HUMAN RESOURCES CODE
TITLE 1. GENERAL PROVISIONS
CHAPTER 1. GENERAL PROVISIONS

Sec. 1.001. PURPOSE OF CODE. (a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in Chapter 448, Acts of the 58th Legislature, Regular Session, 1963 (Article 5429b-1, Vernon's Texas Civil Statutes). The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent human resources law more accessible and understandable by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible.

Acts 1979, 66th Leg., p. 2334, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 1.002. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this code, except as otherwise expressly provided by this code.

Acts 1979, 66th Leg., p. 2335, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 75, eff. Sept. 1, 1985.

Sec. 1.003. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection,

subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 2, eff. Sept. 1, 1989.

TITLE 2. HUMAN SERVICES AND PROTECTIVE SERVICES IN GENERAL
SUBTITLE A. GENERAL PROVISIONS
CHAPTER 11. GENERAL PROVISIONS

Sec. 11.001. DEFINITIONS. In this title:

(1) "Assistance" means all forms of assistance and services for needy persons authorized by Subtitle C.

(2) "Commission" means the Health and Human Services Commission.

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

(4) "Financial assistance" means money payments for needy persons authorized by Chapter 31.

(5) "Medical assistance" means assistance for needy persons authorized by Chapter 32.

Acts 1979, 66th Leg., p. 2335, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 5, eff. Aug. 26, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 8.012, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 920, Sec. 6, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 50, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1505, Sec. 2.01, eff. Sept. 1, 2005.
Amended by Acts 2001, 77th Leg., ch. 592, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 1.28(3), eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.002, eff. April 2, 2015.

Sec. 11.002. PURPOSE OF TITLE; CONSTRUCTION. (a) The purpose of this title is to establish a program of social security to provide necessary and prompt assistance to the citizens of this state who are entitled to avail themselves of its provisions.

(b) This title shall be liberally construed in order that its purposes may be accomplished as equitably, economically, and

expeditiously as possible.

Acts 1979, 66th Leg., p. 2335, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.002, eff. April 2, 2015.

Sec. 11.003. RESPONSIBILITY OF COUNTIES AND MUNICIPALITIES NOT AFFECTED. No provision of this title is intended to release the counties and municipalities in this state from the specific responsibilities they have with regard to the support of public welfare, child welfare, and relief services. Funds which the counties and municipalities may appropriate for the support of those programs may be administered through the local or regional offices of the commission or Department of Aging and Disability Services, and if administered in that manner must be devoted exclusively to the programs in the county or municipality making the appropriation.

Acts 1979, 66th Leg., p. 2335, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.002, eff. April 2, 2015.

Sec. 11.004. POWERS AND FUNCTIONS NOT AFFECTED. The provisions of this title are not intended to interfere with the powers and functions of the commission, the health and human services agencies, as defined by Section 531.001, Government Code, or county juvenile boards.

Acts 1979, 66th Leg., p. 2336, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 19, eff. Sept. 1, 1985.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.002, eff. April 2, 2015.

CHAPTER 12. PENAL PROVISIONS

Sec. 12.001. PROHIBITED ACTIVITIES. (a) A person who is not licensed to practice law in Texas commits an offense if the person charges a fee for representing or aiding an applicant or recipient in procuring assistance from the state agency administering the assistance.

(b) A person commits an offense if the person advertises, holds himself or herself out for, or solicits the procurement of assistance from the state agency administering the assistance.

(c) An offense under this section is a Class A misdemeanor.

Acts 1979, 66th Leg., p. 2336, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.003, eff. April 2, 2015.

Sec. 12.002. UNLAWFUL USE OF FUNDS. (a) A person charged with the duty or responsibility of administering, disbursing, auditing, or otherwise handling the grants, funds, or money provided for in this title commits an offense if the person misappropriates the grants, funds, or money or by deception or fraud wrongfully distributes the grants, funds, or money to any person.

(b) An offense under this section is a felony punishable by confinement in the Texas Department of Criminal Justice for a term of not less than two or more than seven years.

Acts 1979, 66th Leg., p. 2336, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.113, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.003, eff. April 2, 2015.

Sec. 12.003. DISCLOSURE OF INFORMATION PROHIBITED. (a) Except for purposes directly connected with the administration of the assistance programs of the commission or Department of Aging and Disability Services, as applicable, it is an offense for a person to

solicit, disclose, receive, or make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of the names of, or any information concerning, persons applying for or receiving assistance if the information is directly or indirectly derived from the records, papers, files, or communications of the commission or department or acquired by employees of the commission or department in the performance of their official duties.

(b) An offense under this section is a Class A misdemeanor.

Acts 1979, 66th Leg., p. 2336, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.003, eff. April 2, 2015.

SUBTITLE B. ADMINISTRATIVE PROVISIONS AND GENERAL FUNCTIONS RELATING TO HUMAN SERVICES

CHAPTER 21. ADMINISTRATIVE PROVISIONS RELATING TO AGENCIES ADMINISTERING ASSISTANCE PROGRAMS

Sec. 21.011. ANNUAL REPORT ON DEPARTMENT OF AGING AND DISABILITY SERVICES. On or before December 31 of each year the Department of Aging and Disability Services shall prepare and submit to the commission a full report on the operation and administration of the department under this title together with the department's recommendations for changes. The commission shall submit the report to the governor and the legislature.

Acts 1979, 66th Leg., p. 2339, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 18, Sec. 1, eff. April 3, 1985; Acts 1987, 70th Leg., ch. 1052, Sec. 1.05, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 693, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1169, Sec. 7, eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(101), eff. June 17, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.007, eff. April 2, 2015.

Sec. 21.012. CONFIDENTIALITY OF INFORMATION. (a) The

executive commissioner shall establish reasonable rules governing the custody, use, and preservation of the records, papers, files, and communications of the commission and the Department of Aging and Disability Services under this title. The commission and the department shall:

(1) enforce the agency's rules; and

(2) provide safeguards which restrict the use or disclosure of information concerning applicants for or recipients of the commission's and the department's assistance programs to purposes directly connected with the administration of the programs.

(b) If under a provision of law lists of the names and addresses of recipients of the commission's or the department's assistance programs are furnished to or held by a governmental agency other than the commission or the department, that agency or the person with responsibility for adopting rules for that agency shall adopt rules necessary to prevent the publication of the lists or the use of the lists for purposes not directly connected with the administration of the assistance programs.

Acts 1979, 66th Leg., p. 2339, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.007, eff. April 2, 2015.

Sec. 21.013. OATHS AND ACKNOWLEDGMENTS. A local representative of the commission or the Department of Aging and Disability Services who is responsible for investigating and determining the eligibility of an applicant for assistance authorized in this title may administer oaths and take acknowledgments concerning all matters relating to the administration of this title. The representative shall sign the oaths or acknowledgments and indicate the representative's position and title but need not seal the instruments. The representative has the same authority as a notary public coextensive with the limits of the state for the purpose of administering the provisions of this title.

Acts 1979, 66th Leg., p. 2339, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.007, eff. April 2, 2015.

CHAPTER 22. GENERAL FUNCTIONS RELATING TO HUMAN SERVICES

Sec. 22.0001. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner of aging and disability services by this title or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.03, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.009, eff. April 2, 2015.

Sec. 22.001. GENERAL POWERS AND DUTIES OF COMMISSION. (a) The executive commissioner is responsible for supervising the administration of the welfare functions authorized in this title.

(b) The commission shall administer medical assistance to needy persons and financial and medical assistance to families with dependent children.

(b-1) The executive commissioner shall supervise general relief services.

(c) The commission shall assist other governmental agencies in performing services in conformity with the purposes of this title when so requested and shall cooperate with the agencies when expedient.

(d) The commission shall conduct research and compile statistics on public welfare programs in the state. The research must include all phases of dependency and delinquency and related problems. The commission shall cooperate with other public and private agencies in developing plans for the prevention and treatment of conditions giving rise to public welfare problems.

Acts 1979, 66th Leg., p. 2340, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 1.07, 1.08, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1265, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 747, Sec. 61(3), eff. Sept.

1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 8.013, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 162, Sec. 1, eff. May 27, 2003; Acts 2003, 78th Leg., ch. 198, Sec. 2.129, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 13.06, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 4.04, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(54), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 32(f), eff. September 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 320 (H.B. 1760), Sec. 3, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.010, eff. April 2, 2015.

Sec. 22.0011. DEFINITIONS. In this chapter:

(1) "Department" means the Department of Aging and Disability Services.

(2) "Long-term care services" means the provision of personal care and assistance related to health and social services given episodically or over a sustained period to assist individuals of all ages and their families to achieve the highest level of functioning possible, regardless of the setting in which the assistance is given.

Added by Acts 1999, 76th Leg., ch. 1505, Sec. 1.02, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.011, eff. April 2, 2015.

Sec. 22.0015. EVALUATION AND IMPROVEMENT OF PROGRAMS. The commission and the department shall conduct research, analysis, and reporting of the programs administered by each agency under this title to evaluate and improve the programs. The commission and the department may contract with one or more independent entities to assist the commission or the department, as applicable, with the

research, analysis, and reporting required by this section.

Added by Acts 1997, 75th Leg., ch. 323, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.011, eff. April 2, 2015.

Sec. 22.002. ADMINISTRATION OF FEDERAL WELFARE PROGRAMS. (a) The commission is the state agency designated to cooperate with the federal government in the administration of Titles IV, XIX, and XX of the federal Social Security Act. The commission shall administer other titles added to the act after January 1, 1979, unless another state agency is designated by law to perform the additional functions. The commission shall cooperate with federal, state, and local governmental agencies in the enforcement and administration of the federal act, and the executive commissioner shall promulgate rules to effect that cooperation.

(b) The commission shall cooperate with the United States Department of Health and Human Services and other federal agencies in a reasonable manner and in conformity with the provisions of this title to the extent necessary to qualify for federal assistance for persons entitled to benefits under the federal Social Security Act. The commission shall make reports periodically in compliance with federal regulations.

(c) The commission may establish and maintain programs of assistance and services authorized by federal law and designed to help needy families and individuals attain and retain the capability of independence and self-care. Notwithstanding any other provision of law, the commission may extend the scope of its programs to the extent necessary to ensure that federal matching funds are available, if the commission determines that the extension of scope is feasible and within the limits of appropriated funds.

(d) If the commission determines that a provision of state welfare law conflicts with a provision of federal law, the executive commissioner may promulgate policies and rules necessary to allow the state to receive and expend federal matching funds to the fullest extent possible in accordance with the federal statutes and the provisions of this title and the state constitution and within the limits of appropriated funds.

(e) The commission may accept, expend, and transfer federal and state funds appropriated for programs authorized by federal law. The commission may accept, expend, and transfer funds received from a county, municipality, or public or private agency or from any other source, and the funds shall be deposited in the state treasury subject to withdrawal on order of the executive commissioner in accordance with the commission's rules.

(f) The commission may enter into agreements with federal, state, or other public or private agencies or individuals to accomplish the purposes of the programs authorized in Subsection (c). The agreements or contracts between the commission and other state agencies are not subject to Chapter 771, Government Code.

(g) In administering social service programs authorized by the Social Security Act, the commission may prepay an agency or facility for expenses incurred under a contract with the commission to provide a social service.

(h) The executive commissioner by rule may set and the commission may charge reasonable fees for services provided in administering social service programs authorized by the Social Security Act. The executive commissioner shall set the amount of each fee according to the cost of the service provided and the ability of the recipient to pay.

(i) The commission may not deny services administered under this section to any person because of that person's inability to pay for services.

Acts 1979, 66th Leg., p. 2340, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2232, ch. 530, Sec. 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 3872, ch. 616, Sec. 1, eff. Sept. 1, 1983.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.012, eff. April 2, 2015.

Sec. 22.003. RESEARCH AND DEMONSTRATION PROJECTS. (a) The commission and the department may conduct research and demonstration projects that in the judgment of the executive commissioner will assist in promoting the purposes of the commission's and the department's assistance programs. The commission and the department

may conduct the projects independently or in cooperation with a public or private agency.

(b) The executive commissioner may authorize the use of state or federal funds available for commission or department assistance programs or for research and demonstration projects to support the projects. The projects must be consistent with the state and federal laws making the funds available.

Acts 1979, 66th Leg., p. 2341, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.012, eff. April 2, 2015.

Sec. 22.0031. PROJECTS FOR HIGH-RISK PREGNANT WOMEN AND HIGH-RISK CHILDREN. (a) The commission shall establish programs of case management for high-risk pregnant women and high-risk children to age one as provided under Section 1915(g) of the federal Social Security Act (42 U.S.C. Section 1396n).

(b) Case management programs may be developed using contracts with public health entities, hospitals, community health clinics, physicians, or other appropriate entities which have the capacity to carry out the full scope of case management activities. The case manager shall assess the needs of the pregnant woman and the child and serve as a broker to assure that all needs as defined in this subsection are met to the greatest extent possible given existing services available in the project area. These activities shall include:

(1) assuring that the pregnant woman seeks and receives early and appropriate prenatal care that conforms to prescribed medical regimes;

(2) assisting the pregnant woman and child in gaining access to appropriate social, educational, nutritional, and other ancillary services as needed in accordance with federal Medicaid law; and

(3) assuring appropriate coordination within the medical community.

(c) The provisions of Subsection (b) of this section shall not be construed to allow a case manager to interfere with the physician-

patient relationship and shall not be construed as conferring any authority to practice medicine.

(d) The commission shall use existing funds of the commission or any other lawful source to fund and support the projects for high-risk pregnant women and high-risk children.

Added by Acts 1989, 71st Leg., ch. 1215, Sec. 2, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.013, eff. April 2, 2015.

Sec. 22.0033. PROHIBITED ACTIVITIES BY FORMER OFFICERS OR EMPLOYEES. (a) For one year after the date on which a former officer or employee of the department terminates service or employment with the department, the individual may not, directly or indirectly, attempt or aid in the attempt to procure a contract with the department that relates to a program or service in which the individual was directly concerned or for which the individual had administrative responsibility.

(b) This section does not apply to:

(1) a former employee who is compensated on the last date of service or employment below the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule, including a state employee who is exempt from the state's position classification plan; or

(2) a former officer or employee who is employed by another state agency or a community center.

(c) A former officer or employee of the department commits an offense if the former officer or employee violates this section. An offense under this section is a Class A misdemeanor.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 3, eff. Sept. 1, 1991.

Sec. 22.004. PROVISION OF LEGAL SERVICES. (a) On request, the commission may provide legal services to an applicant for or recipient of assistance at a hearing before the commission.

(b) The services must be provided by an attorney licensed to practice law in Texas or by a law student acting under the supervision of a law teacher or a legal services organization, and

the attorney or law student must be approved by the commission.

(c) The executive commissioner shall adopt a reasonable fee schedule for the legal services. The fees may not exceed those customarily charged by an attorney for similar services for a private client. The fees may be paid only from funds appropriated to the commission for the purpose of providing these legal services.

Acts 1979, 66th Leg., p. 2341, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.014, eff. April 2, 2015.

Sec. 22.005. CUSTODIAN OF ASSISTANCE FUNDS. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(21), eff. April 2, 2015.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(21), eff. April 2, 2015.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(21), eff. April 2, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(b), eff. April 2, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(21), eff. April 2, 2015.

(f) The comptroller is the designated custodian of all funds administered by the commission and the department and received by the state from the federal government or any other source for the purpose of implementing the provisions of the Social Security Act. The comptroller may receive the funds, pay them into the proper fund or account of the general fund of the state treasury, provide for the proper custody of the funds, and make disbursements of the funds on the order of the commission or the department and on warrant of the comptroller.

Acts 1979, 66th Leg., p. 2341, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 10, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 1052, Sec. 1.09, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 599, Sec. 14, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 8.137, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 9.01, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 14, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 16, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.015, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.016, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(21), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(b), eff. April 2, 2015.

Sec. 22.007. PUBLIC INFORMATION CONTRACT REQUIREMENT. (a) Each contract between the commission or the department and a provider of services under this title must contain a provision that authorizes the commission or the department to display at the service provider's place of business public awareness information on services provided by the commission or the department.

(b) Notwithstanding Subsection (a), the commission or department may not require a physician to display in the physician's private offices public awareness information on services provided by the commission or department.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.017, eff. April 2, 2015.

Sec. 22.008. ENFORCEMENT AND ALTERATION OF SERVICE DELIVERY STANDARDS. (a) The executive commissioner shall adopt rules for the department's community care program that relate to the service delivery standards required of persons who contract with the department to carry out its community care program. The department shall apply the rules consistently across the state.

(b) At the same time the department sends written notice to a

regional department office of a change or interpretation of a service delivery standard relating to the community care program, the department shall send a copy of the notice to each community care program contractor affected by the change or interpretation.

(c) Each decision on whether to enter into a contract in the community care program that results from a department request for bids or proposals must be made by one or more persons employed at the department's state headquarters.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.018, eff. April 2, 2015.

Sec. 22.009. ADVISORY COMMITTEES. (a) The executive commissioner shall appoint advisory committees to assist the executive commissioner, commission, and department in performing their duties.

(b) The executive commissioner shall appoint each advisory committee to provide for a balanced representation of the general public, providers, consumers, and other persons, state agencies, or groups with knowledge of and interest in the committee's field of work.

(c) The executive commissioner shall specify each advisory committee's purpose, powers, and duties and shall require each committee to report to the executive commissioner in a manner specified by the executive commissioner concerning the committee's activities and the results of its work.

(d) The executive commissioner shall establish procedures for receiving reports concerning activities and accomplishments of advisory committees established to advise the executive commissioner, commission, or department. The executive commissioner may appoint additional members to those committees and establish additional duties of those committees as the executive commissioner determines to be necessary.

(e) The executive commissioner shall adopt rules to implement this section. Those rules must provide that during the development of rules relating to an area in which an advisory committee exists

the committee must be allowed to assist in the development of and to comment on the rules before the rules are finally adopted.

(f) A member of an advisory committee receives no compensation but is entitled to reimbursement for transportation expenses and the per diem allowance for state employees in accordance with the General Appropriations Act.

