265.0041. GEOGRAPHIC RISK MAPPING FOR PREVENTION AND  
25                   EARLY INTERVENTION SERVICES. (a) The department shall use  
26                   existing risk terrain modeling systems, predictive analytics, or  
27                   geographic risk assessments to:

1                   (1) identify geographic areas that have high risk  
2 indicators of child maltreatment and child fatalities resulting  
3 from abuse or neglect; and

4                   (2) target the implementation and use of prevention  
5 and early intervention services to those geographic areas.

6                   (b) The department may not use data gathered under this  
7 section to identify a specific family or individual.

8                   Sec. 265.0042. COLLABORATION WITH INSTITUTIONS OF HIGHER  
9 EDUCATION. (a) The Health and Human Services Commission, on behalf  
10 of the department, shall enter into agreements with institutions of  
11 higher education to conduct efficacy reviews of any prevention and  
12 early intervention programs that have not previously been evaluated  
13 for effectiveness through a scientific research evaluation  
14 process.

15                   (b) The department shall collaborate with an institution of  
16 higher education to create and track indicators of child well-being  
17 to determine the effectiveness of prevention and early intervention  
18 services.

19                   SECTION 6. Section 265.005(b), Family Code, is amended to  
20 read as follows:

21                   (b) A strategic plan required under this section must:

22                   (1) identify methods to leverage other sources of  
23 funding or provide support for existing community-based prevention  
24 efforts;

25                   (2) include a needs assessment that identifies  
26 programs to best target the needs of the highest risk populations  
27 and geographic areas;

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1 (3) identify the goals and priorities for the  
2 department's overall prevention efforts;

5 (5) identify additional methods of measuring program  
6 effectiveness and results or outcomes;

7 (6) identify methods to collaborate with other state  
8 agencies on prevention efforts; [and]

15 SECTION 7. (a) Section 531.02013, Government Code, is  
16 amended to read as follows:

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

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

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

26 (B) adult protective services, other than  
27 investigations of the alleged abuse, neglect, or exploitation of an

1 elderly person or person with a disability:

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

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

7 (C) prevention and early intervention services;  
8 and

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

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

17 (b) Notwithstanding any provision of Subchapter A-1,  
18 Chapter 531, Government Code, or any other law, the responsibility  
19 for conducting investigations of reports of abuse or neglect  
20 occurring at a child-care facility, including a residential  
21 child-care facility, as those terms are defined by Section 42.002,  
22 Human Resources Code, may not be transferred to the Health and Human  
23 Services Commission and remains the responsibility of the  
24 Department of Family and Protective Services.

25 (c) As soon as possible after the effective date of this  
26 section, the commissioner of the Department of Family and  
27 Protective Services shall transfer the responsibility for

1 conducting investigations of reports of abuse or neglect occurring  
2 at a child-care facility, including a residential child-care  
3 facility, as those terms are defined by Section [42.002](#), Human  
4 Resources Code, to the child protective services division of the  
5 department. The commissioner shall transfer appropriate  
6 investigators and staff as necessary to implement this section.

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

13 SECTION 8. (a) Subchapter A, Chapter [533](#), Government Code,  
14 is amended by adding Section 533.0054 to read as follows:

15 Sec. 533.0054. HEALTH SCREENING REQUIREMENTS FOR ENROLLEE  
16 UNDER STAR HEALTH PROGRAM. (a) A managed care organization that  
17 contracts with the commission to provide health care services to  
18 recipients under the STAR Health program must ensure that at least  
19 90 percent of the managed care organization's STAR Health program  
20 enrollees receive a complete early and periodic screening,  
21 diagnosis, and treatment checkup not later than the 30th day after  
22 the date the enrollee is removed from the enrollee's home and placed  
23 in the conservatorship of the Department of Family and Protective  
24 Services.

25 (b) The commission shall include a provision in a contract  
26 with a managed care organization to provide health care services to  
27 recipients under the STAR Health program specifying monetary

1 penalties for the organization's failure to comply with Subsection  
2 (a). The penalties must be in amounts that are proportional to the  
3 number of percentage points by which the organization fails to  
4 comply with the percentage required by Subsection (a).

