

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 359  
By: Brown  
Health & Human Services  
4-1-97  
Committee Report (Substituted)

### **DIGEST**

Currently, the Department of Protective and Regulatory Services' (department's) primary role is to protect children, the elderly, and persons with disabilities from abuse and neglect. The department receives reports of mistreatment, investigates those reports that meet the statutory definitions of abuse or neglect, and provides social services to the victim and family. The department also sets minimum standards for and regulates child care providers, including both day care providers and 24-hour care providers, and regulates maternity homes. The department is governed by a six-member board, has a budget of \$523,633,585, and 6,598 employees for fiscal year 1996.

The department is subject to the Sunset Act and will be abolished September 1, 1997 unless continued by the legislature. As a result of its review of the department, the Sunset Advisory Commission recommended continuation and several statutory modifications contained in this legislation.

### **PURPOSE**

As proposed, C.S.S.B. 359 establishes the continuation and operation of the Department of Protective and Regulatory Services, the provision of services to children and families, and suits affecting the parent-child relationship; and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Board of Protective and Regulatory Services in SECTIONS 48 and 50 (Sections 261.3015(a) and 261.315(b), Family Code), and SECTION 72(b); to the Department of Protective and Regulatory Services in SECTIONS 18, 21, 24, and 25 (Sections 42.0425(a) and (b), 42.0441(c), 42.052(h), and 42.057(c), Human Resources Code); to the Health and Human Services Commission in SECTION 69 (Section 531.047(a), Government Code); and to the Texas Supreme Court in SECTION 79 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 40.003, Human Resources Code, to provide that unless continued in existence as provided by Chapter 325, Government Code (Texas Sunset Act), the Department of Protective and Regulatory Services (department) is abolished and this chapter expires September 1, 2009, rather than September 1, 1997.

SECTION 2. Amends Chapter 40A, Human Resources Code, by amending Section 40.004, and adding Section 40.0041, as follows:

Sec. 40.004. New heading: PUBLIC INTEREST INFORMATION. Requires the Board of Protective and Regulatory Services (board), rather than the department, to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and speak on certain issues. Deletes the provisions regarding public interest complaints. Makes conforming changes.

Sec. 40.0041. COMPLAINT PROCESS. Adds standard language developed by the Sunset Commission regarding complaints.

SECTION 3. Amends Chapter 40A, Human Resources Code, by adding Section 40.008, to add standard language developed by the Sunset Commission regarding program accessibility.

SECTION 4. Amends Section 40.021(a), Human Resources Code, to update standard language developed by the Sunset Commission regarding the composition of the board.

SECTION 5. Amends Section 40.022, Human Resources Code, to update standard language developed by the Sunset Commission regarding restrictions on board appointment or membership.

SECTION 6. Amends Chapter 40B, Human Resources Code, by adding Section 40.0225, to add standard language developed by the Sunset Commission regarding restrictions on board members and employees.

SECTION 7. Amends Chapter 40B, Human Resources Code, by adding Section 40.0226, to add standard language developed by the Sunset Commission regarding training.

SECTION 8. Amends Section 40.028(b), Human Resources Code, to require the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and department staff, rather than require the board to develop and implement policies that separate the respective responsibilities of the board and department staff.

SECTION 9. Amends Chapter 40B, Human Resources Code, by adding Section 40.0305, as follows:

Sec. 40.0305. STRATEGIC TECHNOLOGY STEERING COMMITTEE. Sets forth the terms by which the department is required to establish a strategic technology steering committee within the department to evaluate major information technology project proposals. Requires the committee to make recommendations to the executive director based on the committee's performance of its duties.

SECTION 10. Amends Section 40.032, Human Resources Code, to update standard language developed by the Sunset Commission regarding personnel policies.

SECTION 11. Amends Chapter 40C, Human Resources Code, by adding Section 40.0525, to add standard language developed by the Sunset Commission regarding separation of investigatory and service delivery functions.

SECTION 12. Amends Chapter 40C, Human Resources Code, by adding Sections 40.0563-40.0565, as follows:

Sec. 40.0563. COUNTY OUTREACH PROGRAM. Adds standard language developed by the Sunset Commission regarding the county outreach program.

Sec. 40.0564. DEPARTMENT FUNDS. Adds standard language developed by the Sunset Commission regarding department funds.

Sec. 40.0565. REPORT. Adds standard language developed by the Sunset Commission regarding an annual report.