(g) Subsections (c) through (f) apply to each advisory committee created under this section.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.019, eff. April 2, 2015.

Sec. 22.011. MEMORANDUM OF UNDERSTANDING ON SERVICES TO PERSONS WITH DISABILITIES. (a) The commission, the department, the Department of State Health Services, the Department of Assistive and Rehabilitative Services, the Department of Family and Protective Services, and the Texas Education Agency shall enter into a joint memorandum of understanding to facilitate the coordination of services to persons with disabilities. The memorandum shall:

(1) clarify the financial and service responsibilities of each agency in relation to persons with disabilities; and

(2) address how the agency will share data relating to services delivered to persons with disabilities by each agency.

(b) These agencies in the formulation of this memorandum of understanding shall consult with and solicit input from advocacy and consumer groups.

(c) Not later than the last month of each state fiscal year, the agencies shall review and update the memorandum.

(d) The executive commissioner and the commissioner of education by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 353, Sec. 7, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 835, Sec. 19, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.52, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.020, eff. April 2, 2015.

Sec. 22.013. MEMORANDUM OF UNDERSTANDING ON PUBLIC AWARENESS INFORMATION. (a) The commission, the department, the Department of State Health Services, and the Department of Assistive and Rehabilitative Services shall enter into a joint memorandum of understanding that authorizes and requires the exchange and distribution among the agencies of public awareness information relating to services provided by or through the agencies.

(b) Not later than the last month of each state fiscal year, the agencies shall review and update the memorandum.

(c) The executive commissioner by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.020, eff. April 2, 2015.

Sec. 22.014. MEMORANDUM OF UNDERSTANDING ON HOSPITAL AND LONG-TERM CARE SERVICES. (a) The commission, the department, and the Department of State Health Services shall enter into a memorandum of understanding that:

(1) clearly defines the responsibilities of each agency in providing, regulating, and funding hospital or long-term care services; and

(2) defines the procedures and standards that each agency will use to provide, regulate, and fund hospital or long-term care services.

(b) The memorandum must provide that no new rules or regulations that would increase the costs of providing the required services or would increase the number of personnel in hospital or long-term care facilities may be promulgated by the executive commissioner unless the executive commissioner certifies that the new rules or regulations are urgent as well as necessary to protect the health or safety of recipients of hospital or long-term care

services.

(c) The memorandum must provide that any rules or regulations proposed by the commission, the department, or the Department of State Health Services which would increase the costs of providing the required services or which would increase the number of personnel in hospital or long-term care facilities must be accompanied by a fiscal note prepared by the agency proposing said rules and submitted to the executive commissioner. The fiscal note should set forth the expected impact which the proposed rule or regulation will have on the cost of providing the required service and the anticipated impact of the proposed rule or regulation on the number of personnel in hospital or long-term care facilities. The memorandum must provide that in order for a rule to be finally adopted the commission must provide written verification that funds are available to adequately reimburse hospital or long-term care service providers for any increased costs resulting from the rule or regulation. The commission is not required to provide written verification if the executive commissioner certifies that a new rule or regulation is urgent as well as necessary to protect the health or safety of recipients of hospital or long-term care services.

(d) The memorandum must provide that upon final adoption of any rule increasing the cost of providing the required services, the executive commissioner must establish reimbursement rates sufficient to cover the increased costs related to the rule. The executive commissioner is not required to establish reimbursement rates sufficient to cover the increased cost related to a rule or regulation if the executive commissioner certifies that the rule or regulation is urgent as well as necessary to protect the health or safety of recipients of hospital or long-term care services.

(e) The memorandum must provide that Subsections (b) through (d) do not apply if the rules are required by state or federal law or federal regulations.

(f) These agencies in the formulation of this memorandum of understanding shall consult with and solicit input from advocacy and consumer groups.

(g) Not later than the last month of each state fiscal year, the agencies shall review and update the memorandum.

(h) The executive commissioner by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.020, eff. April 2, 2015.

Sec. 22.015. REPORTING OF PHYSICIAN MISCONDUCT OR MALPRACTICE. (a) If the commission or the department receives an allegation that a physician employed by or under contract with the commission or the department under this title has committed an action that constitutes a ground for the denial or revocation of the physician's license under Section 164.051, Occupations Code, the commission or the department, as applicable, shall report the information to the Texas Medical Board in the manner provided by Section 154.051, Occupations Code.

(b) The commission or the department shall provide the Texas Medical Board with a copy of any report or finding relating to an investigation of an allegation reported to the Texas Medical Board.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.812, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.020, eff. April 2, 2015.

Sec. 22.016. SPECIAL PURCHASING PROCEDURES. The department shall coordinate with the commission in complying with any special purchasing procedures requiring competitive review under Subtitle D, Title 10, Government Code, for purchasing under this title.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(4), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.020, eff. April 2, 2015.

Sec. 22.017. PROGRAM ACCESSIBILITY. The commission shall prepare and maintain a written plan that describes how persons who do not speak English or who have physical, mental, or developmental disabilities can be provided reasonable access to the commission's and the department's programs under this title. The commission may solicit the assistance of a health and human services agency in the preparation or maintenance of the plan.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.020, eff. April 2, 2015.

Sec. 22.018. COOPERATION WITH STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) The department and the chief administrative law judge of the State Office of Administrative Hearings shall enter into a memorandum of understanding under which the State Office of Administrative Hearings, on behalf of the department, conducts all contested case hearings authorized or required by law to be conducted under this title by the department under the administrative procedure law, Chapter 2001, Government Code.

(b) The memorandum of understanding shall require the chief administrative law judge, the department, and the executive commissioner to cooperate in connection with a contested case hearing and may authorize the State Office of Administrative Hearings to perform any administrative act, including giving of notice, that is required to be performed by the department or commissioner of aging and disability services.

(c) The memorandum of understanding shall address whether the administrative law judge who conducts a contested case hearing for the State Office of Administrative Hearings on behalf of the department shall:

(1) enter the final decision in the case after completion of the hearing; or

(2) propose a decision to the department or the commissioner of aging and disability services for final consideration.

(d) The department by interagency contract shall reimburse the

State Office of Administrative Hearings for the costs incurred in conducting contested case hearings for the department. The department may pay an hourly fee for the costs of conducting those hearings or a fixed annual fee negotiated biennially by the department and the State Office of Administrative Hearings to coincide with the department's legislative appropriations request.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(23), eff. April 2, 2015.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.11(a), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1505, Sec. 1.03, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.021, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(23), eff. April 2, 2015.

Sec. 22.019. DUE PROCESS PROCEDURES. (a) The commission and the department may not retroactively apply a rule, standard, guideline, or policy interpretation under this title.

(b) Any changes in agency policy shall be adopted in accordance with the rulemaking provisions of Chapter 2001, Government Code. Periodic bulletins and indexes shall be used to notify contractors of changes in policy and to explain the changes. A change in agency policy may not be adopted if it takes effect before the date on which contractors are notified as prescribed by this subsection.

(c) The executive commissioner shall adopt a rule requiring the commission or the department, as applicable, to respond in writing to each written inquiry from a contractor under this title not later than the 14th day after the date on which the commission or the department receives the inquiry.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.12(a), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.022, eff. April 2, 2015.

Sec. 22.020. AUDIT PROCEDURE. At any time during an audit, the commission or the department, as applicable, shall permit a contractor under this title to submit additional or alternative documentation to prove that services were delivered to an eligible client. Any recovery of costs by the commission or the department from the contractor for using additional or alternative documentation may not exceed the amount the contractor would otherwise be entitled to receive under the contract as administrative costs.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.12(a), eff. Sept. 1, 1987.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.023, eff. April 2, 2015.

Sec. 22.021. DISTRIBUTION OF FUNDS. (a) Funds appropriated to the commission or the department for the general support or development of a service under this title that is needed throughout the state shall be allocated equitably across the state.

(b) This section does not apply to funds appropriated for a research or demonstration program or for the purchase of direct services.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.12(a), eff. Sept. 1, 1991.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.024, eff. April 2, 2015.

Sec. 22.022. RESIDENCY REQUIREMENTS. To the extent permitted by law the commission and the department shall only provide services under this title to legal residents of the United States or the State of Texas.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.12(a), eff. Sept. 1, 1987.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.025, eff. April 2, 2015.

Sec. 22.023. PAYMENT FOR CERTAIN INSURANCE COVERAGE. (a) In this section, "AIDS" and "HIV" have the meanings assigned by Section 81.101, Health and Safety Code.

(b) Subject to the limitations in Subsection (c), the commission may purchase and pay the premiums for a conversion policy or other health insurance coverage for a person who is diagnosed as having AIDS, HIV, or other terminal or chronic illness and whose income level is less than 200 percent of the federal poverty level, based on the federal Office of Management and Budget poverty index in effect at the time coverage is provided, even though a person may be eligible for benefits under Chapter 32. Health insurance coverage for which premiums may be paid under this section includes coverage purchased from an insurance company authorized to do business in this state, a group hospital service corporation operating under Chapter 842, Insurance Code, a health maintenance organization operating under Chapter 843, Insurance Code, or an insurance pool created by the federal or state government or a political subdivision of the state.

(c) If a person is eligible for benefits under Chapter 32, the commission may not purchase or pay premiums for a health insurance policy under this section if the premiums to be charged for the health insurance coverage are greater than premiums paid for benefits under Chapter 32. The commission may not purchase or pay premiums for health insurance coverage under this section for a person at the same time that that person is covered by benefits under Chapter 32.

(d) The commission shall pay for that coverage with money made available to the commission for that purpose.

(e) The executive commissioner by rule may adopt necessary rules, criteria, and plans and may enter into necessary contracts to carry out this section.

Added by Acts 1989, 71st Leg., ch. 1041, Sec. 5, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(10), eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.534, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.026, eff. April 2, 2015.

Sec. 22.024. DEVELOPMENT OF SERVICE PLAN FOR ELDERLY PERSONS OR PERSONS WITH DISABILITIES. If the commission, the department, the Department of State Health Services, the Department of Assistive and Rehabilitative Services, or another agency funded in the General Appropriations Act under appropriations for health, welfare, and rehabilitation agencies receives funds to provide case management services to elderly persons or persons with disabilities, the agency shall provide information to its staff concerning the services other agencies provide to those populations. The agency's staff shall use that information to develop a comprehensive service plan for its clients.

Added by Acts 1989, 71st Leg., ch. 1085, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 22.023 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(10), eff. Sept. 6, 1990. Amended by Acts 1991, 72nd Leg., ch. 353, Sec. 8, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 835, Sec. 20, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.027, eff. April 2, 2015.

Sec. 22.025. ERROR-RATE REDUCTION. (a) The commission shall:

(1) set progressive goals for improving the commission's error rates in the financial assistance program under Chapter 31 and supplemental nutrition assistance program; and

(2) develop a specific schedule to meet those goals.

(c) As appropriate, the commission shall include in its employee evaluation process a rating system that emphasizes error-rate reduction and workload.

(d) The commission shall take appropriate action if a region has a higher than average error rate and that rate is not reduced in a reasonable period.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 8.08(a), eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 23(1), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(102), eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.027, eff. April 2, 2015.

Sec. 22.0251. TIMELY DETERMINATION OF OVERPAYMENTS. (a) Subject to the approval of the executive commissioner, the commission shall:

(1) determine and record the time taken by the commission to establish an overpayment claim in the supplemental nutrition assistance program or the program of financial assistance under Chapter 31;

(2) set progressive goals for reducing the time described by Subdivision (1); and

(3) adopt a schedule to meet the goals set under Subdivision (2).

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 837 , Sec. 2.08(b)(4), eff. September 1, 2015.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 1.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 69, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.028, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 2.08(b)(4), eff. September 1, 2015.

Sec. 22.0252. TELEPHONE COLLECTION PROGRAM. (a) The commission shall use the telephone to attempt to collect reimbursement from a person who receives a benefit granted in error under the supplemental nutrition assistance program or the program of financial assistance under Chapter 31.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(4), eff. September 1, 2019.

(c) The commission shall ensure that the telephone collection program attempts to collect reimbursement for all identified delinquent payments for which 15 days or more have elapsed since the initial notice of delinquency was sent to the recipient.

(d) The commission shall use an automated collections system to monitor the results of the telephone collection program. The system must:

(1) accept data from the accounts receivable tracking system used by the commission;

(2) automate recording tasks performed by a collector, including providing access to commission records regarding the recipient and recording notes and actions resulting from a call placed to the recipient;

(3) automatically generate a letter to a recipient following a telephone contact that confirms the action to be taken regarding the delinquency;

(4) monitor the receipt of scheduled payments from a recipient for repayment of a delinquency; and

(5) generate reports regarding the effectiveness of individual collectors and of the telephone collection program.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 1.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 206, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 70, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.028, eff. April 2, 2015.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(4), eff. September 1, 2019.

Sec. 22.0253. PARTICIPATION IN FEDERAL TAX REFUND OFFSET PROGRAM. The commission shall participate in the Federal Tax Refund Offset Program (FTROP) to attempt to recover benefits granted by the commission in error under the supplemental nutrition assistance program. The commission shall submit as many claims that meet program criteria as possible for offset against income tax returns.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 1.01(a), eff. Sept. 1,

1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.028, eff. April 2, 2015.

Sec. 22.0254. PROSECUTION OF FRAUDULENT CLAIMS. (a) The commission shall keep a record of the dispositions of referrals made by the commission to a district attorney concerning fraudulent claims for benefits under the supplemental nutrition assistance program or the program of financial assistance under Chapter 31.

(b) The commission may:

(1) request status information biweekly from the appropriate district attorney on each major fraudulent claim referred by the commission;

(2) request a written explanation from the appropriate district attorney for each case referred in which the district attorney declines to prosecute; and

(3) encourage the creation of a special welfare fraud unit in each district attorney's office that serves a municipality with a population of more than 250,000, to be financed by amounts provided by the commission.

(c) The executive commissioner by rule may define what constitutes a major fraudulent claim under Subsection (b)(1).

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 1.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.028, eff. April 2, 2015.

Sec. 22.0255. ELECTRONIC BENEFITS TRANSFER CARD; RETURNED-MAIL REDUCTION. (a) The commission shall develop and implement policies and procedures designed to improve the commission's electronic benefits transfer cards used for federal and state entitlement programs administered by the commission.

(b) The commission shall set an annual goal of reducing the amount of returned mail it receives under the programs described by Subsection (a) so that the percentage rate of returned mail is within

one percent of the percentage rate of returned mail reported annually for the credit card and debit card industries.

Added by Acts 1997, 75th Leg., ch. 322, Sec. 1, eff. May 26, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 23(2), eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(103), eff. June 17, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.028, eff. April 2, 2015.

Sec. 22.026. REDUCTION OF CLIENT FRAUD. The commission and the department shall:

(1) ensure that errors attributed to client fraud are appropriate; and

(2) take immediate and appropriate action to limit any client fraud that occurs.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 8.08(a), eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.029, eff. April 2, 2015.

Sec. 22.027. FRAUD PREVENTION. (e) The commission, the department, and the comptroller shall coordinate their efforts to cross-train agency staff whose duties include fraud prevention and detection to enable the staff to identify and report possible fraudulent activity in programs, taxes, or funds administered by each of those other agencies.

(f) A local law enforcement agency that seizes an electronic benefits transfer (EBT) card issued by the commission to a recipient of an entitlement program administered by the commission shall immediately notify the commission of the seizure and return the card to the commission. The commission shall send letters to local law enforcement agencies or post materials in the buildings in which those agencies are located to ensure that local law enforcement officials are aware of this requirement.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 8.04(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 322, Sec. 2, eff. May 26, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.029, eff. April 2, 2015.

Sec. 22.028. ELECTRONIC BENEFITS TRANSFER: MONITORING. (a) The private electronic benefits transfer (EBT) operator with which the commission contracts to administer the EBT system shall establish procedures to maintain records that monitor all debit transactions relating to EBT client accounts under this section. The EBT operator shall deliver copies of the records to the commission and the comptroller not later than the first day of each month. The commission shall immediately review the records and assess the propriety of the debit transactions.

(b) After reviewing the records under Subsection (a), the commission shall take necessary or advisable action to ensure compliance with EBT rules by the EBT operator, retailers, and clients.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(4), eff. September 1, 2019.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 8.04(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1153, Sec. 1.06(b), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.029, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 1.02(b), eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(4), eff. September 1, 2019.

Sec. 22.029. PROJECT FOR FRAUD DETECTION AND PREVENTION THROUGH DATA MATCHING. (a) In order to enhance the state's ability to detect and prevent fraud in the payment of claims under federal and state entitlement programs, the commission shall implement a data

matching project as described by Subsection (b). The costs of developing and administering the data matching project shall be paid entirely from amounts recovered by participating agencies as a result of potential fraudulent occurrences or administrative errors identified by the project.

(b) The project shall involve the matching of database information among all agencies using electronic funds transfer and other participating agencies. The commission shall contract through a memorandum of understanding with each agency participating in the project. After the data has been matched, the commission shall furnish each participating agency with a list of potential fraudulent occurrences or administrative errors.

(c) Each agency participating in a matching cycle shall document actions taken to investigate and resolve fraudulent issues noted on the list provided by the commission. The commission shall compile the documentation furnished by participating agencies for each matching cycle.

(d) Agencies participating under Subsection (b) shall cooperate fully with the commission in the prompt provision of data in the requested format, for the identification of suspected fraudulent occurrences, or administrative errors as the commission may otherwise reasonably request in order to carry out the intent of this section.

(e) The commission and participating agencies providing source data for the project shall take all necessary steps to protect the confidentiality of information provided as part of this project, in compliance with all existing state and federal privacy guidelines.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 8.03, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 827, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.030, eff. April 2, 2015.

Sec. 22.0292. INFORMATION MATCHING SYSTEM RELATING TO IMMIGRANTS AND FOREIGN VISITORS. (a) The commission shall, through the use of a computerized matching system, compare commission information relating to applicants for and recipients of supplemental nutrition assistance program benefits and financial assistance under

Chapter 31 with information obtained from the United States Department of State and the United States Department of Justice relating to immigrants and visitors to the United States for the purpose of preventing individuals from unlawfully receiving public assistance benefits administered by the commission.

