

## **BILL ANALYSIS**

Senate Research Center  
85R4892 MK-D

S.B. 11  
By: Schwertner et al.  
Health & Human Services  
1/23/2017  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 11 addresses the statewide foster care capacity crisis; improves accountability throughout the Texas Child Protective Services (CPS) system; ensures all children and youth have timely access to appropriate and necessary support and services to improve child safety, permanency and well-being; and enhances foster care redesign, which has produced positive outcomes for children and families. In addition, S.B. 11 strengthens and streamlines standards of abuse and neglect investigations regardless of setting, strategically focuses prevention and early intervention resources to the highest needs areas of the state, and encourages more efficient use of data to prevent recurrence of abuse and neglect.

Specifically, S.B. 11:

Ensures timely and appropriate services for children and youth in foster care by holding the managed care organization that oversees medical care for foster children, child placing agencies, and general residential operations entities accountable through monetary means to ensure all foster care children and youth receive a comprehensive Texas Health Steps assessment within their contractual requirements.

Implements a pilot program which will task a lead nonprofit entity to provide comprehensive case management services for children in foster care who represent the population of children with the most acute medical and behavioral health needs.

Increases capacity and encourages collaboration and innovation, requiring each CPS catchment region to develop a local capacity-building plan with input from stakeholders, utilizing Department of Family and Protective Services (DFPS) data on capacity needs and the availability of different types of placement.

Addresses capacity and the provision of quality, individualized services and supports to children in foster care by renovating the current foster care redesign model, and giving greater authority and accountability to local communities to positively affect foster care children in their community.

Requires DFPS alongside the Texas Health and Human Services Commission (HHSC) to develop a formal, comprehensive readiness review process prior to expanding Foster Care Redesign to new catchment areas. The review should include an assessment of the Single Source Continuum Contractors (SSCC's) readiness to: provide case management services; provide evidence-based, evidence-informed, or promising practice services to children and families; and ensure sufficient foster care capacity within the catchment area.

Increases accountability throughout CPS for providers to deliver quality outcomes for children in the CPS system by implementing a Family Based Safety Services (FBSS) pilot in two catchment areas of the state, requiring a nonprofit to assume responsibility for providing case management and services to children and families, and report on progress and outcomes, including recidivism.

Requires DFPS to develop quality metrics for FBSS and Post-Adoption Services, and requires DFPS to hold general residential operations and child-placing agencies monetarily accountable to performance outcomes.

Creates a Quality Assurance Division within DFPS to oversee contract compliance and performance/outcomes of SSCCs and other contractors that provide full management to populations of children/families. DFPS would be required to contract with an outside vendor to develop standards to continuously monitor contractor/vendor adherence to the terms of their contract.

Strengthens standards for investigations of child abuse/neglect in foster care/Child Care settings and moves these investigations to the CPS Investigations Division.

Improves Prevention and Early Intervention (PEI) Services by requiring DFPS to utilize risk data and geographic risk assessments to geographically PEI services and dollars and expands partnerships with institutions of higher education to evaluate the effectiveness of PEI.

Utilizes data to better protect children by requiring DFPS to review its records retention policy for Information Management Protecting Adults and Children in Texas (IMPACT) to ensure caseworkers have necessary information from past CPS history.

As proposed, S.B. 11 amends current law relating to the administration of services provided by the Department of Family and Protective Services, including foster care, child protective, and prevention and early intervention services.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 261, Family Code, by adding Section 261.004, as follows:

Sec. 261.004. TRACKING OF RECURRENCE OF CHILD ABUSE OR NEGLECT REPORTS. Requires the Department of Family and Protective Services (DFPS) to collect, compile, and monitor data regarding repeated reports of abuse or neglect involving the same child or by the same alleged perpetrator. Requires DFPS, in compiling reports under this subsection, to group together separate reports involving different children residing in the same household.

SECTION 2. Amends Section 264.1075, Family Code, by adding Subsection (c), as follows:

(c) Requires DFPS to collaborate with a managed care organization that contracts to provide STAR Health program benefits to develop and implement an assessment tool for a caseworker to use in triaging a child's medical and behavioral health care needs not later than the fifth day after the date the child is removed from the child's home. Requires that the results of the assessment be used to identify whether a child has high medical or behavioral health care needs and to expedite delivery of appropriate services for the child.

SECTION 3. (a) Amends Subchapter B, Chapter 264, Family Code, by adding Sections 264.1261, 264.128, and 264.129, as follows:

Sec. 264.1261. FOSTER CARE CAPACITY NEEDS PLAN. (a) Defines "catchment area."

(b) Requires appropriate DFPS management from a child protective services region that includes a catchment area, in collaboration with certain individuals and entities, to use data collected by DFPS on foster care capacity needs and availability of each type of foster care placement in the catchment area to create a plan to address the foster care capacity needs in the catchment area. Requires the plan to identify both short-term and long-term goals and strategies for addressing those capacity needs.