SECTION 13. Amends Section 40.058, Human Resources Code, to update standard language developed by the Sunset Commission regarding contracts and agreements.

SECTION 14. Amends Section 40.061, Human Resources Code, by adding Subsection (c), to set forth the terms under which this section does not provide immunity to a department employee.

SECTION 15. Amends Chapter 40C, Human Resources Code, by adding Sections 40.066 and 40.067, as follows:

Sec. 40.066. COOPERATION WITH STATE OFFICE OF ADMINISTRATIVE HEARINGS. Adds standard language developed by the Sunset Commission regarding cooperation with the State Office of Administrative Hearings.

Sec. 40.067. DELIVERY OF SERVICES IN AREAS BORDERING UNITED MEXICAN STATES. Sets forth the required action of the department regarding delivery of services in areas bordering the United Mexican States.

SECTION 16. Amends Section 42.002, Human Resources Code, by amending Subdivision (9) and adding Subdivisions (16) and (17), to define "family home," "children who are related to the caretaker," and "regular care." Redefines "child-care facility."

SECTION 17. Amends Sections 42.042(e) and (l), Human Resources Code, to set forth the terms by which the department is required to promulgate minimum standards that apply to licensed child-care facilities and to registered family homes covered by this chapter. Makes conforming changes.

SECTION 18. Amends Chapter 42C, Human Resources Code, by adding Section 42.0425, as follows:

Sec. 42.0425. ASSESSMENT SERVICES. Requires the department, by rule, to regulate assessment services provided by child-care facilities or child-placing agencies. Prohibits a child-care facility or child-placing agency from providing assessment services unless specifically authorized by the department. Sets forth the terms by which the department, by rule, is required to establish minimum standards for assessment services. Defines "assessment services."

SECTION 19. Amends Chapter 42C, Human Resources Code, by adding Section 42.0505, to add standard language developed by the Sunset Commission regarding renewal of a license.

SECTION 20. Amends Section 42.044(b), Human Resources Code, to require the department, rather than the division designated by the department to carry out the provisions of this chapter (division), to inspect all licensed or certified facilities; and to authorize the department to inspect other facilities or registered family homes as necessary.

SECTION 21. Amends Chapter 42C, Human Resources Code, by adding Sections 42.0441 and 42.0442, as follows:

Sec. 42.0441. COORDINATION OF INSPECTIONS; ELIMINATION OF DUPLICATIVE INSPECTIONS. Sets forth the terms by which the department is required to coordinate child-care facility inspections performed by an agency or subdivision of the state to eliminate redundant inspections. Requires the department, with the assistance of the comptroller, by rule, to adopt each inspection form used in inspecting a child-care facility.

Sec. 42.0442. INSPECTION INFORMATION DATABASE. Sets forth the terms by which the department is required to establish a computerized database containing the information from each inspection of a child-care facility.

SECTION 22. Amends Section 42.046, Human Resources Code, by amending Subsection (a), as follows:

Sec. 42.046. New heading: APPLICATION FOR LICENSE OR REGISTRATION. Requires an applicant for a license to operate a child-care facility or child-placing agency or for a registration to operate a family home to submit to the department, rather than the division, the appropriate fee and a completed application on a form provided by the department, rather than the division.

SECTION 23. Amends Chapter 42C, Human Resources Code, by adding Section 42.0461, as follows:

Sec. 42.0461. LICENSES RELATING TO SUBSTITUTE CARE. Sets forth the terms by which the department must require the applicant or license holder to publish notice; conduct a public hearing on whether the proposed action should be taken; and determine the support for, resources available for, and impact of the proposed action. Establishes the conditions by which certain applicants for a license and certain license holders are required to publish notice of the proposed action in certain newspapers. Sets forth the conditions under which the department is authorized to deny a license to an entity seeking to provide substitute care services or deny a request to expand such an entity's capacity under a license.

SECTION 24. Amends Section 42.052, Human Resources Code, by amending Subsection (c) and adding Subsection (h), to authorize a family home that provides care for three or fewer children, excluding the children who are related to the caretaker, to register with the department. Authorizes the department, by rule, to provide for denial of an application for registering a family home or revoke a registration based on the results of a background or criminal history check. Makes conforming changes.