(b) The commission may enter into an agreement with the United States Department of State and the United States Department of Justice as necessary to implement this section.

(c) The commission and federal agencies sharing information under this section shall protect the confidentiality of the shared information in compliance with all existing state and federal privacy guidelines.

(d) The commission shall submit to the governor and the Legislative Budget Board an annual report on the operation and success of the information matching system required by this section. The report may be consolidated with any other report relating to the same subject matter the commission is required to submit under other law.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 1.01(b), eff. Sept. 1, 1997. Renumbered from Sec. 22.0291 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(69), eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 71, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.031, eff. April 2, 2015.

Sec. 22.030. AGREEMENTS FOR PURCHASE OF SERVICES FOR CHILDREN. (a) To ensure the maximum use of available federal matching funds for child care services and other support services under Section 31.010, the commission and any other agency providing the services shall enter into agreements with the appropriate local community organizations to receive donations to be used for the purchase of services for which matching federal funds are available.

(b) An agency described under Subsection (a) shall cooperate with each local community organization to develop guidelines for the use of that community's donation to provide the services described in Subsection (a).

Added by Acts 1995, 74th Leg., ch. 655, Sec. 6.05, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.032, eff. April 2, 2015.

Sec. 22.031. UNANNOUNCED INSPECTIONS. The commission and the department may make any inspection of a facility or program under the agency's jurisdiction under this title without announcing the inspection.

Added by Acts 1995, 74th Leg., ch. 531, Sec. 3, eff. Aug. 28, 1995. Renumbered from Human Resources Code Sec. 22.025 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(60), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.032, eff. April 2, 2015.

Sec. 22.032. USE OF EARNED FEDERAL FUNDS. Subject to the General Appropriations Act, the commission may use earned federal funds derived from recovery of amounts paid or benefits granted by the commission as a result of fraud to pay the costs of the commission's activities relating to preventing fraud.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 1.02, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.032, eff. April 2, 2015.

Sec. 22.036. PROGRAMS FOR INDIVIDUALS WHO ARE DEAF-BLIND WITH MULTIPLE DISABILITIES AND THEIR PARENTS. (a) The department shall establish programs to serve individuals who are deaf-blind with multiple disabilities by helping them attain self-sufficiency and independent living.

(b) The department shall establish a program of parental counseling for the parents of individuals who are deaf-blind with multiple disabilities. The counseling program may be provided on an

individual or group basis and must include programs, activities, and services necessary to foster greater understanding and to improve relationships among professionals, parents, and individuals who are deaf-blind with multiple disabilities.

(c) The department shall establish a summer outdoor training program for individuals who are deaf-blind with multiple disabilities. The outdoor training program must be designed to help meet the unique needs of individuals who are deaf-blind with multiple disabilities for the purpose of broadening their educational experiences and improving their ability to function more independently.

(d) The executive commissioner shall establish regulations for implementing and administering the programs.

(e) The department may contract for services or goods with private or public entities for purposes of this section.

(f) From information collected from the programs, the department shall determine the need for related future services and the most efficient and effective method of delivering the future services.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 14, eff. Sept. 1, 1985.
Amended by Acts 1999, 76th Leg., ch. 1505, Sec. 1.05, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.034, eff. April 2, 2015.

Sec. 22.039. TRAINING AND CONTINUING EDUCATION RELATED TO CERTAIN LONG-TERM CARE FACILITIES. (a) In this section:

(1) "Long-term care facility" means a nursing institution, an assisted living facility, or an intermediate care facility licensed under Chapter 242, 247, or 252, Health and Safety Code.

(2) "Provider" means an employee or agent of a long-term care facility.

(3) "Surveyor" means an employee or agent of the department or another state agency responsible for licensing, inspecting, surveying, or investigating a long-term care facility in relation to:

(A) licensing under Chapter 242, 247, or 252, Health and Safety Code; or

(B) certification for participation in the medical assistance program in accordance with Chapter 32.

(b) The department shall require a surveyor to complete a basic training program before the surveyor inspects, surveys, or investigates a long-term care facility.

(b-1) The training required under Subsection (b) must include observation of the operations of a long-term care facility unrelated to the survey, inspection, or investigation process for a minimum of 10 working days within a 14-day period.

(b-2) The department may waive the requirement imposed under Subsection (b-1) for a surveyor who has completed in the two years preceding the inspection, survey, or investigation one year of full-time employment in a nursing facility in this state as a:

(1) nursing facility administrator;

(2) licensed vocational nurse;

(3) registered nurse; or

(4) social worker.

(c) The department shall semiannually provide training for surveyors and providers on subjects that address the 10 most common violations by long-term care facilities of federal or state law. The department may charge providers a fee not to exceed $50 per person for the training.

(d) Except as provided by Subsection (e), a surveyor who is a health care professional licensed under the laws of this state must receive a minimum of 50 percent of the professional's required continuing education credits, if any, in gerontology or care for individuals with cognitive or physical disabilities, as appropriate.

(e) A surveyor who is a pharmacist must receive a minimum of 30 percent of the pharmacist's required continuing education credits in gerontology or care for individuals with cognitive or physical disabilities, as appropriate.

Added by Acts 2001, 77th Leg., ch. 1284, Sec. 7.01, eff. June 15, 2001. Renumbered from Human Resources Code, Sec. 22.037, by Acts 2003, 78th Leg., ch. 1275, Sec. 2(96), eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 5.01, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 27, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.035, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.036, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1102 (H.B. 3934), Sec. 1, eff. September 1, 2017.

Sec. 22.040. DETERMINATION OF ELIGIBILITY FOR COMMUNITY CARE SERVICES FOR ELDERLY PERSONS OR PERSONS WITH DISABILITIES. The executive commissioner by rule shall develop and the department shall implement a plan to assist elderly persons or persons with disabilities requesting community care services in receiving those services as quickly as possible when those services become available. The plan must require the department to:

(1) forecast participant openings that will become available in a community care program serving the elderly person or person with a disability during the next fiscal quarter because of program expansion or case closures;

(2) contact an individual on an interest list and begin the program eligibility determination process at least 30 days before an opening is forecasted to become available in the program; and

(3) ensure that an individual determined to be eligible for services does not begin receiving services until after the opening actually becomes available.

Acts 2003, 78th Leg., ch. 1169, Sec. 11, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.037, eff. April 2, 2015.

Sec. 22.041. THIRD-PARTY INFORMATION. Notwithstanding any other provision of this code, the commission may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance, financial assistance, or nutritional assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section

20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles vehicle registration record database.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.85, eff. Sept. 1, 2003.
Renumbered from Human Resources Code, Section 22.040 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(55), eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3G.01, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.037, eff. April 2, 2015.

CHAPTER 23. SUSPENSION OF DRIVER'S OR RECREATIONAL LICENSE FOR FAILURE TO REIMBURSE COMMISSION

Sec. 23.001. DEFINITIONS. In this chapter:

(1) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a licensing authority;

(B) is subject before expiration to suspension, revocation, forfeiture, or termination by an issuing licensing authority; and

(C) a person must obtain to:

(i) operate a motor vehicle; or

(ii) engage in a recreational activity, including hunting and fishing, for which a license or permit is required.

(2) "Order suspending a license" means an order issued by the commission directing a licensing authority to suspend a license.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. In this

chapter, "licensing authority" means:

(1) the Parks and Wildlife Department; and

(2) the Department of Public Safety of the State of Texas.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.003. SUSPENSION OF LICENSE. The commission may issue an order suspending a license as provided by this chapter of a person who, after notice:

(1) has failed to reimburse the commission for an amount in excess of $250 granted in error to the person under the supplemental nutrition assistance program or the program of financial assistance under Chapter 31;

(2) has been provided an opportunity to make payments toward the amount owed under a repayment schedule; and

(3) has failed to comply with the repayment schedule.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.004. INITIATION OF PROCEEDING. (a) The commission may initiate a proceeding to suspend a person's license by filing a petition with the commission's appeals division.

(b) The proceeding shall be conducted by the commission's appeals division. The proceeding is a contested case under Chapter 2001, Government Code, except that Section 2001.054 does not apply.

(c) The executive commissioner or the executive commissioner's designated representative shall render a final decision or order in the proceeding. A reference to the commission in this chapter with respect to a final decision or order in the proceeding means the executive commissioner or the executive commissioner's designated representative.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.005. CONTENTS OF PETITION. A petition under this chapter must state that license suspension is authorized under Section 23.003 and allege:

(1) the name and, if known, social security number of the person;

(2) the type of license the person is believed to hold and the name of the licensing authority; and

(3) the amount owed to the commission.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.006. NOTICE. (a) On initiating a proceeding under Section 23.004, the commission shall give the person named in the petition:

(1) notice of the person's right to a hearing before the commission's appeals division;

(2) notice of the deadline for requesting a hearing; and

(3) a form requesting a hearing.

(b) Notice under this section may be served as in civil cases generally.

(c) The notice must state that an order suspending a license shall be rendered on the 60th day after the date of service of the notice unless by that date:

(1) the person pays the amount owed to the commission;

(2) the person presents evidence of a payment history satisfactory to the commission in compliance with a reasonable repayment schedule; or

(3) the person appears at a hearing before the commission's

appeals division and shows that the request for suspension should be denied or stayed.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.007. HEARING ON PETITION TO SUSPEND LICENSE. (a) A request for a hearing and motion to stay suspension must be filed with the commission not later than the 20th day after the date of service of the notice under Section 23.006.

(b) If a request for a hearing is filed, the commission's appeals division shall:

(1) promptly schedule a hearing;

(2) notify the person and an appropriate representative of the commission of the date, time, and location of the hearing; and

(3) stay suspension pending the hearing.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.008. ORDER SUSPENDING LICENSE. (a) On making the findings required by Section 23.003, the commission shall render an order suspending a license.

(b) The commission may stay an order suspending a license conditioned on the person's compliance with a reasonable repayment schedule that is incorporated in the order. An order suspending a license with a stay of the suspension may not be served on the licensing authority unless the stay is revoked as provided by this chapter.

(c) A final order suspending a license rendered by the commission shall be forwarded to the appropriate licensing authority.

(d) If the commission renders an order suspending a license, the person may also be ordered not to engage in the licensed

activity.

(e) If the commission's appeals division finds that the petition for suspension should be denied, the petition shall be dismissed without prejudice, and an order suspending a license may not be rendered.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.009. DEFAULT ORDER. The commission shall consider the allegations of the petition for suspension to be admitted and shall render an order suspending a license if the person fails to:

(1) respond to a notice issued under Section 23.006;
(2) request a hearing; or
(3) appear at a hearing.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.010. REVIEW OF FINAL ADMINISTRATIVE ORDER. An order issued by the commission under this chapter is a final agency decision and is subject to review as provided by Chapter 2001, Government Code.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.011. ACTION BY LICENSING AUTHORITY. (a) On receipt of a final order suspending a license, the licensing authority shall

immediately determine if the authority has issued a license to the person named on the order and, if a license has been issued:

(1) record the suspension of the license in the licensing authority's records;

(2) report the suspension as appropriate; and

(3) demand surrender of the suspended license if required by law for other cases in which a license is suspended.

(b) A licensing authority shall implement the terms of a final order suspending a license without additional review or hearing. The authority may provide notice as appropriate to the license holder or to others concerned with the license.

(c) A licensing authority may not modify, remand, reverse, vacate, or stay an order suspending a license issued under this chapter and may not review, vacate, or reconsider the terms of a final order suspending a license.

(d) A person who is the subject of a final order suspending a license is not entitled to a refund for any fee or deposit paid to the licensing authority.

(e) A person who continues to engage in the licensed activity after the implementation of the order suspending a license by the licensing authority is liable for the same civil and criminal penalties provided for engaging in the licensed activity without a license or while a license is suspended that apply to any other license holder of that licensing authority.

(f) A licensing authority is exempt from liability to a license holder for any act authorized under this chapter performed by the authority.

(g) Except as provided by this chapter, an order suspending a license or dismissing a petition for the suspension of a license does not affect the power of a licensing authority to grant, deny, suspend, revoke, terminate, or renew a license.

(h) The denial or suspension of a driver's license under this chapter is governed by this chapter and not by Subtitle B, Title 7, Transportation Code.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.012. MOTION TO REVOKE STAY. (a) The commission may file a motion with the commission's appeals division to revoke the stay of an order suspending a license if the person does not comply with the terms of a reasonable repayment plan entered into by the person.

(b) Notice to the person of a motion to revoke stay under this section may be given by personal service or by mail to the address provided by the person, if any, in the order suspending a license. The notice must include a notice of hearing before the appeals division. The notice must be provided to the person not less than 10 days before the date of the hearing.

(c) A motion to revoke stay must allege the manner in which the person failed to comply with the repayment plan.

(d) If the commission finds that the person is not in compliance with the terms of the repayment plan, the commission shall revoke the stay of the order suspending a license and render a final order suspending a license.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.013. VACATING OR STAYING ORDER SUSPENDING LICENSE. (a) The commission may render an order vacating or staying an order suspending a license if the person has paid all amounts owed to the commission or has established a satisfactory payment record.

(b) The commission shall promptly deliver an order vacating or staying an order suspending a license to the appropriate licensing authority.

(c) On receipt of an order vacating or staying an order suspending a license, the licensing authority shall promptly reinstate and return the affected license to the person if the person is otherwise qualified for the license.

(d) An order rendered under this section does not affect the right of the commission to any other remedy provided by law,

including the right to seek relief under this chapter. An order rendered under this section does not affect the power of a licensing authority to grant, deny, suspend, revoke, terminate, or renew a license as otherwise provided by law.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.014. FEE BY LICENSING AUTHORITY. A licensing authority may charge a fee to a person who is the subject of an order suspending a license in an amount sufficient to recover the administrative costs incurred by the authority under this chapter.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.015. COOPERATION BETWEEN LICENSING AUTHORITIES AND COMMISSION. (a) The commission may request from each licensing authority the name, address, social security number, license renewal date, and other identifying information for each individual who holds, applies for, or renews a license issued by the authority.

(b) A licensing authority shall provide the requested information in the manner agreed to by the commission and the licensing authority.

(c) The commission may enter into a cooperative agreement with a licensing authority to administer this chapter in a cost-effective manner.

(d) The commission may adopt a reasonable implementation schedule for the requirements of this section.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

Sec. 23.016. RULES, FORMS, AND PROCEDURES. The executive commissioner by rule shall prescribe forms and procedures for the implementation of this chapter.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 5.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.038, eff. April 2, 2015.

SUBTITLE C. ASSISTANCE PROGRAMS
CHAPTER 31. FINANCIAL ASSISTANCE AND SERVICE PROGRAMS
SUBCHAPTER A. ELIGIBILITY FOR FINANCIAL ASSISTANCE AND SERVICES

Sec. 31.001. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES. The commission shall provide financial assistance and services to families with dependent children in accordance with the provisions of this chapter. The commission shall give first priority in administering this chapter to assisting an adult recipient of or unemployed applicant for the financial assistance and services in finding and retaining a job.

Acts 1979, 66th Leg., p. 2343, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 655, Sec. 1.01, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.039, eff. April 2, 2015.

Sec. 31.002. DEFINITION OF DEPENDENT CHILD. (a) In this chapter, the term "dependent child" applies to a child:

(1) who is a resident of this state;

(2) who is under 18 years of age or is under 19 years of age and is a full-time student in a secondary school or at the equivalent level of vocational or technical training if, before the child's 19th birthday, the child may reasonably be expected to

complete the secondary school or training program;

(3) who has been deprived of parental support or care because of the death, continued absence from home, or physical or mental incapacity of a parent;

(4) who has insufficient income or other resources to provide a reasonable subsistence compatible with health and decency; and

(5) who is living in the home residence of his or her father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.

(b) In this chapter, the term "dependent child" also applies to a child:

(1) who meets the specifications set forth in Subsections (a)(1)-(4);

(2) who has been removed from the home of a relative specified in Subsection (a)(5) as a result of a judicial determination that the child's residence there is contrary to his or her welfare;

(3) whose placement and care are the responsibility of the Department of Family and Protective Services or an agency with which the Department of Family and Protective Services has entered into an agreement for the care and supervision of the child;

(4) who has been placed in a residential child-care facility by the Department of Family and Protective Services; and

(5) for whom the state may receive federal funds for the purpose of providing foster care in accordance with rules promulgated by the executive commissioner.

Acts 1979, 66th Leg., p. 2343, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 395, Sec. 1, eff. June 2, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 8.014, eff. Sept. 1, 1995. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.040, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 42, eff. September 1, 2017.

Sec. 31.0021. DEFINITION OF NONRECIPIENT PARENT. (a) Except

as provided by Subsection (b), in this chapter, "nonrecipient parent" means an adult or minor parent who is not a recipient of financial assistance but who is living with the person's child who is a recipient of financial assistance.

(b) "Nonrecipient parent" does not include:

(1) a minor parent who is not the head of household;

(2) a person who is ineligible for financial assistance because of the person's immigration status; or

(3) a parent who cares for a family member with a disability living in the home if the family member does not attend school full-time and the need for the care is supported by medical documentation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1300 (S.B. 589), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.041, eff. April 2, 2015.

Sec. 31.003. AMOUNT OF FINANCIAL ASSISTANCE. (a) The executive commissioner shall adopt rules governing the determination of the amount of financial assistance to be granted for the support of a dependent child. The amount granted, when combined with the income and other resources available for the child's support, must be sufficient to provide the child with a subsistence compatible with decency and health.

(b) In considering the amount of income or other resources available to a child or a relative claiming financial assistance on the child's behalf, the commission shall also consider reasonable expenses attributable to earning the income. The commission may permit all or part of the earned or other income to be set aside for the future identifiable needs of the child, subject to limitations prescribed by the executive commissioner.

(c) The commission's agents employed in the region or county in which the dependent child resides shall determine the amount to be paid in accordance with the rules promulgated by the executive commissioner.