(c) Requires that a foster care capacity needs plan be submitted to and approved by DFPS and be updated annually.

(d) Requires DFPS to publish each initial foster care capacity needs plan and each annual update to a plan on DFPS's Internet website.

Sec. 264.128. PILOT PROGRAM FOR INTEGRATED CASE MANAGEMENT FOR CERTAIN CHILDREN. (a) Requires DFPS to develop and implement in one child protective services region of the state a pilot program under which the Texas Health and Human Services Commission (HHSC) contracts with a nonprofit entity focused on child welfare to serve as single service provider of certain services. Requires that the contract require the single service provider to coordinate the activities of all other providers of certain services for a child to ensure that all services are used effectively without duplication for the purpose of achieving a quality outcome.

(b) Requires the executive commissioner of HHSC to set a payment rate for the contracted single service provider that is separate from standard foster care payment amounts.

(c) Requires the contract with the single service provider to include performance-based provisions that require the provider to achieve certain outcomes.

(d) Requires DFPS, not later than December 31, 2018, to report to the appropriate standing committees of the legislature having jurisdiction over child protective services and foster care matters on the progress of the pilot program. Requires that the report include an evaluation of the single service provider's success in achieving the outcomes described in Subsection (c) and a recommendation as to whether the pilot program should be continued, expanded, or terminated.

(e) Provides that this section expires December 31, 2019.

Sec. 264.129. SINGLE CHILD PLAN OF SERVICE INITIATIVE. (a) Defines "foster care redesign."

(b) Requires DFPS, in regions of the state where foster care redesign has not been implemented, to collaborate with child-placing agencies to implement the single child plan of service model developed under the initiative and ensure that a single child plan of service is developed for each child in foster care in those regions.

(b) Requires DFPS, notwithstanding Section 264.129(b), Family Code, to develop and implement a single plan of service for each child in foster care in a region of the state described by that section not later than December 1, 2017.

SECTION 4. (a) Amends Chapter 264, Family Code, by adding Subchapter B-1, as follows:

#### SUBCHAPTER B-1. FOSTER CARE REDESIGN

Sec. 264.151. DEFINITIONS. Defines "catchment area" and "foster care redesign."

Sec. 264.153. READINESS REVIEW PROCESS FOR FOSTER CARE REDESIGN CONTRACTOR. (a) Requires DFPS to develop a formal review process to assess the ability of a single source continuum contractor (SSCC) to satisfy the responsibilities and administrative requirements of delivering foster care services, including the SSCC's ability to provide certain services.

(b) Requires DFPS to develop the review process before DFPS may expand foster care redesign outside of the initial catchment areas where foster care redesign has been implemented.

(c) Authorizes DFPS, if after conducting the review process DFPS makes a certain determination, to adjust the timeline to allow for an earlier transition of service delivery to the SSCC.

Sec. 264.154. QUALIFICATIONS OF SINGLE SOURCE CONTINUUM CONTRACTOR. Requires an entity to be a nonprofit entity that has an organizational mission focused on child welfare in order to be eligible to enter into a contract with HHSC to serve as an SSCC to provide foster care service delivery.

Sec. 264.155. TRANSFER OF CASE MANAGEMENT SERVICES TO SINGLE SOURCE CONTINUUM CONTRACTOR. (a) Requires DFPS, in each initial catchment area where foster care redesign has been implemented, to transfer certain services to the SSCC providing foster care services in that area.

(b) Requires HHSC to include a provision in a contract with a SSCC to provide foster care services in a catchment area to which foster care redesign is expanded after September 1, 2017, that requires transfer to the SSCC of the provision of certain services.

Sec. 264.156. PILOT PROGRAM FOR FAMILY-BASED SAFETY SERVICES AND CASE MANAGEMENT. (a) Requires DFPS to develop and implement in two child protective services regions of the state a pilot program under which HHSC contracts with a certain nonprofit to provide certain family-based safety services and case management to certain individuals. Requires the contract to include a transition plan for the provision of services that ensures the continuity of services for children and families in the selected regions.

(b) Requires that the contract with an entity include performance-based provisions that require the entity to achieve certain outcomes for families receiving services from the entity.

(c) Authorizes HHSC to only contract for implementation of the pilot program with entities that DFPS considers to have the capacity to provide, either directly or through subcontractors, an array of evidence-based services and support programs to children and families in the selected child protective services regions.

(d) Requires DFPS, not later than December 31, 2018, to report to the appropriate standing committees of the legislature having jurisdiction over child protective services and foster care matters on the progress of the pilot program. Requires the report to include an evaluation of each contracted entity's success in achieving the outcomes described in Subsection (b) and a recommendation as to whether the pilot program should be continued, expanded, or terminated.