SECTION 25. Amends Chapter 42C, Human Resources Code, by adding Sections 42.057 and 42.058, as follows:

Sec. 42.057. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS. Requires the operator of a family home, in accordance with rules adopted by the department, to submit certain information to the department for use in conducting background and criminal history checks. Requires the department to conduct background and criminal history checks using certain information. Requires the department, by rule, to require a family home to pay a certain fee to the department.

Sec. 42.058. COMPETITIVE BIDDING OR ADVERTISING RULES. Adds standard language developed by the Sunset Commission regarding competitive bidding or advertising rules.

SECTION 26. Amends Chapter 42D, Human Resources Code, by adding Section 42.0705, to add standard language developed by the Sunset Commission regarding range of penalties.

SECTION 27. Amends Section 42.071, Human Resources Code, to update standard language developed by the Sunset Commission regarding suspension, evaluation, or probation of a license or registration.

SECTION 28. Amends Chapter 42D, Human Resources Code, by adding Section 42.0715, to add standard language developed by the Sunset Commission regarding costs charged to a facility.

SECTION 29. Amends Section 42.072, Human Resources Code, to update standard language developed by the Sunset Commission regarding sanctions.

SECTION 30. Amends Section 42.073, Human Resources Code, to delete the provision requiring the department to place the children attending or residing in the facility elsewhere if certain conditions exist. Makes conforming changes.

SECTION 31. Amends Sections 42.074(a) and (c), Human Resources Code, to make conforming changes.

SECTION 32. Amends Section 42.075(a), Human Resources Code, to make conforming changes.

SECTION 33. Amends Section 42.076, Human Resources Code, to provide that a person who operates a family home without a registration commits a Class B misdemeanor. Establishes that a person who places a public advertisement for an unlicensed facility or family home commits a Class C misdemeanor. Deletes the previous provision regarding a person who places an advertisement for a registered family home in violation of Section 42.052(f).

SECTION 34. Amends Section 42.077, Human Resources Code, to make conforming changes.

SECTION 35. Amends Chapter 42D, Human Resources Code, by adding Section 42.078, to add standard language developed by the Sunset Commission regarding administrative penalties.

SECTION 36. Amends Chapter 43, Human Resources Code, by adding Section 43.0042, Human Resources Code, as follows:

Sec. 43.0042. RECOGNITION OF LICENSE ISSUED BY ANOTHER STATE. Sets forth the terms by which the department is authorized to waive any prerequisite to obtaining a license for an applicant. Authorizes the department to enter into an agreement with another state to permit licensing by reciprocity.

SECTION 37. Amends Chapter 43, Human Resources Code, by adding Section 43.0055, to add standard language developed by the Sunset Commission regarding competitive bidding or advertising rules.

SECTION 38. Amends Section 43.006, Human Resources Code, to update standard language developed by the Sunset Commission regarding fees.

SECTION 39. Amends Chapter 43, Human Resources Code, by adding Section 43.0081, to add standard language developed by the Sunset Commission regarding provisional licenses.

SECTION 40. Amends Sections 43.009(b)-(f), Human Resources Code, to update standard language developed by the Sunset Commission regarding continuing education.

SECTION 41. Amends Section 43.010, Human Resources Code, as follows:

Sec. 43.010. New heading: LICENSE REVOCATION, SUSPENSION, OR REFUSAL; REPRIMAND OR PROBATION. Updates standard language developed by the Sunset Commission regarding license revocation, suspension, or refusal; and reprimand or probation.

SECTION 42. Amends Chapter 43, Human Resources Code, by adding Sections 43.0105 and 43.0106, as follows:

Sec. 43.0105. REVOCATION OF PROBATION. Adds standard language developed by the Sunset Commission regarding revocation of probation.

Sec. 43.0106. DISCIPLINARY HEARING. Adds standard language developed by the Sunset Commission regarding disciplinary hearings.

SECTION 43. Amends Section 48.081, Human Resources Code, to update standard language developed by the Sunset Commission regarding investigation of reports.

SECTION 44. Amends Section 161.001, Family Code, to authorize the court to order termination of a parent-child relationship if the court finds that the parent's parent-child relationship was previously terminated with respect to another child based on a finding that the parent's conduct was in violation of certain provisions of the law of another state; abandoned the child who has been in the conservatorship of the department or an authorized agency for not less than six months, rather than one year; or failed to comply with the provisions of a certain court order.