Acts 1979, 66th Leg., p. 2343, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.042, eff. April 2, 2015.

Sec. 31.0031. RESPONSIBILITY AGREEMENT. (a) The commission shall require each adult recipient to sign a bill of responsibilities that defines the responsibilities of the state and of the recipient and encourages personal responsibility. The commission shall explain to the applicant the work requirements and time-limited benefits in addition to the other provisions of the agreement before the applicant signs the agreement. The commission shall provide each applicant with a copy of the signed agreement. The agreement shall include pertinent case information, including the case number and a listing of the state's benefits.

(b) The responsibilities of the state shall include administering programs, within available resources, that:

(1) promote clear and tangible goals for recipients;

(2) enable parents to provide for their children's basic necessities in a time-limited benefits program;

(3) promote education, job training, and workforce development;

(4) support the family structure through life and parenting skills training;

(5) are efficient, fraud-free, and easily accessible by recipients;

(6) gather accurate client information; and

(7) give communities the opportunity to develop alternative programs that meet the unique needs of local recipients.

(c) The executive commissioner shall adopt rules governing sanctions and penalties under this section to or for:

(1) a person who fails to cooperate with each applicable requirement of the responsibility agreement prescribed by this section; and

(2) the family of a person who fails to cooperate with each applicable requirement of the responsibility agreement.

(d) The responsibility agreement shall require that:

(1) the parent of a dependent child cooperate with the commission and the Title IV-D agency if necessary to establish the paternity of the dependent child and to establish or enforce child

support;

(2) if adequate and accessible providers of the services are available in the geographic area and subject to the availability of funds, each dependent child, as appropriate, complete early and periodic screening, diagnosis, and treatment checkups on schedule and receive the immunization series prescribed by Section 161.004, Health and Safety Code, unless the child is exempt under that section;

(3) each adult recipient, or teen parent recipient who has completed the requirements regarding school attendance in Subdivision (6), not voluntarily terminate paid employment of at least 30 hours each week without good cause in accordance with rules adopted by the executive commissioner;

(4) each adult recipient for whom a needs assessment is conducted participate in an activity to enable that person to become self-sufficient by:

(A) continuing the person's education or becoming literate;

(B) entering a job placement or employment skills training program;

(C) serving as a volunteer in the person's community; or

(D) serving in a community work program or other work program approved by the commission;

(5) each caretaker relative or parent receiving assistance not use, sell, or possess marihuana or a controlled substance in violation of Chapter 481, Health and Safety Code, or abuse alcohol;

(6) each dependent child younger than 18 years of age or teen parent younger than 19 years of age attend school regularly, unless the child has a high school diploma or high school equivalency certificate or is specifically exempted from school attendance under Section 25.086, Education Code;

(7) each recipient comply with commission rules regarding proof of school attendance; and

(8) each recipient attend appropriate parenting skills training classes, as determined by the needs assessment.

(e) In conjunction with the Texas Education Agency, the executive commissioner by rule shall ensure compliance with the school attendance requirements of Subsection (d)(6) by establishing criteria for:

(1) determining whether a child is regularly attending

school;

(2) exempting a child from school attendance in accordance with Subchapter C, Chapter 25, Education Code; and

(3) determining when an absence is excused.

(f) The executive commissioner by rule may provide for exemptions from Subsection (d)(4) or for a teen parent under Subsection (d)(6). The commission may not require participation in an activity under Subsection (d)(4) or for a teen parent under Subsection (d)(6) if funding for support services is unavailable.

(g) In this section:

(1) "Caretaker relative" means a person who is listed under Section 31.002(a)(5) in whose home residence a dependent child lives.

(2) "Payee" means a person who resides in a household with a dependent child and who is within the degree of relationship with the child that is required of a caretaker relative but whose needs are not included in determining the amount of financial assistance provided for the person's household.

(h) The commission shall require each payee to sign a bill of responsibilities that defines the responsibilities of the state and of the payee. The responsibility agreement must require that a payee comply with the requirements of Subsections (d)(1), (2), (5), (6), and (7).

Added by Acts 1995, 74th Leg., ch. 655, Sec. 2.02(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.53, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 682, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 198, Sec. 2.86(a), 2.87, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.043, eff. April 2, 2015.

Sec. 31.0032. PAYMENT OF ASSISTANCE FOR PERFORMANCE. (a) Except as provided by Section 231.115, Family Code, if after an investigation the commission or the Title IV-D agency determines that a person is not cooperating with a requirement of the responsibility agreement required under Section 31.0031, the commission shall immediately apply a sanction terminating the total amount of financial assistance provided under this chapter to or for the person

and the person's family.

(a-1) The commission shall apply a sanction or penalty imposed under Subsection (a) for a period ending when the person demonstrates cooperation with the requirement of the responsibility agreement for which the sanction was imposed or for a one-month period, whichever is longer.

(b) The commission shall immediately notify the caretaker relative, second parent, or payee receiving the financial assistance if the commission will not make the financial assistance payment for the period prescribed by Subsection (a-1) because of a person's failure to cooperate with the requirements of the responsibility agreement during a month.

(c) To the extent allowed by federal law, the commission may deny medical assistance for a person who is eligible for financial assistance but to whom that assistance is not paid because of the person's failure to cooperate. Medical assistance to the person's family may not be denied for the person's failure to cooperate. Medical assistance may not be denied to a person receiving assistance under this chapter who is under the age of 19, a pregnant adult, or any other person who may not be denied medical assistance under federal law.

(d) This section does not prohibit the Texas Workforce Commission, the commission, or any health and human services agency, as defined by Section 531.001, Government Code, from providing child care or any other related social or support services for an individual who is eligible for financial assistance but to whom that assistance is not paid because of the individual's failure to cooperate.

(e) The executive commissioner by rule shall establish procedures to determine whether a person has cooperated with the requirements of the responsibility agreement.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 2.02(a), eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 556, Sec. 74, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.88(a), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.044, eff. April 2, 2015.

Sec. 31.0033. GOOD CAUSE HEARING FOR FAILURE TO COOPERATE. (a) If the commission or Title IV-D agency determines that a person has failed to cooperate with the requirements of the responsibility agreement under Section 31.0031, the person determined to have failed to cooperate or, if different, the person receiving the financial assistance may request a hearing to show good cause for failure to cooperate not later than the 13th day after the date the notice is sent under Section 31.0032. If the person determined to have failed to cooperate or, if different, the person receiving the financial assistance requests a hearing to show good cause not later than the 13th day after the date on which the notice is sent under Section 31.0032, the commission may not withhold or reduce the payment of financial assistance until the commission determines whether the person had good cause for the person's failure to cooperate. On a showing of good cause for failure to cooperate, the person may receive a financial assistance payment for the period in which the person failed to cooperate, but had good cause for that failure to cooperate.

(b) The commission shall promptly conduct a hearing if a timely request is made under Subsection (a).

(c) If the commission finds that good cause for the person's failure to cooperate was not shown at a hearing, the commission may not make a financial assistance payment in any amount to the person for the person or the person's family for the period prescribed by Section 31.0032(a-1).

(d) The executive commissioner by rule shall establish criteria for good cause failure to cooperate and guidelines for what constitutes a good faith effort on behalf of a recipient under this section.

(e) Except as provided by a waiver or modification granted under Section 31.0322, a person has good cause for failing or refusing to cooperate with the requirement of the responsibility agreement under Section 31.0031(d)(1) only if:

(1) the person's cooperation would be harmful to the physical, mental, or emotional health of the person or the person's dependent child; or

(2) the person's noncooperation resulted from other circumstances the person could not control.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 2.02(a), eff. Sept. 1,

1995. Amended by Acts 1999, 76th Leg., ch. 556, Sec. 75, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.88(a), eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.045, eff. April 2, 2015.

Sec. 31.00331. ADDITIONAL PENALTY FOR CONTINUOUS FAILURE TO COOPERATE. A person who fails to cooperate with the responsibility agreement for two consecutive months becomes ineligible for financial assistance for the person or the person's family. The person may reapply for financial assistance but must cooperate with the requirements of the responsibility agreement for a one-month period before receiving an assistance payment for that month.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.88(b), eff. Sept. 1, 2003.

Sec. 31.0035. TRANSITIONAL CHILD-CARE SERVICES. (a) The Texas Workforce Commission shall provide necessary transitional child-care services, in accordance with Texas Workforce Commission rules and federal law, to a person who was receiving financial assistance under this chapter but is no longer eligible to receive the assistance because:

(1) the person's household income has increased; or

(2) the person has exhausted the person's benefits under Section 31.0065.

(b) Except as provided by Section 31.012(c), the Texas Workforce Commission may provide the child-care services only until the earlier of:

(1) the end of the applicable period prescribed by Section 31.0065 for the provision of transitional benefits; or

(2) the first anniversary of the date on which the person becomes ineligible for financial assistance because of increased household income.

(c) The Texas Workforce Commission by rule shall adopt a system of copayments in order to have a person who receives child-care services under this section contribute an amount toward the cost of

the services according to the person's ability to pay.

(d) The Texas Workforce Commission by rule shall provide for sanctions for a person who is financially able to contribute the amount required by Subsection (c) but fails to pay.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 3.02, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.046, eff. April 2, 2015.

Sec. 31.0036. DEPENDENT CHILD'S INCOME. The commission may not consider any income earned by a dependent child who is attending school and whose income is derived from the child's part-time employment for purposes of determining:

(1) the amount of financial assistance granted to an individual under this chapter for the support of dependent children; or

(2) whether the family meets household income and resource requirements for eligibility for financial assistance under this chapter.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 1.02(a), eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 31.0031 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(61), eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.046, eff. April 2, 2015.

Sec. 31.0038. TEMPORARY EXCLUSION OF NEW SPOUSE'S INCOME. (a) Subject to the limitations prescribed by Subsection (b), income earned by an individual who marries an individual receiving financial assistance at the time of the marriage may not be considered by the commission during the six-month period following the date of the marriage for purposes of determining:

(1) the amount of financial assistance granted to an individual under this chapter for the support of dependent children; or

(2) whether the family meets household income and resource

requirements for financial assistance under this chapter.

(b) To be eligible for the income disregard provided by Subsection (a), the combined income of the individual receiving financial assistance and the new spouse cannot exceed 200 percent of the federal poverty level for their family size.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.89, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.047, eff. April 2, 2015.

Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. (a) For purposes of determining the amount of financial assistance granted to an individual under this chapter for the support of dependent children or determining whether the family meets household income and resource requirements for financial assistance under this chapter, the commission may not consider the right to assets held in or the right to receive payments or benefits under:

(1) any fund or plan established under Subchapter G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account;

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986; or

(3) any school-based account or bond described by Section 28.0024(b)(2), Education Code.

(b) The amount of exclusion under Subsection (a)(3) of assets held in or the right to receive payments or benefits under a school-based account or bond described by Section 28.0024(b)(2)(C), (D), or (E), Education Code, is limited to the amount of the cost of undergraduate resident tuition and required fees for one academic year consisting of 30 semester credit hours charged by the general academic teaching institution with the highest such tuition and fee costs for the most recent academic year, as determined by the Texas Higher Education Coordinating Board under Section 54.753, Education Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1186 (H.B. 3708), Sec. 8, eff. June 17, 2011.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.048, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1265 (H.B. 3987), Sec. 3, eff. June 20, 2015.

Sec. 31.004. FOSTER CARE. The Department of Family and Protective Services may accept and spend funds available from any source to provide foster care in facilities approved by the Department of Family and Protective Services for dependent children who meet the specifications set out in Section 31.002(b).

Acts 1979, 66th Leg., p. 2344, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.015, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.048, eff. April 2, 2015.

Sec. 31.0041. SUPPLEMENTAL FINANCIAL ASSISTANCE FOR CERTAIN PERSONS. (a) To the extent funds are appropriated for this purpose, the commission may provide supplemental financial assistance in addition to the amount of financial assistance granted for the support of a dependent child under Section 31.003 to a person who:
(1) is 45 years of age or older;
(2) is the grandparent of the dependent child, as defined by Section 31.002, who lives at the person's residence;
(3) is the primary caretaker of the dependent child;
(4) has a family income that is at or below 200 percent of the federal poverty level; and
(5) does not have resources that exceed the amount allowed for financial assistance under this chapter.
(b) Supplemental financial assistance provided to a person under this section may include one or more cash payments, not to exceed a total of $1,000, after determination of eligibility for supplemental financial assistance under this section.
(c) The commission shall inform an applicant for financial assistance under this chapter who meets the eligibility requirements

under Subsection (a) of the availability of supplemental financial assistance.

(d) The commission shall maintain complete records and compile statistics regarding the number of households that receive supplemental financial assistance under this section.

(e) After a person receives supplemental financial assistance under Subsection (b) on behalf of a dependent child, no other person is eligible under Subsection (a) to receive supplemental financial assistance on behalf of that child.

Added by Acts 1999, 76th Leg., ch. 471, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 346, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.049, eff. April 2, 2015.

Sec. 31.005. DEPENDENT CHILD RESIDING WITH RELATIVES. (a) If after an investigation the commission determines that a family with a dependent child is needy and that the child resides with the family, the commission shall provide financial assistance and services for the support of the family.

(b) The commission shall formulate policies for studying and improving the child's home conditions and shall plan services for the protection of the child and for the child's health and educational needs.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(29), eff. April 2, 2015.

(d) The commission shall develop a plan for the coordination of the services provided for dependent children under this chapter and other child welfare services provided by the state.

Acts 1979, 66th Leg., p. 2344, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.050, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(29), eff. April 2, 2015.

Sec. 31.0051. MINOR PARENT RESIDING WITH RELATIVES. If the commission determines based on documentation provided that a minor caretaker who is receiving financial assistance and services under this chapter on behalf of a dependent child benefits from residing with an adult family member who is also receiving assistance under this chapter, the commission shall provide assistance and services to both persons as if they were living separately.

Added by Acts 1993, 73rd Leg., ch. 841, Sec. 3, eff. Sept. 1, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.051, eff. April 2, 2015.

Sec. 31.006. WELFARE AND RELATED SERVICES. (a) The commission shall develop and implement a program of welfare and related services for each dependent child which, in light of the particular home conditions and other needs of the child, will best promote the welfare of the child and his or her family and will help to maintain and strengthen family life by assisting the child's parents or relatives to attain and retain their capabilities for maximum self-support and personal independence consistent with the maintenance of continued parental care and protection.

(b) The commission shall coordinate the services provided under the program with other services provided by the commission and by other public and private welfare agencies, including other state agencies, for the care and protection of children.

(c) The executive commissioner and the Texas Workforce Commission may promulgate rules which will enable the Health and Human Services Commission and the Texas Workforce Commission to fully participate in work and training programs authorized by federal law, to provide for all services required or deemed advisable under the provisions of the program, and to accept, transfer, and expend funds made available from public or private sources for the purpose of carrying out the provisions of this section.

Acts 1979, 66th Leg., p. 2344, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.051, eff. April 2, 2015.

Sec. 31.0065. TIME-LIMITED BENEFITS. (a) The commission may provide financial assistance under this chapter only in accordance with the time limits specified by this section. The executive commissioner by rule may provide for exceptions to these time limits if severe personal hardship or community economic factors prevent the recipient from obtaining employment or if the state is unable to provide support services.

(b) The commission shall limit financial assistance and transitional benefits in accordance with the following schedule:

(1) financial assistance is limited to a cumulative total of 12 months and transitional benefits are limited to 12 months if the person receiving financial assistance on behalf of a dependent child has:

(A) a high school diploma, a high school equivalency certificate, or a certificate or degree from a two-year or four-year institution of higher education or technical or vocational school; or

(B) recent work experience of 18 months or more;

(2) financial assistance is limited to a cumulative total of 24 months and transitional benefits are limited to 12 months if the person receiving financial assistance on behalf of a dependent child has:

(A) completed three years of high school; or

(B) recent work experience of not less than six or more than 18 months; and

(3) financial assistance is limited to a cumulative total of 36 months and transitional benefits of 12 months if the person receiving financial assistance on behalf of a dependent child has:

(A) completed less than three years of high school; and

(B) less than six months of work experience.

(c) If the recipient has completed less than three years of high school and has less than six months work experience, the commission shall perform an in-depth assessment of the needs of that person and that person's family. If the recipient cooperates with the commission's assessment, the time period prescribed by Subsection (b)(3) begins on the first anniversary of the date on which the commission completes the assessment, as determined by the commission.

(d) The computation of time limits under Subsection (b) begins when the adult or teen parent recipient receives notification in

accordance with the procedures under Section 31.012(b) of the availability of an opening in and eligibility for a Temporary Assistance for Needy Families employment program established under Part A, Subchapter IV, Social Security Act (42 U.S.C. Section 601 et seq.).

(e) In implementing the time-limited benefits program, the commission:

(1) shall provide that a participant in the program may reapply with the commission for financial assistance on or after the fifth anniversary of the date on which the participant is totally disqualified from receiving assistance because of the application of Subsection (b); and

(2) shall establish the criteria for determining what constitutes severe personal hardship under Subsection (a).

(f) If the commission is imposing time-limited benefits on an individual, the commission shall consider:

(1) the assessment of the individual's need that was conducted by the commission, provided that if the needs assessment indicates discrepancies between a client's self-reported educational level and the client's functional abilities, the time limits shall be based upon the functional educational level; and

(2) the prevailing economic and employment conditions in the area of the state where the individual resides.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 3.01(a), eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.051, eff. April 2, 2015.

Sec. 31.0066. HARDSHIP EXEMPTIONS FROM FEDERAL TIME LIMITS. (a) The executive commissioner and the Texas Workforce Commission shall jointly adopt rules prescribing circumstances that constitute a hardship for purposes of exempting a recipient of financial assistance from the application of time limits imposed by federal law on the receipt of benefits.

(b) The rules must include a broad range of circumstances that reasonably prevent recipients of financial assistance from becoming self-supporting before expiration of the period specified by federal

law.

Added by Acts 2001, 77th Leg., ch. 1217, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.052, eff. April 2, 2015.