(e) Provides that this section expires December 31, 2019.

(b) Transfers Section 264.126, Family Code, to Subchapter B-1, Chapter 264, Family Code, redesignates it as Section 264.152, Family Code, and amends it, as follows:

Sec. 264.152. REDESIGN IMPLEMENTATION PLAN. (a) Deletes existing text stating the plan is the plan required by Chapter 598 (S.B. 218), Acts of the 82nd Legislature, Regular Session, 2011. Makes a nonsubstantive change.

SECTION 5. Amends Subchapter A, Chapter 265, Family Code, by adding Sections 265.0041 and 265.0042, as follows:

Sec. 265.0041. GEOGRAPHIC RISK MAPPING FOR PREVENTION AND EARLY INTERVENTION SERVICES. (a) Requires DFPS to use existing risk terrain modeling systems, predictive analytics, or geographic risk assessments to identify geographic areas that have high risk indicators of child maltreatment and child fatalities resulting from abuse or neglect, and target the implementation and use of prevention and early intervention services to those geographic areas.

(b) Prohibits DFPS from using data gathered under this section to identify a specific family or individual.

Sec. 265.0042. COLLABORATION WITH INSTITUTIONS OF HIGHER EDUCATION. (a) Requires HHSC, on behalf of DFPS, to enter into agreements with institutions of higher education (IHE) to conduct efficacy reviews of any prevention and early intervention programs that have not previously been evaluated for effectiveness through a scientific research evaluation process.

(b) Requires DFPS to collaborate with an IHE to create and track indicators of child well-being to determine the effectiveness of prevention and early intervention services.

SECTION 6. Amends Section 265.005(b), Family Code, to include the requirement that a strategic plan required by this section identify specific strategies to increase local capacity for the delivery of prevention and early intervention services through collaboration with communities and stakeholders.

SECTION 7. (a) Amends Section 531.02013, Government Code, to exempt investigations of alleged abuse or neglect occurring at a child-care facility, including a residential child-care facility, as those terms are defined by Section 42.002 (Definitions), Human Resources Code, from being subject to transfer under Sections 531.0201 (Phase One: Initial Transfers) and 531.02011 (Phase Two: Final Transfers to Commission).

(b) Prohibits the responsibility for conducting investigations of reports of abuse or neglect occurring at certain facilities, notwithstanding any provision of Subchapter A-1 (Consolidation of Health and Human Services System), Chapter 531 (Health and Human Services Commission), Government Code, or any other law, from being transferred to HHSC and provides that it remains the responsibility of DFPS.

(c) Requires the commissioner of DFPS (commissioner), as soon as possible after the effective date of this section, to transfer the responsibility for conducting investigations of reports of abuse or neglect occurring at certain facilities to the child protective services division of DFPS. Requires the commissioner to transfer appropriate investigators and staff as necessary to implement this section.

(d) Effective date of this section: upon passage or the 91st day after the last day of the legislative session.

SECTION 8. (a) Amends Subchapter A, Chapter 533, Government Code, by adding Section 533.0054, as follows:

Sec. 533.0054. HEALTH SCREENING REQUIREMENTS FOR ENROLLEE UNDER STAR HEALTH PROGRAM. (a) Requires a managed health care organization that contracts with HHSC to provide health care services to recipients under the STAR Health program to ensure that certain requirements are met.

(b) Requires HHSC to include a provision in a contract with a managed care organization to provide health care services to recipients under the

STAR Health program specifying monetary penalties for the organization's failure to comply with Subsection (a). Requires that the penalties be in amounts that are proportional to the number of percentage points by which the organization fails to comply with the percentage required by Subsection (a).

(b) Requires HHSC, in a contract for the provision of health care services under the STAR Health program between HHSC and a managed care organization under Chapter 533 (Medicaid Managed Care Program), Government Code, entered into or renewed on or after the effective date of this section, to require that the managed care organization comply with Section 533.0054.

(c) Requires HHSC to seek to amend contracts for the provision of health care services under the STAR Health program entered into with managed care organizations under Chapter 533, Government Code, before the effective date of this section to require those managed care organizations to comply with Section 533.0054. Provides that to the extent of a conflict between Section 533.0054 and a provision of a contract with a managed care organization entered into before the effective date of this section, the contract provision prevails.

(d) Prohibits HHSC from imposing a monetary penalty for noncompliance with a contract provision described by Section 533.0054(b), Government Code, until September 1, 2018.

(e) Requires HHSC, if necessary for implementation of Section 533.0054, Government Code, to request a waiver or authorization from a federal agency and authorizes delay of implementation until such a waiver or authorization is granted.