SECTION 45. Amends Chapter 201B, Family Code, by adding Section 201.1085, as follows:

Sec. 201.1085. DISCRETIONARY APPOINTMENT OF MASTER FOR CHILD PROTECTION CASES. Authorizes the presiding judge to appoint a master for a court handling child protection cases if the court needs assistance in order to process the cases in a reasonable time.

SECTION 46. Amends Section 261.001, Family Code, by adding Subdivision (7), to define "board."

SECTION 47. Amends Section 261.107, Family Code, to provide that a person commits a Class A, rather than a Class B, misdemeanor, if the person knowingly or intentionally makes a report that the person knows is false or lacks factual foundation.

SECTION 48. Amends Chapter 261D, Family Code, by adding Section 261.3015, as follows:

Sec. 261.3015. FLEXIBLE RESPONSE SYSTEM. Sets forth the terms by which the board, by rule, is required to establish a flexible response system to allow the department to allocate resources by investigating serious cases of abuse and neglect and providing assessment and family preservation services in less serious cases.

SECTION 49. Amends Section 261.311, Family Code, as follows:

Sec. 261.311. New heading: INTERVIEW OR EXAMINATION OF CHILD. Requires the department or the designated agency to interview or examine a child who is the subject of a report of suspected child abuse or neglect, and make a reasonable effort to notify each parent and legal guardian of the nature of the allegation. Sets forth the terms under which the notice is not required or may be delayed.

SECTION 50. Amends Chapter 261D, Family Code, by adding Section 261.315, as follows:

Sec. 261.315. REMOVAL OF CERTAIN INVESTIGATION INFORMATION FROM RECORDS. Sets forth the terms by which the department is required to remove information from its records about a person who is alleged in a report to have abused or neglected a child and who the department determines did not commit abuse or neglect. Requires the board to adopt rules as necessary to administer this section.

SECTION 51. Amends Section 262.109(a), Family Code, to require the department or other agency to give written notice to each parent of the child, rather than either of the parents, under certain circumstances.

SECTION 52. Amends Section 262.201(c), Family Code, to make conforming changes.

SECTION 53. (a) Amends Chapter 263A, Family Code, by adding Section 263.006, as follows:

Sec. 263.006. WARNING TO PARENTS. Sets forth the conditions under which the court is required to inform each parent in open court that parental and custodial rights may be subject to restriction or termination unless certain conditions are met.

(b) Amends Chapter 263, Family Code, by adding Subchapter E, as follows:

#### SUBCHAPTER E. FINAL ORDER FOR CHILD UNDER DEPARTMENT CARE

Sec. 263.401. DISMISSAL AFTER ONE YEAR; EXTENSION. Sets forth the terms under which the court is required to dismiss the suit affecting the parent-child relationship filed by the department that requests termination of the relationship or requests that the department be named conservator of the child. Establishes the conditions under which the court is authorized to extend the court's jurisdiction of the suit for a certain period; and sets forth the contents of an extension order. Requires the court to render a final order or dismiss the suit on the specified date, and prohibits the court from granting an additional extension. Sets forth the characteristics of a final order.

Sec. 263.402. RETURN OF CHILD TO PARENT OR PLACEMENT WITH RELATIVE. Sets forth the terms by which the court is authorized to retain jurisdiction and not dismiss the suit or render a final order, notwithstanding Section 263.401.

Requires the court, if the court renders an order, to include in the order specific findings regarding the grounds for the order.

Sec. 263.403. FINAL ORDER APPOINTING DEPARTMENT AS MANAGING CONSERVATOR WITHOUT TERMINATING PARENTAL RIGHTS. Sets forth the terms under which the court is authorized to render a final order appointing the department as managing conservator of the child without terminating the rights of the parent of the child, and is required to take into consideration certain factors in making that determination.

SECTION 54. Amends Section 263.201, Family Code, to update standard language developed by the Sunset Commission regarding status hearings, and the date on which they are held.

SECTION 55. Amends the heading of Chapter 263D, Family Code, as follows:

SUBCHAPTER D. PERMANENCY HEARINGS

SECTION 56. Amends Sections 263.301(a) and (b), Family Code, to include an attorney ad litem and a volunteer advocate appointed for the child under Chapter 107 among the persons entitled to at least 10 days notice of a permanency hearing, rather than a hearing to review a child's placement, and entitled to present evidence and be heard at the hearing. Makes conforming changes.