Sec. 31.007. FINANCIAL ASSISTANCE TO INDIVIDUALS IN INSTITUTIONS. A person who is in an institution is eligible to receive financial assistance under this chapter if the person would be eligible to receive the financial assistance if the person were not in an institution and if the payments are made in accordance with the commission's rules promulgated in conformity with federal law and rules.

Acts 1979, 66th Leg., p. 2344, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.053, eff. April 2, 2015.

Sec. 31.008. COUNSELING AND GUIDANCE SERVICES. (a) If the commission believes that financial assistance to a family with a dependent child is not being, or may not be, used in the best interest of the child, the commission may provide counseling and guidance services to the relative receiving financial assistance with respect to the use of the funds and the management of other funds in the child's best interest.

(b) The commission may advise the relative that continued failure to use the funds in the child's best interest will result in the funds being paid to a substitute payee. If the commission determines that protective payments are required to safeguard the best interest of the child, the commission may pay the funds to a substitute payee on a temporary basis in accordance with the commission's rules.

(c) If the situation in the home which made the protective payments necessary does not improve, and if the commission determines that the relative with whom the child is living is unable or does not have the capacity to use the funds for the best interest of the

child, then the commission, with the assistance of other appropriate state agencies, may make arrangements with the family for other plans for the care of the child. The other plans may include:

(1) removing the child to the home of another relative;

(2) appointment of a guardian or legal representative for the relative with whom the child is living;

(3) imposition of criminal or civil penalties if a court determines that the relative is not using, or has not used, the payments for the benefit of the child; or

(4) referral of the case to a court for the removal of the child and the placement of the child in a foster home.

(d) The commission may make payments on behalf of a dependent child residing in a residential child-care facility in accordance with the provisions of this chapter and commission rules.

Acts 1979, 66th Leg., p. 2345, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.053, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 43, eff. September 1, 2017.

Sec. 31.0095. NEEDS ASSESSMENT. The commission shall assist a recipient or a nonrecipient parent in assessing the particular needs of that person and the person's family upon notification of entry into a Temporary Assistance for Needy Families employment program established under Part A, Subchapter IV, Social Security Act (42 U.S.C. Section 601 et seq.). The Texas Workforce Commission and the recipient or the nonrecipient parent shall develop an employability plan to help the recipient or nonrecipient parent achieve independence from public assistance granted to the recipient and the recipient's family, or to the child of the nonrecipient parent, as applicable.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 1.03, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1300 (S.B. 589), Sec. 2, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.053, eff. April 2, 2015.

Sec. 31.010. SUPPORT SERVICES. (a) Subject to the availability of funds, the Texas Workforce Commission shall provide a recipient or a nonrecipient parent with support services designed to assist the recipient or nonrecipient parent and the person's family to attain and retain the capability of independence and self-care.

(b) The Texas Workforce Commission shall consider the needs assessment and employability plan developed under Section 31.0095 in determining the support services needed.

(c) Support services include:

(1) education, using public or private schools as necessary;

(2) child care;

(3) transportation assistance;

(4) work skills and job readiness training;

(5) instruction in job search techniques;

(6) job placement; and

(7) job retention assistance.

(d) The Texas Workforce Commission by rule shall provide for implementation of the support services.

(e) The Texas Workforce Commission may contract with other state agencies, community colleges, technical schools, residence training facilities, or public or private entities to provide support services under this section.

(f) In providing work skills and job readiness training, the Texas Workforce Commission shall:

(1) emphasize training for sustainable wage jobs;

(2) promote understanding of nontraditional work opportunities for recipients and nonrecipient parents; and

(3) offer micro-enterprise development and self-employment assistance in rural areas and other areas in which jobs are scarce.

Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 655, Sec. 1.04, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 828, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1300 (S.B. 589), Sec. 3, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.054, eff. April 2, 2015.

Sec. 31.012. MANDATORY WORK OR PARTICIPATION IN EMPLOYMENT ACTIVITIES THROUGH TEMPORARY ASSISTANCE FOR NEEDY FAMILIES EMPLOYMENT PROGRAM. (a) The Health and Human Services Commission shall require that, during any one-month period in which an adult is receiving financial assistance under this chapter, the adult shall during that period:

(1) work not less than 30 hours a week; or

(2) participate for not less than 20 hours a week in an activity established under a Temporary Assistance for Needy Families employment program established under Part A, Subchapter IV, Social Security Act (42 U.S.C. Section 601 et seq.).

(b) The Texas Workforce Commission by rule shall establish criteria for good cause failure to cooperate and for notification procedures regarding participation in work or employment activities under this section.

(c) A person who is the caretaker of a child with a physical disability or mental, intellectual, or developmental disability who requires the caretaker's presence is not required to participate in a program under this section. A single person who is the caretaker of a child is exempt until the caretaker's youngest child at the time the caretaker first became eligible for assistance reaches the age of one. Notwithstanding Sections 31.0035(b) and 32.0255(b), the Health and Human Services Commission shall provide to a person who is exempt under this subsection and who voluntarily participates in a program under Subsection (a)(2) six months of transitional benefits in addition to the applicable limit prescribed by Section 31.0065.

(d) A state program operated under this section shall be administered by the division of workforce development of the Texas Workforce Commission.

(e) The Texas Workforce Commission shall allow a person who is participating in work or employment activities under this section to complete those activities if the person becomes ineligible to receive financial assistance under this chapter because the person receives child support in an amount that makes the person ineligible for that

assistance. The Texas Workforce Commission shall provide to the person necessary child care services until the date on which the person completes work or employment activities under this section.

(f) In this section, "caretaker of a child" means the parent or relative of a dependent child with whom the child primarily resides, including a parent or relative who has been appointed under a court order as sole managing conservator or joint managing conservator of the child.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.23, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 655, Sec. 4.01(a), 11.63, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 602, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 681, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1224, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.90, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.055, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.056, eff. April 2, 2015.

Sec. 31.0121. SKILLS ASSESSMENT AND DEVELOPMENT FOR CERTAIN RECIPIENTS AND CERTAIN NONRECIPIENT PARENTS. (a) The Texas Workforce Commission shall ensure that each local workforce development board assesses the skills development needs of recipients and of nonrecipient parents referred to the CHOICES program administered by the board.

(b) If, after assessing the skills development needs of a recipient or a nonrecipient parent, a local workforce development board determines that the recipient or the nonrecipient parent requires job-specific training for placement in a job paying wages that equal or exceed the self-sufficiency wage developed for the board under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.), as amended, the board shall:

(1) to the extent allowed by federal law, place the recipient or the nonrecipient parent in training activities designed to improve employment and wage outcomes and job retention rates; and

(2) ensure that the training activities under Subdivision

(1) target occupations that are in demand by local employers.

(c) A local workforce development board may use a single list of targeted occupations that is developed for other training programs for purposes of meeting the requirements of Subsection (b)(2).

(d) A recipient or a nonrecipient parent participating in the CHOICES program who is placed in training activities under Subsection (b) may concurrently engage in those training activities and in work activities.

(e) To meet the requirements of this section, the Texas Workforce Commission shall use CHOICES program funds and, to the extent possible, existing funds from other training programs for which a recipient or a nonrecipient parent participating in the CHOICES program may qualify, including funds from:

(1) other training programs provided under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.), as amended, or their successor programs;

(2) the skills development fund created under Chapter 303, Labor Code; or

(3) the self-sufficiency fund created under Section 309.002, Labor Code.

Acts 2003, 78th Leg., ch. 817, Sec. 4.04, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1300 (S.B. 589), Sec. 4, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1300 (S.B. 589), Sec. 5, eff. June 15, 2007.

Sec. 31.0124. REFERRAL TO EDUCATIONAL PROGRAMS. The Texas Workforce Commission shall determine whether a person who registers to participate in a Temporary Assistance for Needy Families employment program established under Part A, Subchapter IV, Social Security Act (42 U.S.C. Section 601 et seq.) needs and is eligible for adult education and literacy programs provided under Chapter 315, Labor Code. If the person is eligible for the adult education and literacy programs, the Texas Workforce Commission shall determine the person's needs and goals and refer the person to the appropriate adult education and literacy program provided under Chapter 315, Labor Code.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 7.02, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.057, eff. April 2, 2015.

Sec. 31.0126. EMPLOYMENT PROGRAMS. (a) The Texas Workforce Commission by rule shall develop the following programs to assist recipients of financial assistance and services under this chapter and nonrecipient parents in finding and retaining employment:

(1) a work first program that provides a participant job readiness training and employment information and services that will motivate the participant to find and apply for a job through job clubs, job readiness activities, and job search activities;

(2) a business internship program that provides a participant the opportunity to obtain marketable job skills through an internship in a participating business;

(3) a Texas works program that:

(A) is operated by a nonprofit group or local governmental entity;

(B) provides to a participant motivational and job readiness training by placing the participant in a job for a period of several months;

(C) ensures that the participant is visited at work and receives counseling and help in resolving any work-related or personal problems; and

(D) receives funding on the basis of participants who are successfully hired for employment;

(4) a community work experience program that provides a participant job training and work experience through a temporary job in the public sector;

(5) a subsidized employment program that provides to a participant job training and work experience through a job in the private sector that pays the participant a subsidized salary; and

(6) a self-employment assistance program that provides to a participant entrepreneurial training, business counseling, and technical and financial assistance so that the participant can establish a business and become self-employed.

(b) The Texas Workforce Commission shall develop the programs

prescribed by this section in accordance with federal law as a part of a Temporary Assistance for Needy Families employment program established under Part A, Subchapter IV, Social Security Act (42 U.S.C. Section 601 et seq.).

(c) In adopting rules governing a program prescribed by this section, the executive commissioner shall:

(1) establish the criteria for determining which recipients and nonrecipient parents who are eligible to participate in the Temporary Assistance for Needy Families employment programs established under Part A, Subchapter IV, Social Security Act (42 U.S.C. Section 601 et seq.), may be required to participate in a particular program; and

(2) ensure that a recipient or a nonrecipient parent who is incapable of participating in a particular program is not required to participate in that program.

(d) A local workforce development board may implement in a workforce development area one or more programs prescribed by this section.

(e) The Texas Workforce Commission shall submit a waiver application or a renewal waiver application that a federal agency may require before a local workforce development board can implement one or more of the programs prescribed by this section in a workforce development area.

(f) In this section, a "local workforce development board" means a local workforce development board created under Chapter 2308, Government Code.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 4.03, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 6.08, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1300 (S.B. 589), Sec. 6, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.058, eff. April 2, 2015.

Sec. 31.01261. PROVISION OF EMPLOYMENT SERVICES TO CERTAIN NONRECIPIENT PARENTS. The Texas Workforce Commission shall provide employment services, including needs assessment, job training,

postemployment, and related support services, to nonrecipient parents to the same extent the services are provided to recipients under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1300 (S.B. 589), Sec. 7, eff. June 15, 2007.

Sec. 31.0127. COORDINATION OF SERVICES TO CERTAIN CLIENTS. (a) The Health and Human Services Commission shall coordinate with the Texas Workforce Commission for the provision of child care services, Temporary Assistance for Needy Families employment programs, and supplemental nutrition assistance program employment and training services to an individual or family who has been referred for programs and services by the Health and Human Services Commission. The purpose of this section is to accomplish the following:

(1) increase the self-sufficiency of recipients of Temporary Assistance for Needy Families and improve the delivery of services to those recipients; and

(2) improve the effectiveness of job-training programs funded under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.) or a successor program in obtaining employment for individuals receiving Temporary Assistance for Needy Families cash assistance.

(b) The Health and Human Services Commission shall require the Texas Workforce Commission to comply with Chapter 531, Government Code, solely for:

(1) the promulgation of rules relating to the programs described by Subsection (a);

(2) the expenditure of funds relating to the programs described by Subsection (a), within the limitations established by and subject to the General Appropriations Act and federal and other law applicable to the use of the funds;

(3) data collection and reporting relating to the programs described by Subsection (a); and

(4) evaluation of services relating to the programs described by Subsection (a).

(c) The Health and Human Services Commission and the Texas Workforce Commission shall jointly develop and adopt a memorandum of understanding. The memorandum of understanding must:

(1) outline measures to be taken to increase the number of individuals receiving Temporary Assistance for Needy Families cash assistance who are using job-training programs funded under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.), or a successor program; and

(2) identify specific measures to improve the delivery of services to clients served by programs described by Subsection (a).

(d) Not later than January 15 of each odd-numbered year, the Health and Human Services Commission shall provide a report to the governor, the lieutenant governor, and the speaker of the house of representatives that:

(1) evaluates the efficiency and effectiveness of client services in the Temporary Assistance for Needy Families program;

(2) evaluates the status of the coordination among agencies and compliance with this section;

(3) recommends measures to increase self-sufficiency of recipients of Temporary Assistance for Needy Families cash assistance and to improve the delivery of services to these recipients; and

(4) evaluates the effectiveness of job-training programs funded under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.) or a successor program in obtaining employment outcomes for recipients of Temporary Assistance for Needy Families cash assistance.

(e) Subsection (b) does not authorize the Health and Human Services Commission to require a state agency, other than a health and human services agency, to comply with Chapter 531, Government Code, except as specifically provided by Subsection (b). The authority granted under Subsection (b) does not affect Section 301.041, Labor Code.

(f) If the change in law made by this section with regard to any program or service conflicts with federal law or would have the effect of invalidating a waiver granted under federal law, the state agency is not required to comply with this section with regard to that program or service.

(g) This section does not authorize the Health and Human Services Commission to change the allocation or disbursement of funds allocated to the state under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.) in a manner that would result in the loss of exemption status.

(h) This section does not authorize the Health and Human

Services Commission to transfer programs to or from the commission and another agency serving clients of the Temporary Assistance for Needy Families program or the federal supplemental nutrition assistance program administered under Chapter 33 without explicit legislative authorization.

(i) The executive commissioner may not promulgate rules relating to eligibility for the program services described by Subsection (a) and the Texas Workforce Commission may not promulgate rules in accordance with Subsection (b)(1) without holding a public hearing.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 10.01, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.059, eff. April 2, 2015.

Sec. 31.0128. COORDINATED INTERAGENCY PLAN. (a) The commission and the Texas Workforce Commission shall jointly develop a memorandum of understanding establishing guidelines for a coordinated interagency case management plan to:

(1) identify each recipient of financial assistance who has, in comparison to other recipients, higher levels of barriers to employment; and

(2) provide coordinated services that address those barriers to assist the recipient in finding and retaining employment.

(b) The commission and the Texas Workforce Commission shall:

(1) jointly develop a memorandum of understanding that establishes a coordinated interagency case management plan consistent with the guidelines established under Subsection (a); and

(2) using existing resources, implement in accordance with agency rules the plan to the maximum extent possible through local offices of the agency in local workforce development areas in which a local workforce development board is not established.

(c) The executive commissioner and the Texas Workforce Commission by rule shall adopt the memoranda of understanding required by this section and all revisions to the memoranda.

(d) In a local workforce development area in which a local workforce development board is established, the Texas Workforce

Commission shall require in the contract between the Texas Workforce Commission and the board that the board, in cooperation with local Health and Human Services Commission offices, develop and implement a coordinated interagency case management plan consistent with the guidelines established under Subsection (a).

(e) On the formulation of recommendations and strategies by the Health and Human Services Commission under Section 31.0129(b), the commission and the Texas Workforce Commission shall, as necessary, revise and update a memorandum of understanding and coordinated interagency case management plan under this section to include the recommendations and strategies.

Added by Acts 2001, 77th Leg., ch. 84, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1169, Sec. 12, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.060, eff. April 2, 2015.

Sec. 31.0129. COORDINATED PLAN TO IMPROVE INTERAGENCY TRANSITIONS. (a) The Health and Human Services Commission, the Texas Workforce Commission, and representatives of local workforce development boards shall conduct a survey of best practices used to transition clients between local Health and Human Services Commission offices and workforce centers.

(b) The Health and Human Services Commission shall:

(1) analyze information collected by a survey under Subsection (a); and

(2) formulate recommendations and strategies to improve practices used to transition clients between local commission offices and workforce centers.

(c) Using existing resources, the Health and Human Services Commission and local workforce development boards shall adopt policies to implement the recommendations and strategies contained in the revised and updated memorandum of understanding under Section 31.0128.

Added by Acts 2003, 78th Leg., ch. 1169, Sec. 13, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.060, eff.

April 2, 2015.

Sec. 31.0135. PARENTING SKILLS TRAINING. (a) The commission, in cooperation with the Texas Education Agency, the Department of Family and Protective Services, the Texas A&M AgriLife Extension Service, or any other public or private entity, shall develop a parenting skills training program to assist a recipient of assistance under this chapter, including a child who receives assistance on behalf of a dependent child. The program shall include nutrition education, budgeting and survival skills, and instruction on the necessity of physical and emotional safety for children.

(b) The commission shall require that a caretaker relative or parent who is receiving assistance under this chapter on behalf of a dependent child receive appropriate parenting skills training as needed. The training must include one or more components of the parenting skills training program that the commission determines will be useful to the caretaker relative or parent.

(c) In this section, "caretaker relative" means a person who is listed under Section 31.002(a)(5) in whose home residence a dependent child lives.

Added by Acts 1993, 73rd Leg., ch. 841, Sec. 2, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 655, Sec. 1.05, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.54, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 682, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.060, eff. April 2, 2015.

Sec. 31.015. HEALTHY MARRIAGE DEVELOPMENT PROGRAM. (a) Subject to available federal funding, the commission shall develop and implement a healthy marriage development program for recipients of financial assistance under this chapter.

(b) The healthy marriage development program shall promote and provide three instructional courses on the following topics:

(1) premarital counseling for engaged couples and marriage counseling for married couples that includes skill development for:

(A) anger resolution;

(B) family violence prevention;
(C) communication;
(D) honoring your spouse; and
(E) managing a budget;
(2) physical fitness and active lifestyles and nutrition and cooking, including:
(A) abstinence for all unmarried persons, including abstinence for persons who have previously been married; and
(B) nutrition on a budget; and
(3) parenting skills, including parenting skills for character development, academic success, and stepchildren.