SECTION 9. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Sections 40.039 and 40.040, as follows:

Sec. 40.039. REVIEW OF RECORDS RETENTION POLICY. Requires DFPS to periodically review DFPS's records retention policy with respect to case and intake records relating to DFPS functions. Requires DFPS to make changes to the policy consistent with the records retention schedule submitted under Section 441.185 (Record Retention Schedules), Government Code, that are necessary to improve case prioritization and the routing of cases to the appropriate division of DFPS.

Sec. 40.040. FOSTER CARE SERVICES VENDOR QUALITY OVERSIGHT AND ASSURANCE DIVISION; MONITORING OF CONTRACT ADHERENCE. (a) Defines "foster care redesign."

(b) Requires DFPS to create within DFPS the foster care services vendor quality oversight and assurance division (division). Requires the division to oversee and monitor certain matters.

(c) Requires HHSC to contract with an independent verification and validation vendor to develop, in coordination with DFPS, standards for the continuous monitoring of the adherence of a vendor providing foster care services under foster care redesign to the terms of the contract entered into by the vendor and HHSC. Requires that the standards include performance benchmarks relating to the provision of case management services in the catchment area where the vendor operates.

SECTION 10. (a) Amends Section 40.058(f), Human Resources Code, as follows:

(f) Requires a contract for residential child-care services provided by a general residential operation or by a child-placing agency, to include provisions that enable DFPS and HHSC to monitor the effectiveness of the services; specify performance outcomes, financial penalties for failing to meet any specified performance outcomes, and financial incentives for

exceeding any specified performance outcomes; authorize DFPS or HHSC to terminate the contract or impose monetary sanctions for a violation of a provision of the contract that specifies performance criteria or for underperformance in meeting any specified performance outcomes; authorize DFPS or HSSC, an agent of DFPS or HSSC, and the state auditor to inspect all books, records, and files maintained by a contractor relating to the contract; and are necessary, as determined by DFPS or HSSC, to ensure accountability for the delivery of services and for the expenditure of public funds.

(b) Requires HHSC, in a contract for residential child-care services between HHSC and a general residential operation or child-placing agency that is entered into on or after the effective date of this section, including a renewal contract, to include the provisions required by Section 40.058(f), Human Resources Code, as amended.

(c) Requires HHSC to seek to amend contracts for residential child-care services entered into with the general residential operations or child-placing agencies before the effective date of this section to include the provisions required by Section 40.058(f), Human Resources Code, as amended.

(d) Prohibits DFPS and HHSC from imposing a financial penalty against a general residential operation or child-placing agency under a contract provision described by 40.058(f)(2), Human Resources Code, as amended, until September 1, 2018.

SECTION 11. (a) Amends Subchapter C, Chapter 40, Human Resources Code, by adding Section 40.0581, as follows:

Sec. 40.0581. PERFORMANCE MEASURES FOR CERTAIN SERVICE PROVIDER CONTRACTS. (a) Requires HHSC to contract with a vendor or enter into an agreement with an IHE to develop, in coordination with DFPS, performance quality metrics for family-based safety services and post-adoption support services providers. Requires that quality metrics be included in each contract with those providers.

(b) Requires each provider whose contract with HHSC to provide DFPS services includes the quality metrics developed under Subsection (a) to prepare and submit to DFPS a quarterly report regarding the provider's performance based on the quality metrics.

(c) Requires DFPS to distribute each report prepared by a family-based safety services provider to appropriate family-based safety services caseworkers and child protective services region management.

(d) Requires DFPS to distribute each report prepared by a post-adoption support services provider to appropriate conservatorship and adoption caseworkers and child protective services region management.

(e) Provides that this section does not apply to a provider that has entered into a contract with HHSC to provide family-based safety services under Section 264.156, Family Code. Provides that this subsection expires on the date Section 264.156, Family Code, expires.

(b) Requires the quality metrics required by Section 40.0581, Human Resources Code, to be developed not later than September 1, 2018, and included in certain contracts entered into by HHSC with certain service providers on or after January 1, 2019, except as provided by Section 40.0581(e).

SECTION 12. (a) Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0432, as follows:

Sec. 42.0432. HEALTH SCREENING REQUIREMENTS FOR CHILD PLACED WITH CHILD-PLACING AGENCY. (a) Requires a child-placing agency that contracts with DFPS to provide services to ensure that certain health screening requirements are met.

(b) Requires HHSC to include a provision in a contract with a child-placing agency specifying monetary penalties for the child-placing agency's failure to comply with Subsection (a). Requires the penalties to be in amounts that are proportional to the number of percentage points by which the child-placing agency fails to comply with the percentage required by Subsection (a).

(b) Requires a child-placing agency that contracts to provide services for DFPS to comply with the requirements of Section 42.0432, Human Resources Code, not later than August 31, 2018. Prohibits DFPS and HHSC from imposing a monetary penalty for noncompliance with a contract provision until September 1, 2018.

SECTION 13. Effective date: September 1, 2017, except as otherwise provided by this Act.