5 (b) The Health and Human Services Commission shall, in a  
6 contract for the provision of health care services under the STAR  
7 Health program between the commission and a managed care  
8 organization under Chapter 533, Government Code, that is entered  
9 into or renewed on or after the effective date of this section,  
10 require that the managed care organization comply with Section  
11 533.0054, Government Code, as added by this section.

12 (c) The Health and Human Services Commission shall seek to  
13 amend contracts for the provision of health care services under the  
14 STAR Health program entered into with managed care organizations  
15 under Chapter 533, Government Code, before the effective date of  
16 this section to require those managed care organizations to comply  
17 with Section 533.0054, Government Code, as added by this section.  
18 To the extent of a conflict between Section 533.0054, Government  
19 Code, as added by this section, and a provision of a contract with a  
20 managed care organization entered into before the effective date of  
21 this section, the contract provision prevails.

22 (d) The Health and Human Services Commission may not impose  
23 a monetary penalty for noncompliance with a contract provision  
24 described by Section 533.0054(b), Government Code, as added by this  
25 section, until September 1, 2018.

26 (e) If before implementing Section 533.0054, Government  
27 Code, as added by this section, the Health and Human Services

1 Commission determines that a waiver or authorization from a federal  
2 agency is necessary for implementation of that provision, the  
3 agency affected by the provision shall request the waiver or  
4 authorization and may delay implementing that provision until the  
5 waiver or authorization is granted.

6 SECTION 9. Subchapter B, Chapter 40, Human Resources Code,  
7 is amended by adding Sections 40.039 and 40.040 to read as follows:

8 Sec. 40.039. REVIEW OF RECORDS RETENTION POLICY. The  
9 department shall periodically review the department's records  
10 retention policy with respect to case and intake records relating  
11 to department functions. The department shall make changes to the  
12 policy consistent with the records retention schedule submitted  
13 under Section 441.185, Government Code, that are necessary to  
14 improve case prioritization and the routing of cases to the  
15 appropriate division of the department.

16 Sec. 40.040. FOSTER CARE SERVICES VENDOR QUALITY OVERSIGHT  
17 AND ASSURANCE DIVISION; MONITORING OF CONTRACT ADHERENCE. (a) In  
18 this section, "foster care redesign" has the meaning assigned by  
19 Section 264.151, Family Code.

20 (b) The department shall create within the department the  
21 foster care services vendor quality oversight and assurance  
22 division. The division shall:

23 (1) oversee quality and ensure accountability of any  
24 vendor that provides foster care and full case management services  
25 for the department under foster care redesign; and  
26 (2) monitor the transfer from the department to a  
27 vendor of full case management services for children and families

1 receiving services from the vendor, including any transfer  
2 occurring under a pilot program.

3 (c) The commission shall contract with an independent  
4 verification and validation vendor to develop, in coordination with  
5 the department, standards for the continuous monitoring of the  
6 adherence of a vendor providing foster care services under foster  
7 care redesign to the terms of the contract entered into by the  
8 vendor and the commission. The standards must include performance  
9 benchmarks relating to the provision of case management services in  
10 the catchment area where the vendor operates.

11 SECTION 10. (a) Section 40.058(f), Human Resources Code,  
12 is amended to read as follows:

13 (f) A contract for residential child-care services provided  
14 by a general residential operation or by a child-placing agency  
15 must include provisions that:

16 (1) enable the department and commission to monitor  
17 the effectiveness of the services;

18 (2) specify performance outcomes, financial penalties  
19 for failing to meet any specified performance outcomes, and  
20 financial incentives for exceeding any specified performance  
21 outcomes;

22 (3) authorize the department or commission to  
23 terminate the contract or impose monetary sanctions for a violation  
24 of a provision of the contract that specifies performance criteria  
25 or for underperformance in meeting any specified performance  
26 outcomes;

27 (4) authorize the department or commission, an agent

1 of the department or commission, and the state auditor to inspect  
2 all books, records, and files maintained by a contractor relating  
3 to the contract; and

4 (5) are necessary, as determined by the department or  
5 commission, to ensure accountability for the delivery of services  
6 and for the expenditure of public funds.