SECTION 57. Amends Section 263.302, Family Code, to set forth the terms by which a child is required to attend each permanency hearing, unless the court excuses the child's attendance. Deletes the provision authorizing the court to dispense with the attendance of the child at a placement hearing.

SECTION 58. Amends Chapter 263D, Family Code, by adding Section 263.3025, as follows:

Sec. 263.3025. PERMANENCY PLAN. Sets forth the terms under which the department is required to prepare, distribute copies of, and modify a permanency plan for a child for whom the department has been appointed temporary managing conservator. Sets forth the contents of a permanency plan.

SECTION 59. Amends Section 263.303, Family Code, as follows:

Sec. 263.303. New heading: PERMANENCY PROGRESS REPORT. Sets forth the terms by which the permanency progress report is required to recommend that the suit be dismissed or continue. Deletes the existing requirements regarding a status report.

SECTION 60. Amends Section 263.304, Family Code, as follows:

Sec. 263.304. New heading: INITIAL PERMANENCY HEARING; TIME. Sets forth the conditions by which the court is required to hold a permanency hearing to review the status of, and permanency plan for, the child to ensure that a final order consistent with that permanency plan is rendered before the date for dismissal of the suit. Deletes the existing provisions regarding a permanency hearing.

SECTION 61. Amends Section 263.305, Family Code, as follows:

Sec. 263.305. New heading: SUBSEQUENT PERMANENCY HEARINGS. Requires a subsequent permanency hearing before entry of a final order to be held not later than the 120th day after the date of the last hearing. Authorizes the court to order more frequent hearings. Deletes the provisions regarding subsequent review hearings.

SECTION 62. Amends Section 263.306, Family Code, as follows:

Sec. 263.306. New heading: PERMANENCY HEARINGS; PROCEDURE. Sets forth the terms under which the court is required, at each permanency hearing, to review the efforts of

the department or another agency in accomplishing certain goals; return the child to the parent or parents if certain conditions are met; return the child to a person or entity, other than a parent, if certain conditions are met; evaluate the department's efforts to identify relatives who could provide the child with a safe environment; evaluate the parties' compliance with temporary orders; determine whether other plans or services are needed to meet the child's needs; determine whether efforts have been made to place the child in the best institutional environment possible; order the services needed to assist the child in making the transition from substitute care to independent living under certain circumstances; determine plans, services, and further temporary orders necessary to ensure that a final order is rendered on time; and determine the date for dismissal of the suit and give notice to all parties. Deletes the existing provisions regarding the procedure of a review hearing.

SECTION 63. Amends Chapter 263, Family Code, by adding Subchapter F, as follows:

#### SUBCHAPTER F. PLACEMENT REVIEW HEARINGS

Sec. 263.501. PLACEMENT REVIEW AFTER FINAL ORDER. Sets forth the terms by which the court is required to conduct and provide notice of a placement review hearing if the department has been named as the child's managing conservator in certain final orders. Authorizes the court to dispense with the requirement that the child attend a placement review hearing.

Sec. 263.502. PLACEMENT REVIEW REPORT. Establishes the conditions by which the department or other authorized agency is required to file a placement review report with the court and provide a copy to certain persons. Sets forth the contents of a report and authorizes the court to order that a report is not required for a specific hearing.

Sec. 263.503. PLACEMENT REVIEW HEARINGS; PROCEDURE. Requires the court to make certain determinations at a placement review hearing.

SECTION 64. Amends Section 264.009, Family Code, to establish the legal representation of the department in certain actions under this code.

SECTION 65. Amends Chapter 264B, Family Code, by amending Section 264.106, and adding Section 264.1061, as follows:

Sec. 264.106. New heading: CONTRACTS FOR SUBSTITUTE CARE SERVICES. Establishes the conditions by which the department is required to assess the need for substitute care services throughout the state and contract with substitute care providers. Sets forth certain requirements of a contract with a substitute care provider. Defines "substitute care provider." Deletes the existing provision regarding the expenditure of appropriated funds to purchase contract residential care for children.

Sec. 264.1061. FOSTER PARENT PERFORMANCE. Sets forth the terms by which the department is required to monitor the performance of a foster parent who does not provide substitute care services through an entity under contract with or licensed by the department. Requires the department to include references to the criteria in a written agreement concerning the foster parent's services.