(c) The commission shall provide to a recipient of financial assistance under this chapter additional financial assistance of not more than $20 for the recipient's participation in a course offered through the healthy marriage development program up to a maximum payment of $60 a month.

(d) The commission may provide the courses or may contract with any person, including a community or faith-based organization, for the provision of the courses. The commission must provide all participants with an option of attending courses in a non-faith-based organization.

(e) The executive commissioner shall develop rules as necessary for the administration of the healthy marriage development program.

(f) The commission must ensure that the courses provided by the commission and courses provided through contracts with other organizations will be sensitive to the needs of individuals from different religions, races, and genders.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.91, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.061, eff. April 2, 2015.

Sec. 31.016. SERVICE REFERRALS FOR CERTAIN RECIPIENTS. To the extent practicable using existing revenue, the executive commissioner, by rule, shall develop and the commission shall implement a plan to:
(1) identify recipients of financial assistance that are at

risk of exhausting their benefits under Section 31.0065; and

(2) provide referrals for the recipient and the recipient's family to appropriate preventive and support services, including faith-based services.

Acts 2003, 78th Leg., ch. 1169, Sec. 14, eff. Sept. 1, 2003.
Renumbered from Human Resources Code, Section 31.015 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(56), eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.062, eff. April 2, 2015.

Sec. 31.017. HEALTHY MARRIAGES AND STRONG FAMILIES GRANT PROGRAM. (a) The commission may administer a grant program to provide grants in amounts not to exceed $50,000 to programs that provide marriage education services and support the development of healthy marriages or strengthening of families. Grant recipients may use grant money to provide direct services to participants, develop a program, enlarge program capacity, or pay other program expenses, including provider training and technical assistance expenses.

(b) In selecting grant recipients, the commission shall give preference to applicants:

(1) whose programs will contribute to the geographic diversity of program locations; or

(2) who operate small programs, but who seek to maximize service delivery and build capacity.

(c) The commission shall require that each grant recipient provide program services at no cost to participants.

(d) The commission may contract with private entities to provide marriage education training and curriculum, technical assistance, and other support to grant recipients. In selecting entities to provide these services, the commission shall consider whether a prospective provider has knowledge and understanding of the needs of grant recipients operating programs in different areas of this state.

(e) The executive commissioner may adopt rules to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1249 (H.B. 2683), Sec. 1,

eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.062, eff. April 2, 2015.

Sec. 31.018. MARRIAGE AND FAMILY PROGRAM FUNDING. (a) To the extent authorized by federal law, the commission shall spend a minimum of one percent of money received under the federal Temporary Assistance for Needy Families block grant during each state fiscal year to fund programs that support the development of healthy marriages or the strengthening of families, including the healthy marriage development program under Section 31.015 and the healthy marriages and strong families grant program under Section 31.017.

(b) Using not more than 10 percent of the money required to be spent as provided by Subsection (a), the commission, through a contract or agreement with a public senior college or university, as defined by Section 61.003, Education Code, shall establish a process for evaluating the best practices and outcomes of programs funded under Subsection (a).

Added by Acts 2007, 80th Leg., R.S., Ch. 1249 (H.B. 2683), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.062, eff. April 2, 2015.

SUBCHAPTER B. ADMINISTRATION OF FINANCIAL ASSISTANCE AND SERVICES

Sec. 31.031. APPLICATION FOR ASSISTANCE. (a) The executive commissioner by rule shall prescribe the form for applications for assistance authorized by this chapter and the manner of their submission.

(b) The commission may require the applicant to state the amount of property in which he or she has an interest, the amount of income which he or she has at the time the application is filed, and other information.

(c) The commission shall require the applicant to provide proof to the commission that each person who will receive assistance under this chapter is:

(1) a United States citizen or has a satisfactory immigration status under Title IV, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. Sections 1601-1646); and

(2) a resident of this state.

(d) The commission shall require the applicant to provide proof to the commission that each child five years of age or younger, or a child who is not enrolled in public school, for whom the applicant will receive assistance:

(1) has been immunized in accordance with Section 161.004, Health and Safety Code;

(2) is currently receiving an immunization series in accordance with Section 161.004, Health and Safety Code, if the child is of sufficient age; or

(3) is exempted under Section 161.004(d), Health and Safety Code.

(e) An applicant who cannot provide the proof required by Subsection (d) at the time of application shall provide the proof not later than the 180th day after the date the commission determines the applicant is eligible for financial assistance.

(f) The commission shall provide the applicant with information regarding immunization services available in the applicant's residential area. If the applicant does not read or comprehend English, the commission shall provide the information in a language that the applicant reads or comprehends.

(g) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(33), eff. April 2, 2015.

Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 655, Sec. 2.01(a), 2.04, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.063, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(33), eff. April 2, 2015.

Sec. 31.0315. DETERMINATION OF PARENTAGE. (a) A parent applying for assistance on behalf of a child shall identify the

parent's spouse or, if unmarried, shall provide the name and last known address of the mother or alleged father of the child, as applicable.

(b) If the applying parent is under 18 years of age and resides with relatives, the applicant's relatives shall cooperate in identifying the other parent.

(c) A person who is not a parent and who is applying for assistance on behalf of a child shall provide the name and last known address of the mother and alleged father of the child.

(d) The commission may waive the requirements of this section if it determines that there exists a reasonable explanation why it is impossible to provide the information required under Subsection (a), (b), or (c) or if it would not be in the best interests of the child to provide the information. In determining whether the best interests of the child warrant waiving the information requirements of this section, the commission shall consider all relevant provisions of federal law and regulations.

(e) The commission shall forward to the attorney general's office information received under this section.

(f) If the parent of a dependent child is under 17 years of age and the Title IV-D agency determines that the child's birth may be the result of sexual conduct that constitutes a criminal offense under the Penal Code, that agency shall refer the case to the appropriate law enforcement agency for further investigation.

Added by Acts 1993, 73rd Leg., ch. 721, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 655, Sec. 1.06, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.064, eff. April 2, 2015.

Sec. 31.032. INVESTIGATION AND DETERMINATION OF ELIGIBILITY. (a) On receipt of an application for assistance authorized by this chapter, the commission shall investigate and record the applicant's circumstances in order to ascertain the facts supporting the application and to obtain other information it may require.

(b) After completing its investigation, the commission shall determine whether the applicant is eligible for the assistance, the

type and amount of assistance, the date on which the assistance shall begin, and the manner in which payments shall be made.

(c) The commission shall promptly notify the applicant of its final action.

(d) In determining whether an applicant is eligible for assistance, the commission shall exclude from the applicant's available resources:

(1) $1,000 for the applicant's household, including a household in which there is a person with a disability or a person who is at least 60 years of age; and

(2) the fair market value of the applicant's ownership interest in a motor vehicle, but not more than $5,000 plus or minus an amount to be determined annually beginning on October 1, 1997, to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

(e) If federal regulations governing the maximum allowable resources under the supplemental nutrition assistance program, 7 C.F.R. Part 273, are revised, the executive commissioner shall adjust the standards that determine available resources under Subsection (d) to reflect those revisions.

Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 655, Sec. 1.07, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 198, Sec. 2.201(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1251, Sec. 5(a), eff. June 20, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.065, eff. April 2, 2015.

Sec. 31.0322. VICTIMS OF FAMILY VIOLENCE. (a) The executive commissioner, the Texas Workforce Commission, and the Title IV-D agency by rule shall adopt procedures under which requirements relating to financial assistance and related services, including time limits, child support enforcement, paternity establishment, work activity, and residency, may be waived or modified for an individual who is a victim of family violence if application of the requirements would:

(1) adversely affect the individual's ability to attain

financial independence;

(2) make it more difficult for the individual to escape family violence; or

(3) place the individual at greater risk for additional family violence.

(b) The procedures must provide that:

(1) a requirement may be waived or modified only after a case-by-case determination and documentation of good cause and only to the extent necessary considering an individual's circumstances;

(2) a requirement may not be waived or modified for an individual for a period longer than one year;

(3) the appropriate agency shall refer an individual to a family violence program if necessary for assistance in developing a safety plan to protect the individual from further family violence; and

(4) confidentiality of information about the identification and location of victims of family violence and their children is maintained when necessary to prevent additional family violence.

(c) The commission, the Texas Workforce Commission, and the Title IV-D agency may not deny an individual access to education, training, employment, or other services because the individual is a victim of family violence.

(d) The commission shall coordinate the development and implementation of procedures under this section in collaboration with the Texas Workforce Commission, the Title IV-D agency, and at least one statewide advocacy group for victims of family violence.

(e) The commission, the Texas Workforce Commission, the Title IV-D agency, and each local workforce development board, using existing resources, shall provide not less than four hours of training regarding family violence to each employee or other person who on behalf of the commission, Texas Workforce Commission, agency, or board:

(1) provides information relating to requirements described by Subsection (a) and the availability of waivers or modifications of those requirements to an individual seeking or receiving financial assistance;

(2) recommends or grants waivers or modifications authorized by this section of requirements described by Subsection (a);

(3) recommends or imposes sanctions for noncooperation or

noncompliance with requirements described by Subsection (a); or

(4) assesses employment readiness or provides employment planning or employment retention services to an individual receiving financial assistance.

(f) The training required by Subsection (e) must:

(1) be developed in collaboration with at least one organization with expertise in family violence issues; and

(2) include information relating to:

(A) the potential impact of family violence on:

(i) the safety of an individual seeking or receiving financial assistance; and

(ii) the ability of that individual to make a successful transition into the workforce;

(B) state laws and agency rules regarding options available to an individual receiving financial assistance for whom family violence poses a danger or impediment to attaining financial independence; and

(C) statewide and local resources available from state and local governmental agencies and other entities that could assist a victim of family violence in safely and successfully entering the workforce.

(g) Before the application of a sanction or penalty based on an individual's failure to cooperate with the commission or Title IV-D agency, as required by Section 31.0031(d)(1), or failure to comply with the work or participation requirements imposed by Section 31.012, the agency recommending or applying the sanction or penalty must make reasonable attempts to contact the individual to determine the cause of the failure to cooperate or comply. If the agency determines that family violence contributed to the failure, the agency shall ensure that a person trained in family violence issues in accordance with Subsection (e) interviews the individual to identify the types of services necessary to assist the individual in safely and successfully entering the workforce.

(h) In this section:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Title IV-D agency" has the meaning assigned by Section 101.033, Family Code.

Added by Acts 1997, 75th Leg., ch. 1442, Sec. 1, eff. Sept. 1, 1997.

Renumbered from Sec. 31.0321 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(71), eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 197, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.066, eff. April 2, 2015.

Sec. 31.0324. ASSIGNMENT OF PROTECTIVE PAYEE. (a) In this section, "protective payee" means a person who:

(1) is interested in or concerned with the welfare of a child or relative of a child receiving financial assistance; and

(2) acts for the recipient of financial assistance in receiving or managing the financial assistance payment.

(b) The executive commissioner by rule shall develop and the commission shall implement a process that provides for the grandparent of a child receiving financial assistance under this chapter to serve as a protective payee to:

(1) receive and use the assistance on behalf of the child; and

(2) apply for financial assistance and be interviewed instead of the child's parent at any subsequent review of eligibility required by the commission.

(c) The commission shall limit the use of the process established by Subsection (b) to situations in which the commission determines the parent is not using the assistance for the child's needs as required by Section 31.0355(a), and the executive commissioner shall establish by rule the circumstances under which the grandparent may be removed as a protective payee.

Added by Acts 2001, 77th Leg., ch. 1316, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.067, eff. April 2, 2015.

Sec. 31.0326. VERIFICATION OF IDENTITY AND PREVENTION OF DUPLICATE PARTICIPATION. The commission shall use appropriate technology to:

(1) confirm the identity of applicants for benefits under

the financial assistance program; and

(2) prevent duplicate participation in the program by a person.

Added by Acts 2011, 82nd Leg., R.S., Ch. 944 (H.B. 710), Sec. 1, eff. June 17, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.068, eff. April 2, 2015.

Sec. 31.033. REINVESTIGATION AND REDETERMINATION OF ELIGIBILITY. (a) The commission may require periodic reconsideration of continued eligibility for assistance.

(b) After reconsideration of continuing eligibility, the commission may change the amount of assistance or withdraw it if the commission finds that the recipient's circumstances have altered sufficiently to warrant that action.

(c) The commission may cancel or suspend assistance for a period of time if the commission finds that the recipient is currently ineligible to receive it.

(d) The commission shall notify the recipient immediately of its decision to change or withdraw assistance.

(e) A recipient of assistance must notify the commission immediately if he or she comes into possession of income or resources in excess of the amount previously reported.

Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.068, eff. April 2, 2015.

Sec. 31.034. APPEAL FROM LOCAL ELIGIBILITY OFFICES. (a) An applicant for or recipient of financial assistance authorized by this chapter may appeal to the commission an action or failure to act by a local eligibility office relating to the financial assistance. The commission shall grant the applicant or recipient an opportunity for a hearing after reasonable notice.

(b) An applicant or recipient, or his or her authorized agent,

may submit a written request for the information contained in the records of the local eligibility office on which the action being appealed is based, and the local eligibility office shall advise the person making the request of the information within a reasonable time prior to the hearing. Information not provided to the requesting party may not be considered by the commission at the hearing as a basis for decision.

Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.068, eff. April 2, 2015.

Sec. 31.035. METHOD OF PAYMENT. (a) The commission shall periodically furnish the comptroller with a list of persons eligible for financial assistance under this chapter and the amount to which each person is entitled.

(b) The comptroller shall draw payments for the specified amounts on the proper accounts and shall transmit the payments to the commission. The commission shall supervise the delivery of the payments to the persons entitled to them.

Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 11, eff. Aug. 26, 1985.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.068, eff. April 2, 2015.

Sec. 31.0355. USE OF FINANCIAL ASSISTANCE. (a) Financial assistance granted to a person under this chapter may be used only to purchase goods and services that are considered essential and necessary for the welfare of the family, including food, clothing, housing, utilities, child care, and incidentals such as transportation and medicine or medical supplies or equipment not covered by Medicaid. The executive commissioner by rule shall define what constitutes essential and necessary goods and services for purposes of this subsection.

(b) If a recipient of financial assistance who receives the assistance by electronic benefits transfer to an account is authorized to make a cash withdrawal from the account through a provider of the goods or services described by Subsection (a), the recipient may make the cash withdrawal only at the customer service department of the provider and not at the provider's point-of-sale terminal.

(c) The commission shall encourage housing authorities, utility companies, public transportation companies, and other nonfood retailers to accept payment for goods and services described by Subsection (a) through the state's electronic benefits transfer (EBT) system.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(34), eff. April 2, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(34), eff. April 2, 2015.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(34), eff. April 2, 2015.

Added by Acts 1997, 75th Leg., ch. 637, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.069, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(34), eff. April 2, 2015.

Sec. 31.036. ELIGIBILITY OF PERSON LEAVING THE STATE. A recipient of assistance who moves out of the state is no longer eligible for the assistance. However, a recipient's temporary absence from the state for reasons and for periods of time approved by the commission does not terminate the recipient's eligibility for assistance.

Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.070, eff. April 2, 2015.

Sec. 31.037. PAYMENT OF FINANCIAL ASSISTANCE FUNDS ON DEATH OF RECIPIENT. (a) If a person dies during a month for which the person is eligible for financial assistance and has not spent all of that month's financial assistance payment, the commission may pay financial assistance to the person who was responsible for caring for the recipient at the time of his or her death and who is responsible for paying the obligations incurred by the recipient.

(b) The executive commissioner shall adopt rules prescribing the method of determining the person entitled to receive the deceased recipient's financial assistance, the manner of payment of the funds, and limitations on the payments.

(c) Payments to persons responsible for deceased recipients under this section may be made only in the manner and to the extent permissible under the laws and regulations governing the disbursement of funds received through the United States Department of Health and Human Services.

Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.070, eff. April 2, 2015.

Sec. 31.038. CANCELLATION OF UNUSED BENEFITS. The commission may cancel financial assistance benefits that have not been spent within a reasonable period of time after issuance. The cancellation must be performed in the manner required by rules of the comptroller.

Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 1.33, eff. June 19, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.070, eff. April 2, 2015.

Sec. 31.039. ISSUANCE OF REPLACEMENT FINANCIAL ASSISTANCE WARRANTS AND ELECTRONIC BENEFITS TRANSFER CARDS. (a) The comptroller may issue a replacement financial assistance warrant to a recipient who has failed to receive or has lost the original warrant

in accordance with Section 403.054, Government Code.

(b) The commission may issue a replacement electronic benefits transfer card to a recipient who failed to receive or lost the original card.

Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 794, Sec. 12, eff. Aug. 26, 1985; Acts 1993, 73rd Leg., ch. 449, Sec. 35, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.070, eff. April 2, 2015.

Sec. 31.040. NONTRANSFERABILITY OF ASSISTANCE FUNDS. The right to financial assistance granted to recipients under this chapter may not be transferred or assigned at law or in equity, and the funds are not subject to execution, levy, attachment, garnishment, or other legal process or to the operation of an insolvency law.

Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 31.041. RIGHT TO ASSISTANCE NOT VESTED. (a) The provisions of this chapter providing assistance shall not be construed as vesting a right in the recipient to the assistance.

(b) Assistance granted under this chapter is subject to modification or repeal by the legislature, and a recipient has no claim for compensation or otherwise because the law authorizing the assistance is amended or repealed.

Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 31.042. PRORATION OF FINANCIAL ASSISTANCE. If at any time state funds are not available to pay in full all financial assistance authorized in this chapter, the executive commissioner may direct the proration of the financial assistance.

Acts 1979, 66th Leg., p. 2348, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.070, eff. April 2, 2015.

Sec. 31.043. FILL-THE-GAP BUDGETING. (a) To extend the period of supported employment for families who receive financial assistance under this chapter, the commission may use a form of fill-the-gap budgeting or another method under which the commission disregards earnings of family members who obtain employment while receiving the assistance.