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

14 (c) The Health and Human Services Commission shall seek to  
15 amend contracts for residential child-care services entered into  
16 with general residential operations or child-placing agencies  
17 before the effective date of this section to include the provisions  
18 required by Section 40.058(f), Human Resources Code, as amended by  
19 this section.

20 (d) The Department of Family and Protective Services and the  
21 Health and Human Services Commission may not impose a financial  
22 penalty against a general residential operation or child-placing  
23 agency under a contract provision described by Section  
24 40.058(f)(2), Human Resources Code, as amended by this section,  
25 until September 1, 2018.

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

1           Sec. 40.0581. PERFORMANCE MEASURES FOR CERTAIN SERVICE  
2 PROVIDER CONTRACTS. (a) The commission shall contract with a  
3 vendor or enter into an agreement with an institution of higher  
4 education to develop, in coordination with the department,  
5 performance quality metrics for family-based safety services and  
6 post-adoption support services providers. The quality metrics must  
7 be included in each contract with those providers.

8           (b) Each provider whose contract with the commission to  
9 provide department services includes the quality metrics developed  
10 under Subsection (a) must prepare and submit to the department a  
11 report each calendar quarter regarding the provider's performance  
12 based on the quality metrics.

13           (c) The department shall distribute each report prepared by  
14 a family-based safety services provider as required by Subsection  
15 (b) to appropriate family-based safety services caseworkers and  
16 child protective services region management.

17           (d) The department shall distribute each report prepared by  
18 a post-adoption support services provider as required by Subsection  
19 (b) to appropriate conservatorship and adoption caseworkers and  
20 child protective services region management.

21           (e) This section does not apply to a provider that has  
22 entered into a contract with the commission to provide family-based  
23 safety services under Section 264.156, Family Code. This  
24 subsection expires on the date Section 264.156, Family Code,  
25 expires.

26           (b) The quality metrics required by Section 40.0581, Human  
27 Resources Code, as added by this section, must be developed not

1 later than September 1, 2018, and included in any contract,  
2 including a renewal contract, entered into by the Health and Human  
3 Services Commission with a family-based safety services provider or  
4 a post-adoption support services provider on or after January 1,  
5 2019, except as provided by Section 40.0581(e), Human Resources  
6 Code, as added by this section.

7 SECTION 12. (a) Subchapter C, Chapter 42, Human Resources  
8 Code, is amended by adding Section 42.0432 to read as follows:

9 Sec. 42.0432. HEALTH SCREENING REQUIREMENTS FOR CHILD  
10 PLACED WITH CHILD-PLACING AGENCY. (a) A child-placing agency that  
11 contracts with the department to provide services must ensure that  
12 at least 90 percent of the children that are in the managing  
13 conservatorship of the department and are placed with the  
14 child-placing agency receive a complete early and periodic  
15 screening, diagnosis, and treatment checkup not later than the 30th  
16 day after the date the child is placed with the child-placing  
17 agency.

18 (b) The commission shall include a provision in a contract  
19 with a child-placing agency specifying monetary penalties for the  
20 child-placing agency's failure to comply with Subsection (a). The  
21 penalties must be in amounts that are proportional to the number of  
22 percentage points by which the child-placing agency fails to comply  
23 with the percentage required by Subsection (a).

24 (b) A child-placing agency that contracts to provide  
25 services for the Department of Family and Protective Services must  
26 comply with the requirements of Section 42.0432, Human Resources  
27 Code, as added by this section, not later than August 31, 2018. The

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1 department and the Health and Human Services Commission may not  
2 impose a monetary penalty for noncompliance with a contract  
3 provision described by that section until September 1, 2018.

4 SECTION 13. Except as otherwise provided by this Act, this  
5 Act takes effect September 1, 2017.