SECTION 66. Amends Section 264.107, Family Code, to require the department, in making a placement of a child removed from the home of the child's custodial parent, to consider placing the child in the home of the child's noncustodial parent. Makes conforming changes.

SECTION 67. Amends Chapter 264B, Family Code, by adding Section 264.1075, as follows:

Sec. 264.1075. USE OF ASSESSMENT SERVICES. Requires the department, before placing a child in substitute care, to use assessment services provided by a child-care facility or child-placing agency.



SECTION 68. Amends Chapter 264C, Family Code, by adding Sections 264.206 and 264.207, as follows:

Sec. 264.206. SEARCH FOR ADOPTIVE PARENTS. Sets forth the conditions under which the department is required to begin its efforts to locate qualified persons to adopt a child at the time the department's permanency plan for the child becomes the termination of the parent-child relationship.

Sec. 264.207. DEPARTMENT PLANNING AND ACCOUNTABILITY. Establishes the conditions by which the department is required to adopt policies that provide for the improvement of the department's services for children and families through increased accountability of the department to individuals who receive services and to the public; and by assured consistency of services statewide.

SECTION 69. Amends Chapter 531B, Government Code, by adding Section 531.047, as follows:

Sec. 531.047. SUBSTITUTE CARE PROVIDER OUTCOME STANDARDS. Requires the Health and Human Services Commission (commission), after consulting with representatives from the department, the Texas Juvenile Probation Commission, and the Texas Department of Mental Health and Mental Retardation, by rule, to adopt result-oriented standards that a provider of substitute care services for children under the care of the state must achieve. Requires a health and human services agency that purchases substitute care services to include the standards as requirements in each contract. Sets forth the terms by which an agency is authorized to provide information about a provider to another agency.

SECTION 70. Requires representatives from each state agency that purchases substitute care services for children to meet to assess the total need for substitute care services in this state and implement a competitive bidding process. Sets forth the terms under which each state agency is required to use the competitive bidding process. Requires the state agency representatives to meet and develop the competitive bidding process as soon as possible after the effective date of this Act. Requires the department, not later than September 1, 1998, to develop and implement a pilot program for the competitive bidding process.

SECTION 71. Repealer: Sections 263.308, Family Code (Parents Unable or Unwilling to Care for Child) and 263.309, Family Code (Review After Termination or Relinquishment of Parental Rights).

SECTION 72. (a) Effective date: September 1, 1997, except as otherwise provided by this Act.

(b) Requires the board to adopt rules necessary to administer the changes in law made by this Act not later than November 1, 1997.

(c) Makes application of this Act prospective regarding the qualifications of, and prohibitions applying to, members of the board.

(d) Requires the executive director of the department to appoint the members of the strategic technology steering committee not later than November 1, 1997.

(e) Makes application of this Act prospective regarding a disciplinary proceeding or contested case.

(f) Makes application of this Act prospective regarding the imposition of a penalty or other disciplinary action.

(g) Makes application of this Act prospective regarding the qualifications for a license.

(h) Makes application of this Act prospective regarding the termination of the parent-child

relationship.

SECTION 73. (a) Makes application of this Act prospective to January 1, 1998 regarding a contested case hearing conducted by the State Office of Administrative Hearings.

(b) Authorizes the executive director of the department and the chief administrative law judge of the State Office of Administrative Hearings to agree to transfer contested cases pending before the department to the State Office of Administrative Hearings before January 1, 1998.

SECTION 74. Makes application of this Act prospective regarding Section 42.0461, Human Resources Code, as it relates to an application for a license.

SECTION 75. (a) Effective date for SECTIONS 54-65: January 1, 1998.

(b) Makes application of this Act retroactive regarding SECTIONS 54-65, except as provided by Subsection (c).

(c) Requires the court, if the department has been appointed temporary managing conservator of a child before the effective date of this Act, to establish a date for dismissal of the suit by a certain date.

SECTION 76. Requires the commission to adopt the rules required by Section 531.047, Government Code, not later than January 1, 1998.

SECTION 77. Establishes the conditions under which an agency that purchases substitute care services is required to review the effectiveness of the result-oriented standards and report to certain persons and entities by a certain date.

SECTION 78. Sets forth the terms by which each agency or subdivision of the state that inspects child-care facilities is required to submit a copy of the inspection form to the department not later than September 15, 1997.

SECTION 79. Establishes the conditions under which the department is required to establish a working group to coordinate the processing of child protection cases. Requires the Texas Supreme Court to adopt rules regarding the processing of child protection cases.