(b) The commission may limit the percentage of earnings disregarded, impose a time limit on how long the earnings are disregarded, or gradually reduce the percentage of earnings disregarded in order to remain within available funding.

(c) Funding for earnings disregards may also come from savings associated with sanctions related to noncompliance with the personal responsibility agreement and work requirements in this chapter, from savings resulting from caseload declines below projections specified in the appropriations bill, and from Temporary Assistance for Needy Families (TANF) block grant funds.

(d) In this section, "fill-the-gap budgeting" means a system of budgeting in which benefits are gradually lowered using a percentage of the difference between the standard of need and the countable income to calculate the grant benefit.

Added by Acts 1997, 75th Leg., ch. 878, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.071, eff. April 2, 2015.

Sec. 31.044. INACTIVE ELECTRONIC BENEFITS TRANSFER ACCOUNT. (a) This section applies only to an account to which financial assistance provided under this chapter has been transferred under the electronic benefits transfer system for access and use by a recipient of that assistance.

(b) The commission shall close an account that has not been

used by the account holder during the preceding 12 months.

(c) The comptroller shall withdraw any unused benefits remaining in the account and disburse the benefits as authorized by federal and state law.

Added by Acts 1997, 75th Leg., ch. 322, Sec. 4, eff. May 26, 1997; Acts 1997, 75th Leg., ch. 458, Sec. 1, eff. Sept. 1, 1997.
Renumbered from Sec. 31.043 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(72), eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.072, eff. April 2, 2015.

Sec. 31.045. PEACE OFFICERS. The commission's office of inspector general may employ and commission peace officers for the purpose of assisting the office in the investigation of fraud, waste, or abuse in the financial assistance program. A peace officer employed and commissioned by the office is a peace officer for purposes of Article 2.12, Code of Criminal Procedure.

Added by Acts 2017, 85th Leg., R.S., Ch. 856 (H.B. 2523), Sec. 2, eff. June 15, 2017.

SUBCHAPTER C. LIMITATION ON AMOUNT OF FINANCIAL ASSISTANCE

Sec. 31.051. DEFINITION. In this subchapter, "state budget" shall equal the amount appropriated by the legislature for the biennium from funds subject to the limitations set forth in the Texas Constitution, including any appropriated federal funds in the amounts estimated in the Act making such appropriations.

Added by Acts 1983, 68th Leg., p. 1667, ch. 312, Sec. 1, eff. Aug. 29, 1983.

Sec. 31.052. LIMITATION ON AMOUNT OF FINANCIAL ASSISTANCE. For each fiscal biennium, the maximum amount that may be paid out of state funds for assistance grants to or on behalf of needy dependent children and their caretakers may not exceed one percent of the state budget.

Added by Acts 1983, 68th Leg., p. 1667, ch. 312, Sec. 1, eff. Aug. 29, 1983.

Sec. 31.053. DETERMINATION BY LEGISLATIVE BUDGET BOARD. (a) With regard to the general appropriations bill introduced in each house in each regular session, it shall be the duty of the legislative budget director, not later than the seventh day of the session, to inform in writing the lieutenant governor and the speaker of the house of representatives of three items of information:

(1) the biennial amount of the "state budget," as defined for the purposes of this subchapter, based on the general appropriations bills as introduced;

(2) the maximum biennial amount of one percent of the state budget; and

(3) the biennial amount which would be appropriated by the general appropriations bills for assistance to or on behalf of needy dependent children and the caretakers of such children and which is subject to the limitation.

(b) At the request of the lieutenant governor or speaker the legislative budget director shall update this information and shall provide a statement of other legislation affecting appropriations.

(c) The Legislative Budget Board may adopt rules necessary to perform its duties under this subchapter.

Added by Acts 1983, 68th Leg., p. 1667, ch. 312, Sec. 1, eff. Aug. 29, 1983.

CHAPTER 32. MEDICAL ASSISTANCE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 32.001. PURPOSE OF CHAPTER. The purpose of this chapter is to enable the state to provide medical assistance on behalf of needy individuals and to enable the state to obtain all benefits for those persons authorized under the Social Security Act or any other federal act.

Acts 1979, 66th Leg., p. 2348, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 32.002. CONSTRUCTION OF CHAPTER. (a) This chapter shall be liberally construed and applied in relation to applicable federal laws and regulations so that adequate and high quality health care may be made available to all children and adults who need the care and are not financially able to pay for it.

(b) If a provision of this chapter conflicts with a provision of the Social Security Act or any other federal act and renders the state program out of conformity with federal law to the extent that federal matching money is not available to the state, the conflicting provision of state law shall be inoperative to the extent of the conflict but shall not affect the remainder of this chapter.

Acts 1979, 66th Leg., p. 2348, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 32.003. DEFINITIONS. In this chapter:

(1) "Health and human services agencies" has the meaning assigned by Section 531.001, Government Code.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(35), eff. April 2, 2015.

(3) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(35), eff. April 2, 2015.

(4) "Medical assistance" and "Medicaid" include all of the health care and related services and benefits authorized or provided under federal law for needy individuals of this state.

Acts 1979, 66th Leg., p. 2349, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 6, Sec. 2, eff. March 23, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.073, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(35), eff. April 2, 2015.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 32.021. ADMINISTRATION OF THE PROGRAM. (a) The commission is the single state agency designated to administer the medical assistance program provided in this chapter in accordance

with 42 U.S.C. Section 1396a(a)(5). Subject to applicable federal law, the commission may delegate the operation of a part of the medical assistance program to another state agency. Notwithstanding any delegation, the commission retains ultimate authority over the medical assistance program.

(a-1) To the extent the commission delegates the operation of a part of the medical assistance program to another state agency, or to the extent that state law assigns a function of the medical assistance program to another health and human services agency operating under the commission's oversight, a reference in this chapter to the commission with respect to that part of the medical assistance program means the state agency to which the operation of that part is delegated or assigned.

(b) The commission shall enter into agreements with any federal agency designated by federal law to administer medical assistance when the commission determines the agreements to be compatible with the state's participation in the medical assistance program and within the limits of appropriated funds. The commission shall cooperate with federal agencies designated by federal law to administer medical assistance in any reasonable manner necessary to qualify for federal funds.

(c) The executive commissioner shall establish methods of administration and adopt necessary rules for the proper and efficient operation of the medical assistance program.

(d) The commission shall include in its contracts for the delivery of medical assistance by nursing facilities provisions for monetary penalties to be assessed for violations as required by 42 U.S.C. Section 1396r, including without limitation the Omnibus Budget Reconciliation Act (OBRA), Pub. L. No. 100-203, Nursing Home Reform Amendments of 1987, provided that the executive commissioner shall:

(1) provide for an informal dispute resolution process in the commission as provided by Section 531.058, Government Code; and

(2) develop rules to adjudicate claims in contested cases, including claims unresolved by the informal dispute resolution process of the commission.

(e) Rules governing the application of penalties shall include the following:

(1) specific and objective criteria which describe the scope and severity of a contract violation which results in a recommendation for each specific penalty. Penalties must be

appropriate to the violation, and the most severe financial penalties must be reserved for situations which create an immediate and serious threat to the health and safety of residents; "immediate and serious threat" means a situation in which there is a high probability that serious harm or injury to residents could occur at any time or already has occurred and may well occur again if residents are not protected effectively from the harm or if the threat is not removed;

(2) a system to ensure standard and consistent application of penalties among surveyors and different areas of the state;

(3) due process for nursing facilities providers, including an appeals procedure consistent with Chapter 2001, Government Code; and

(4) per diem and/or minimum penalties. The executive commissioner may by rule prescribe a minimum penalty period; however, once a facility gives the Department of Aging and Disability Services notice that deficiencies have been corrected, if surveyors are unable to revisit the facility within five days and the deficiencies are later shown to be corrected, the per diem penalties cease as of the day the facility gave notice to the Department of Aging and Disability Services or on the last day of the minimum penalty period established by the executive commissioner, whichever is later.

(f) To encourage facilities to provide the best possible care, the commission shall develop an incentive program to recognize facilities providing the highest quality care to Medicaid residents.

(g) Funds collected as a result of the imposition of penalties shall be applied to the protection of the health or property of residents of nursing facilities, including the cost of relocation of residents to other facilities and maintenance or operation of a facility pending correction of deficiencies or closure, or to incentive programs which recognize the highest quality care to residents who are entitled to Medicaid.

(h) Medicaid nursing facilities shall also comply with state licensure rules, which may be more stringent than the requirements for certification. The Department of Aging and Disability Services shall use appropriate civil, administrative, or criminal remedies authorized by state or federal law with respect to a facility that is in violation of a certification or licensing requirement.

(i) Repealed by Acts 2003, 78th Leg., ch. 204, Sec. 16.03(1).

(j) Repealed by Acts 2001, 77th Leg., ch. 1284, Sec. 3.04, eff.

June 15, 2001.

(k) Repealed by Acts 2003, 78th Leg., ch. 204, Sec. 16.03(1).

(l) The commission may not include as a reimbursable item to a nursing facility an administrative or civil penalty assessed against the facility under this chapter or under Chapter 242, Health and Safety Code.

(m) Notwithstanding any provision of law to the contrary, the commission shall terminate a nursing facility's provider agreement if the Department of Aging and Disability Services has imposed required Category 2 or Category 3 remedies on the facility three times within a 24-month period. The executive commissioner by rule shall establish criteria under which the requirement to terminate the provider agreement may be waived. In this subsection, "Category 2 remedies" and "Category 3 remedies" have the meanings assigned by 42 C.F.R. Section 488.408.

(n) An assessment of monetary penalties under this section is subject to arbitration under Subchapter H-2, Chapter 242, Health and Safety Code.

(o) In any circumstance in which a nursing facility would otherwise be required to admit a resident transferred from another facility, because of an emergency or otherwise, the nursing facility may not admit a resident whose needs cannot be met through service from the facility's staff or in cooperation with community resources or other providers under contract. If a nursing facility refuses to admit a resident under this subsection, the nursing facility shall provide a written statement of the reasons for the refusal to the Department of Aging and Disability Services within a period specified by rule. A nursing facility that fails to provide the written statement, or that includes false or misleading information in the statement, is subject to monetary penalties assessed in accordance with this chapter.

(p) In order to increase the personal needs allowance under Section 32.024(w), the commission shall develop an early warning system to detect fraud in the handling of the personal needs allowance and other funds of residents of long-term care facilities.

(q) The commission shall include in its contracts for the delivery of medical assistance by nursing facilities clearly defined minimum standards that relate directly to the quality of care for residents of those facilities. The commission shall include in each contract:

(1) specific performance measures by which the commission may evaluate the extent to which the nursing facility is meeting the standards; and

(2) provisions that allow the commission to terminate the contract if the nursing facility is not meeting the standards.

(r) The commission may not award a contract for the delivery of medical assistance to a nursing facility that does not meet the minimum standards that would be included in the contract as required by Subsection (q). The commission shall terminate a contract for the delivery of medical assistance by a nursing facility that does not meet or maintain the minimum standards included in the contract in a manner consistent with the terms of the contract.

(s) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(106), eff. June 17, 2011.

Acts 1979, 66th Leg., p. 2349, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.22, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1049, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1159, Sec. 2.01, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 974, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1284, Sec. 3.01, 3.04, 7.04, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.92(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 204, Sec. 16.03(1), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 809 (S.B. 1318), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.002(11), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 23(5), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(106), eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.074, eff. April 2, 2015.

Sec. 32.0211. RESTRICTIONS ON EXECUTIVE COMMISSIONERS, FORMER MEMBERS OF A BOARD, COMMISSIONERS, AND THEIR BUSINESS PARTNERS. (a)

After service in the commission or a health and human services agency, including an agency that formerly operated part of the medical assistance program but that has been abolished, ends, a former executive commissioner, member of the board, or commissioner of the applicable agency may not knowingly represent a person before an agency or court:

(1) in a matter related to the medical assistance program in which the agency the person served or the federal government has a direct interest and in which the executive commissioner, board member, or commissioner participated personally while employed with the agency; or

(2) for two years after the date on which service ends in a matter related to the medical assistance program if the commission, the health and human services agency, or the federal government has a direct interest in the matter, the matter was pending during the executive commissioner's or commissioner's last year of service to the applicable agency, and the matter was one for which the executive commissioner or commissioner had responsibility.

(b) Subsection (a) does not apply to a former executive commissioner, board member, or commissioner who holds one of the following positions and is acting in the scope of that position:

(1) employee or officer of federal, state, or local government;

(2) employee of a nonprofit hospital or medical research organization; or

(3) employee of an accredited degree-granting college or university.

(c) The current executive commissioner or a current commissioner of a health and human services agency may not knowingly participate in the course of the executive commissioner's or commissioner's service in a matter related to the medical assistance program in which the agency the person serves or the federal government has a direct interest and in which the executive commissioner or commissioner, or the executive commissioner's or commissioner's spouse, minor child, or business partner, has a substantial financial interest.

(d) A business partner of a current executive commissioner or a current commissioner of a health and human services agency may not knowingly represent a person before an agency or court in a matter related to the medical assistance program:

(1) in which the executive commissioner or commissioner participates or has participated personally and substantially; or

(2) that is under the official responsibility of the executive commissioner or commissioner.

(e) A past or present executive commissioner, a past board member of a health and human services agency, including an abolished agency, or a past or present commissioner of a health and human services agency is subject to a civil penalty of $5,000 for each violation of this section. A partner of a current executive commissioner or commissioner is subject to a civil penalty of $2,500 for each violation of this section. Each appearance before an agency or court constitutes a separate offense.

(f) If it appears that this section has been violated, the commission may request the attorney general to conduct a suit in the name of the State of Texas to enjoin the prohibited activity and to recover the penalty provided for in this section.

Added by Acts 1981, 67th Leg., p. 755, ch. 287, Sec. 1, eff. Aug. 31, 1981.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.075, eff. April 2, 2015.

Sec. 32.0212. DELIVERY OF MEDICAL ASSISTANCE. Notwithstanding any other law and subject to Section 533.0025, Government Code, the commission shall provide medical assistance for acute care services through the Medicaid managed care system implemented under Chapter 533, Government Code, or another Medicaid capitated managed care program.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.95, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1310 (S.B. 7), Sec. 2.10, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.075, eff. April 2, 2015.

Sec. 32.0213. NURSING FACILITY BED CERTIFICATION AND

DECERTIFICATION. (a) The executive commissioner by rule shall establish procedures for:

(1) controlling the number of Medicaid beds in nursing facilities;

(2) decertification of unused Medicaid beds in nursing facilities; and

(3) reallocation of nursing facility beds decertified under Subdivision (2) to other nursing facilities.

(b) The procedures established under this section must take into account the occupancy rate of the nursing facility.

(c) The executive commissioner may exempt a nursing facility from the procedures established under this section if the facility:

(1) is affiliated with a state-supported medical school;

(2) is located on land owned or controlled by the state-supported medical school; and

(3) serves as a teaching facility for physicians and related health care professionals.

(d) The executive commissioner by rule may require an applicant for Medicaid beds in a nursing facility under a Medicaid bed waiver application to provide a performance bond in the amount of $500,000 or other financial security as determined by the Department of Aging and Disability Services to ensure that the applicant provides the Medicaid beds granted to the applicant under the waiver within the time frame required by the Department of Aging and Disability Services. A performance bond provided under this subsection must:

(1) be executed by a corporate surety in accordance with Subchapter A, Chapter 3503, Insurance Code;

(2) be in a form approved by the Department of Aging and Disability Services; and

(3) clearly and prominently display on the face of the bond or on an attachment to the bond:

(A) the name, mailing address, physical address, and telephone number, including the area code, of the surety company to which any notice of claim should be sent; or

(B) the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, and a statement that the address of the surety company to which any notice of claim should be sent may be obtained from the Texas Department of Insurance by calling the toll-free telephone number.

(e) The executive commissioner may not require an applicant for Medicaid beds in a nursing facility to obtain a performance bond from a specific insurance or surety agency, agent, or broker.

(f) The executive commissioner by rule shall adopt criteria to exempt certain applicants for Medicaid beds from the requirements of Subsection (d), including applicants that are licensed facilities with existing Medicaid bed allocations, criminal justice facilities, teaching facilities, and state veterans homes, and any other applicants that the executive commissioner finds good cause to exempt. The executive commissioner may modify the criteria for granting exemptions under this subsection as necessary to meet the objectives of Subsection (d).

Added by Acts 1997, 75th Leg., ch. 1159, Sec. 2.02, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1487, Sec. 1, eff. June 19, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1063 (H.B. 3196), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.076, eff. April 2, 2015.

Sec. 32.0214. DESIGNATIONS OF PRIMARY CARE PROVIDER BY CERTAIN RECIPIENTS. (a) If the commission determines that it is cost-effective and feasible and subject to Subsection (b), the commission shall require each recipient of medical assistance to designate a primary care provider with whom the recipient will have a continuous, ongoing professional relationship and who will provide and coordinate the recipient's initial and primary care, maintain the continuity of care provided to the recipient, and initiate any referrals to other health care providers.

(b) A recipient who receives medical assistance through a Medicaid managed care model or arrangement under Chapter 533, Government Code, that requires the designation of a primary care provider shall designate the recipient's primary care provider as required by that model or arrangement.

Added by Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 15, eff. September 1, 2007.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.077, eff. April 2, 2015.

Sec. 32.0215. HOME OR COMMUNITY CARE PROVIDERS: CIVIL MONETARY PENALTIES. (a) The commission may include in a contract for the delivery of medical assistance by a home or community care provider a provision for monetary penalties to be assessed for a contract violation or any violation of home or community care requirements, as required by 42 U.S.C. Section 1396t(j).

(b) The executive commissioner shall adopt rules governing the application of civil money penalties, including rules prescribing:

(1) criteria that describe when and how a civil money penalty may be assessed and the amount of the penalty;

(2) a system to ensure standard and consistent application of the penalties throughout the state; and

(3) an administrative appeals process to adjudicate claims in contested cases in accordance with Chapter 2001, Government Code.