SECTION 80. Sets forth the terms by which a state agency is required to request a waiver or authorization and may delay implementing a provision.

SECTION 81. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

### SECTION 2.

Amends Section 40.0041, Human Resources Code, to require the complaint process to include the development and distribution of a telephone system that may be used to make a complaint. Deletes the requirement mandating that the department provide information to each person named in the complaint.

Amends Section 40.0041, Human Resources Code, to prohibit the process from including the ruling on an appeal of a complaint, rather than including the hearing of an appeal.

### SECTION 9.

Amends proposed Section 40.0305, Human Resources Code, to require the steering committee to prioritize the department's proposals; provide coordination of the projects; and review, approve, and evaluate projected costs and benefits.

## SECTION 12.

Amends Section 40.0563, Human Resources Code, to replace references to "child and adult protective services" with "child protective services."

Amends Section 40.0565, Human Resources Code, to change the reporting deadline.

## SECTION 14.

Amends Section 40.061, Human Resources Code, to set forth the terms by which this section does not provide immunity to certain department employees.

## SECTION 16.

Adds Section 42.002, Human Resources Code, to define "family home," "children who are related to the caretaker," and "regular care." Redefines "child-care facility."

## SECTION 17.

Adds Section 42.042, Human Resources Code, to require the department to promulgate minimum standards that apply to licensed child-care facilities and registered family homes.

## SECTION 18.

Amends Chapter 42C, Human Resources Code, by adding Section 42.0425, to require the department, by rule, to regulate assessment services provided by child-care facilities or child-placing agencies; and establish minimum standards for assessment services. Defines "assessment services."

## SECTION 20.

Adds Section 42.044(b), Human Resources Code, to require the department, rather than the division, to inspect certain facilities; and to authorize the department to inspect other facilities or registered family homes as necessary.

## SECTION 21.

Amends Chapter 42C, Human Resources Code, by adding Sections 42.0441 and 42.0442, to require the department to coordinate child-care facility inspections to eliminate redundant inspections and establish a computerized database. Requires the department, by rule, and with the assistance of the comptroller, to adopt each inspection form used in inspecting a facility.

## SECTION 22.

Adds Section 42.046, Human Resources Code, to establish the submission of certain fees to the department, rather than the division, upon completion of an application for a license or registration.

## SECTION 23.

Amends Section 42.0461, Human Resources Code, to replace all references to "foster care" with "substitute care." Includes an agency group home and agency home among those entities providing substitute care services to which this section applies. Changes the terms which this section does not require.

Deletes former SECTIONS 16 and 17.

SECTION 24.

Adds Section 42.052, Human Resources Code, to authorize certain family homes to register with the department. Authorizes the department, by rule, to provide for denial of an application for registering a family home or revoke a registration based on the results of a background or criminal history check.

SECTION 25.

Amends Chapter 42C, by adding Sections 42.057, to require the operator of a family home to submit certain information to the department for use in conducting background and criminal history checks. Requires the department to conduct checks using certain information. Requires the department, by rule, to require a family home to pay a certain fee.

Amends Section 42.058, formerly proposed Section 42.057, to replace all references to "license holder" with "license holder or registration holder."

SECTION 26.

Amends Section 42.0705, Human Resources Code, to require the department, rather than the division, to impose the range of penalties. Replaces all references to "license" with "license or certificate of registration."

SECTION 27.

Adds Section 42.071, Human Resources Code, to update standard language developed by the Sunset Commission regarding suspension, evaluation, or probation of a license or registration.

SECTION 29.

Amends Section 42.072, Human Resources Code, to delete the provision authorizing a person to continue to operate a facility during an appeal of a disciplinary action unless certain conditions exist.

SECTION 30.

Amends Section 42.073, Human Resources Code, to delete the provision requiring the department to place the children attending or residing in the facility elsewhere if certain conditions are met.

SECTION 33.

Adds Section 42.076, Human Resources Code, to change the criminal penalties for a person who operates a family home without a registration and a person who places a public advertisement for an unlicensed facility or family home.

SECTION 35.

Amends Section 42.078, Human Resources Code, to change the method by which the department, rather than the board, is authorized to impose an administrative penalty.

Redesignates former SECTIONS 24-27 as SECTIONS 36-39.

Deletes former SECTION 28.

Redesignates former SECTIONS 29-31 as SECTIONS 40-42.

SECTION 43.

Amends Section 48.081, Human Resources Code, to replace the references to "investigation findings" with "confirmed investigation findings." Changes the terms under which the department, by rule, is authorized to assign priorities to an investigation conducted by the department. Deletes the provisions authorizing the department, by rule, to prescribe investigative procedures for investigations conducted by the department. Deletes the provision regarding the terms under which the department is not required to initiate an investigation within 24 hours of a report not assigned a priority.

Redesignates former SECTION 33 as SECTION 44.

SECTION 45.

Amends Chapter 201B, Family Code, by adding Section 201.1085, to authorize the presiding judge to appoint a master for a court handling child protection cases if the court needs assistance in order to process the cases in a reasonable time.

Redesignates former SECTION 34 as SECTION 46.

SECTION 47.

Adds Section 261.107, Family Code, to provide that a person commits a Class A, rather than a Class B, misdemeanor, if the person knowingly or intentionally makes a false report.

Redesignates former SECTIONS 35 and 36 as SECTIONS 48 and 49.

SECTION 50.

Amends Section 261.315, Family Code, to change the terms by which the department is required to remove certain information from its records about a person who the department determines did not abuse or neglect a child. Requires the board to adopt rules as necessary to administer this section.

Redesignates former SECTIONS 38 and 39 as SECTIONS 51 and 52.

SECTION 53.

Amends Chapter 263, Family Code, by adding Subchapter E, entitled, "FINAL ORDER FOR CHILD UNDER DEPARTMENT CARE."

Redesignates proposed Section 263.007 as Section 263.401 and changes the heading to read, "DISMISSAL AFTER ONE YEAR; EXTENSION."

Adds Section 263.402 to set forth the terms by which the court may retain jurisdiction and not dismiss the suit or render a final order provided certain conditions exist.

Adds Section 263.403 to set forth the terms under which the court is authorized to render a final order appointing the department as managing conservator of the child without terminating parental rights.

Redesignates former SECTIONS 41-49 as SECTIONS 54-62

SECTION 63.

Amends Chapter 263, Family Code by redesignating Subchapter E as Subchapter F, and redesignating Sections 263.401-263.403 as Sections 263.501-263.503.

SECTION 64.

Amends Section 264.009, Family Code, to establish the legal representation of the department in certain actions under this code.

#### SECTION 65.

Amends Sections 264.106 and 264.1061, Family Code, by replacing all references to "foster care services" with "substitute care services." Defines "substitute care provider."

Redesignates former SECTION 52 as SECTION 66.

#### SECTION 67.

Amends Chapter 264B, Family Code, by adding Section 264.1075, to require the department, before placing a child in substitute care, to use assessment services provided by a child-care facility or child-placing agency.

#### SECTION 68.

Amends Section 264.206, Family Code, to change the terms under which the department is required to begin its search for adoptive parents and report to the court on certain findings.

Amends Section 264.207, Family Code, to include certain specific policies among those the department is required to adopt.

#### SECTION 69.

Amends Chapter 531B, Government Code, by adding Section 531.047, to set forth the terms by which the commission, by rule, is required to adopt standards that a provider of substitute care services must achieve.

#### SECTION 70.

Requires representatives from each state agency to meet to assess the total need for substitute care services and implement a competitive bidding process by a certain date.

Redesignates former SECTIONS 54-57 as SECTIONS 71-74.

#### SECTION 75.

Provides an effective date for SECTIONS 54-65 and makes their application retroactive, except as provided by Subsection (c). Requires the court, if the department has been appointed temporary managing conservator of a child before the effective date of this Act, to establish a date for dismissal of the suit by a certain date.

#### SECTION 76.

Requires the commission to adopt the rules required by Section 531.047, Government Code, by a certain date.

#### SECTION 77.

Requires an agency that purchases substitute care services to review and report on the effectiveness of the standards by a certain date.

#### SECTION 78.

Requires each agency or subdivision that inspects child-care facilities to submit a copy of the inspection form by a certain date.

SECTION 79.

Requires the department to establish a working group to coordinate the processing of child protection cases. Requires the Texas Supreme Court to adopt rules regarding the processing of child protection cases.

SECTION 80.

Sets forth the terms by which a state agency is required to request a waiver or authorization and may delay implementing a provision.

Redesignates former SECTION 58 as SECTION 81.