(c) Rules adopted under this section must be designed to minimize the time between the identification of a violation and the final imposition of a penalty. Rules adopted under this section may authorize the imposition of a penalty that assesses and collects a monetary penalty, with interest, for a minimum penalty period and on a subsequent per diem basis.

(d) A penalty must be appropriate to the violation. The commission may assess incrementally more severe penalties for repeated or uncorrected violations.

(e) The commission shall review a penalized provider within 10 working days after the provider notifies the Department of Aging and Disability Services that the deficiency that caused the imposition of the penalty has been corrected. If the commission is unable to review the provider within that 10-working-day period, the penalty ceases on the earlier of the last day of the minimum penalty period or the date the provider gives notice to the Department of Aging and Disability Services.

(f) Money collected as a result of the imposition of penalties may be used for the protection of the health or property of an individual whose personal property was lost due to a failure of a home or community care provider to meet the requirements for participation as a provider of home or community care.

Added by Acts 1993, 73rd Leg., ch. 132, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.078, eff. April 2, 2015.

Sec. 32.022. MEDICAL AND HOSPITAL CARE ADVISORY COMMITTEES. (a) The executive commissioner shall appoint a medical care advisory committee to advise the executive commissioner and the commission in developing and maintaining the medical assistance program and in making immediate and long-range plans for reaching the program's goal of providing access to high quality, comprehensive medical and health care services to medically indigent persons in the state. To ensure that qualified applicants receive services, the committee shall consider changes in the process the commission uses to determine eligibility.

(b) The executive commissioner shall appoint the committee in compliance with the requirements of the federal agency administering medical assistance. The appointments shall:

(1) provide for a balanced representation of the general public, providers, consumers, and other persons, state agencies, or groups with knowledge of and interest in the committee's field of work; and

(2) include one member who is the representative of a managed care organization.

(c) The executive commissioner shall adopt rules for membership on the committee to provide for efficiency of operation, rotation, stability, and continuity.

(d) The executive commissioner may appoint regional and local medical care advisory committees and other advisory committees as considered necessary.

Acts 1979, 66th Leg., p. 2349, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 2.01, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1027, Sec. 10, eff. Sept. 1, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.079, eff.

April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 3.36(a), eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 3.40(c), eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 2.33(a), eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 2.37(d), eff. January 1, 2016.

Sec. 32.023. COOPERATION WITH OTHER STATE AGENCIES. (a) The commission's plan for administering medical assistance must include procedures for using health services administered by other state agencies pursuant to cooperative arrangements.

(b) The commission may enter into agreements with appropriate state agencies that will enable the commission to implement Title XIX of the federal Social Security Act (42 U.S.C. Section 1396 et seq.) to provide medical assistance for individuals in institutions or in alternate care arrangements. The agreements must comply with federal law and rules. The commission may make medical assistance payments in accordance with the agreements. The agreements are not subject to Chapter 771, Government Code.

(c) State agencies responsible for the administration or supervision of facilities to which medical assistance payments may be made under federal law shall enter into the agreements with the commission and maintain compliance with the agreements so that the commission may receive federal matching funds to support the medical assistance program.

(d) The commission may pay medical assistance to other facilities as required under federal law and rules.

Acts 1979, 66th Leg., p. 2349, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.079, eff. April 2, 2015.

Sec. 32.0231. ANNOUNCEMENT OF FUNDING OR PROGRAM CHANGE. (a)

The executive commissioner shall publish notice in the Texas Register of:

(1) any attempt to obtain a waiver of federal regulations in the medical assistance program;

(2) any attempt to obtain or the receipt of funding under Title XIX of the federal Social Security Act (42 U.S.C. Section 1396 et seq.) for a pilot program; and

(3) any amendment to the state medical assistance plan.

(b) The notice must include the name and telephone number of a commission employee who can provide information relating to the matter for which notice was published under this section.

(c) The commission shall provide to any requestor information relating to a matter for which notice was published, including the effect and cost of the change, any possible cost savings, the criteria for receiving services, and the number of people to be served.

Added by Acts 1989, 71st Leg., ch. 1085, Sec. 2, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.079, eff. April 2, 2015.

See note following this section.

Sec. 32.024. AUTHORITY AND SCOPE OF PROGRAM; ELIGIBILITY. (a) The commission shall provide medical assistance to all persons who receive financial assistance from the state under Chapter 31 and to other related groups of persons if the provision of medical assistance to those persons is required by federal law and rules as a condition for obtaining federal matching funds for the support of the medical assistance program.

(b) The commission may provide medical assistance to other persons who are financially unable to meet the cost of medical services if federal matching funds are available for that purpose. The executive commissioner shall adopt rules governing the eligibility of those persons for the services.

(c) The executive commissioner shall establish standards governing the amount, duration, and scope of services provided under the medical assistance program. The standards may not be lower than the minimum standards required by federal law and rule as a condition

for obtaining federal matching funds for support of the program.

(c-1) The commission shall ensure that money spent for purposes of the demonstration project for women's health care services under former Section 32.0248 or a similar successor program is not used to perform or promote elective abortions, or to contract with entities that perform or promote elective abortions or affiliate with entities that perform or promote elective abortions.

(d) The executive commissioner may establish standards that increase the amount, duration, and scope of the services provided only if federal matching funds are available for the optional services and payments and if the executive commissioner determines that the increase is feasible and within the limits of appropriated funds. The executive commissioner may establish and maintain priorities for the provision of the optional medical services.

(e) The commission may not authorize the provision of any service to any person under the program unless federal matching funds are available to pay the cost of the service.

(f) The executive commissioner shall set the income eligibility cap for persons qualifying for nursing facility care at an amount that is not less than $1,104 and that does not exceed the highest income for which federal matching funds are payable. The executive commissioner shall set the cap at a higher amount than the minimum provided by this subsection if appropriations made by the legislature for a fiscal year will finance benefits at the higher cap for at least the same number of recipients of the benefits during that year as were served during the preceding fiscal year, as estimated by the commission. In setting an income eligibility cap under this subsection, the executive commissioner shall consider the cost of the adjustment required by Subsection (g).

(g) During a fiscal year for which the cap described by Subsection (f) has been set, the executive commissioner shall adjust the cap in accordance with any percentage change in the amount of benefits being paid to social security recipients during the year.

(h) Subject to the amount of the cap set as provided by Subsections (f) and (g), and to the extent permitted by federal law, the income eligibility cap for the community care for aged and disabled persons program shall be the same as the income eligibility cap for nursing facility care. The executive commissioner shall ensure that the eligibility requirements for persons receiving other services under the medical assistance program are not affected.

(i) The executive commissioner in adopting rules may establish a medically needy program that serves pregnant women, children, and caretakers who have high medical expenses, subject to the availability of appropriated funds.

(j) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(36), eff. April 2, 2015.

(k) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(36), eff. April 2, 2015.

(l) The executive commissioner shall set the income eligibility cap for medical assistance for pregnant women and infants up to age one at not less than 130 percent of the federal poverty guidelines.

(m) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(36), eff. April 2, 2015.

(n) The executive commissioner, in the adoption of rules and standards governing the scope of hospital and long-term services, shall authorize the providing of respite care by hospitals.

(o) The executive commissioner, in the rules and standards governing the scope of hospital and long-term services, shall establish a swing bed program in accordance with federal regulations to provide reimbursement for skilled nursing patients who are served in hospital settings provided that the length of stay is limited to 30 days per year and the hospital is located in a county with a population of 100,000 or less. If the swing beds are used for more than one 30-day length of stay per year, per patient, the hospital must comply with the minimum licensing standards as mandated by Chapter 242, Health and Safety Code, and the Medicaid standards for nursing facility certification, as promulgated by the executive commissioner.

(p) The commission shall provide home respiratory therapy services for ventilator-dependent persons to the extent permitted by federal law.

(q) The commission shall provide physical therapy services.

(r) The commission, from funds otherwise appropriated to the commission for the early and periodic screening, diagnosis, and treatment program, shall provide to a child who is 14 years of age or younger, permanent molar sealants as dental service under that program as follows:

(1) sealant shall be applied only to the occlusal buccal and lingual pits and fissures of a permanent molar within four years of its eruption;

(2) teeth to be sealed must be free of proximal caries and free of previous restorations on the surface to be sealed;

(3) if a second molar is the prime tooth to be sealed, a non-restored first molar may be sealed at the same sitting, if the fee for the first molar sealing is no more than half the usual sealant fee;

(4) the sealing of premolars and primary molars will not be reimbursed; and

(5) replacement sealants will not be reimbursed.

(s) The executive commissioner, in the rules governing the early and periodic screening, diagnosis, and treatment program, shall:

(1) revise the periodicity schedule to allow for periodic visits at least as often as the frequency recommended by the American Academy of Pediatrics and allow for interperiodic screens without prior approval when there are indications that it is medically necessary; and

(2) require, as a condition for eligibility for reimbursement under the program for the cost of services provided at a visit or screening, that a child younger than 15 years of age be accompanied at the visit or screening by:

(A) the child's parent or guardian; or

(B) another adult, including an adult related to the child, authorized by the child's parent or guardian to accompany the child.

(s-1) Subsection (s)(2) does not apply to services provided by a school health clinic, Head Start program, or child-care facility, as defined by Section 42.002, if the clinic, program, or facility:

(1) obtains written consent to the services from the child's parent or guardian within the one-year period preceding the date on which the services are provided, and that consent has not been revoked; and

(2) encourages parental involvement in and management of the health care of children receiving services from the clinic, program, or facility.

(t) The executive commissioner by rule shall require a physician, nursing facility, health care provider, or other responsible party to obtain authorization from the commission or a person authorized to act on behalf of the commission on the same day or the next business day following the day of transport when an

ambulance is used to transport a recipient of medical assistance under this chapter in circumstances not involving an emergency and the request is for the authorization of the provision of transportation for only one day. If the request is for authorization of the provision of transportation on more than one day, the executive commissioner by rule shall require a physician, nursing facility, health care provider, or other responsible party to obtain a single authorization before an ambulance is used to transport a recipient of medical assistance under this chapter in circumstances not involving an emergency. The rules must provide that:

(1) except as provided by Subdivision (3), a request for authorization must be evaluated based on the recipient's medical needs and may be granted for a length of time appropriate to the recipient's medical condition;

(2) except as provided by Subdivision (3), a response to a request for authorization must be made not later than 48 hours after receipt of the request;

(3) a request for authorization must be immediately granted and must be effective for a period of not more than 180 days from the date of issuance if the request includes a written statement from a physician that:

(A) states that alternative means of transporting the recipient are contraindicated; and

(B) is dated not earlier than the 60th day before the date on which the request for authorization is made;

(4) a person denied payment for ambulance services rendered is entitled to payment from the nursing facility, health care provider, or other responsible party that requested the services if:

(A) payment under the medical assistance program is denied because of lack of prior authorization; and

(B) the person provides the nursing facility, health care provider, or other responsible party with a copy of the bill for which payment was denied;

(5) a person denied payment for services rendered because of failure to obtain prior authorization or because a request for prior authorization was denied is entitled to appeal the denial of payment to the commission; and

(6) the commission or a person authorized to act on behalf of the commission must be available to evaluate requests for authorization under this subsection not less than 12 hours each day,

excluding weekends and state holidays.

(t-1) The executive commissioner, in the rules governing the medical transportation program, may not prohibit a recipient of medical assistance from receiving transportation services through the program to obtain renal dialysis treatment on the basis that the recipient resides in a nursing facility.

(u) The executive commissioner by rule shall require a health care provider who arranges for durable medical equipment for a child who receives medical assistance under this chapter to:

(1) ensure that the child receives the equipment prescribed, the equipment fits properly, if applicable, and the child or the child's parent or guardian, as appropriate considering the age of the child, receives instruction regarding the equipment's use; and

(2) maintain a record of compliance with the requirements of Subdivision (1) in an appropriate location.

(v) The executive commissioner by rule shall provide a screening test for hearing loss in accordance with Chapter 47, Health and Safety Code, and any necessary diagnostic follow-up care related to the screening test to a child younger than 30 days old who receives medical assistance.

(w) The executive commissioner shall set a personal needs allowance of not less than $60 a month for a resident of a convalescent or nursing facility or related institution licensed under Chapter 242, Health and Safety Code, assisted living facility, ICF-IID facility, or other similar long-term care facility who receives medical assistance. The commission may send the personal needs allowance directly to a resident who receives Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.). This subsection does not apply to a resident who is participating in a medical assistance waiver program administered by the commission.

(x) The commission shall provide dental services annually to a resident of a nursing facility who is a recipient of medical assistance under this chapter. The dental services must include:

(1) a dental examination by a licensed dentist;

(2) a prophylaxis by a licensed dentist or licensed dental hygienist, if practical considering the health of the resident; and

(3) diagnostic dental x-rays, if possible.

(y) The commission shall provide medical assistance to a person in need of treatment for breast or cervical cancer who is eligible for that assistance under the Breast and Cervical Cancer Prevention

and Treatment Act of 2000 (Pub. L. No. 106-354) for a continuous period during which the person requires that treatment. The executive commissioner shall simplify the provider enrollment process for a provider of that medical assistance and shall adopt rules to provide for certification of presumptive eligibility of a person for that assistance. In determining a person's eligibility for medical assistance under this subsection, the executive commissioner, to the extent allowed by federal law, may not require a personal interview.

(y-1) A woman who receives a breast or cervical cancer screening service under Title XV of the Public Health Service Act (42 U.S.C. Section 300k et seq.) and who otherwise meets the eligibility requirements for medical assistance for treatment of breast or cervical cancer as provided by Subsection (y) is eligible for medical assistance under that subsection, regardless of whether federal Medicaid matching funds are available for that medical assistance. A screening service of a type that is within the scope of screening services under that title is considered to be provided under that title regardless of whether the service was provided by a provider who receives or uses funds under that title.

(z) In the executive commissioner's rules and standards governing the vendor drug program, the executive commissioner, to the extent allowed by federal law and if the executive commissioner determines the policy to be cost-effective, may ensure that a recipient of prescription drug benefits under the medical assistance program does not, unless authorized by the commission in consultation with the recipient's attending physician or advanced practice nurse, receive under the medical assistance program:

(1) more than four different outpatient brand-name prescription drugs during a month; or

(2) more than a 34-day supply of a brand-name prescription drug at any one time.

(z-1) Subsection (z) does not affect any other limit on prescription medications otherwise prescribed by commission rule.

(z-2) The limits on prescription drugs and medications under the medical assistance program provided by Subsections (z) and (z-1) do not apply to a prescription for an opioid for the treatment of acute pain under Section 481.07636, Health and Safety Code.

(aa) The commission shall incorporate physician-oriented instruction on the appropriate procedures for authorizing ambulance service into current medical education courses.

(bb) The commission may not provide an erectile dysfunction medication under the Medicaid vendor drug program to a person required to register as a sex offender under Chapter 62, Code of Criminal Procedure, to the maximum extent federal law allows the commission to deny that medication.

(cc) In this subsection, "deaf" and "hard of hearing" have the meanings assigned by Section 81.001. Subject to the availability of funds, the commission shall provide interpreter services as requested during the receipt of medical assistance under this chapter to:

(1) a person receiving that assistance who is deaf or hard of hearing; or

(2) a parent or guardian of a person receiving that assistance if the parent or guardian is deaf or hard of hearing.

(dd) Nothwithstanding any other law, an inmate released on medically recommended intensive supervision under Section 508.146, Government Code, who otherwise meets the eligibility requirements for the medical assistance program is not ineligible for the program solely on the basis of the conviction or adjudication for which the inmate was sentenced to confinement.

(ff) The executive commissioner shall establish a separate provider type for prosthetic and orthotic providers for purposes of enrollment as a provider of and reimbursement under the medical assistance program. The executive commissioner may not classify prosthetic and orthotic providers under the durable medical equipment provider type.

(gg) Notwithstanding any other law, including Sections 843.312 and 1301.052, Insurance Code, the commission shall ensure that advanced practice registered nurses and physician assistants may be selected by and assigned to recipients of medical assistance as the primary care providers of those recipients regardless of whether the physician supervising the advanced practice registered nurse is included in any directory of providers of medical assistance maintained by the commission. This subsection may not be construed as authorizing the commission to supervise or control the practice of medicine as prohibited by Subtitle B, Title 3, Occupations Code. The commission must require that advanced practice registered nurses and physician assistants be treated in the same manner as primary care physicians with regard to:

(1) selection and assignment as primary care providers; and

(2) inclusion as primary care providers in any directory of

providers of medical assistance maintained by the commission.

(ii) The commission shall provide medical assistance reimbursement to a pharmacist who is licensed to practice pharmacy in this state, is authorized to administer immunizations in accordance with rules adopted by the Texas State Board of Pharmacy, and administers an immunization to a recipient of medical assistance to the same extent the commission provides reimbursement to a physician or other health care provider participating in the medical assistance program for the administration of that immunization.

(jj) The executive commissioner shall establish a separate provider type for prescribed pediatric extended care centers licensed under Chapter 248A, Health and Safety Code, for purposes of enrollment as a provider for and reimbursement under the medical assistance program.

(kk) The commission in its rules and standards governing the scope of services provided under the medical assistance program shall include peer services provided by certified peer specialists to the extent permitted by federal law.

Text of Subsection (kk) effective on June 15, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th Leg., R.S., Ch. 1015 (H.B. 1486), Sec. 5(b), which states: This Act takes effect only if the 85th Legislature appropriates money specifically for the purpose of implementing this Act. If the legislature does not appropriate money specifically for that purpose, this Act does not take effect.

Acts 1979, 66th Leg., p. 2350, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 1027, Sec. 11, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1085, Sec. 3, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1107, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1219, Sec. 1, eff. Sept. 1, 1989; Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(11) to (13), eff. Sept. 6, 1990; Acts 1991, 72nd Leg., ch. 690, Sec. 1, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 6, Sec. 3, eff. March 23, 1995; Acts 1997, 75th Leg., ch. 1153, Sec. 2.01(a), 2.02(a), eff. June 20, 1997; Acts 1999, 76th Leg., ch. 766, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1333, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1347, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1505, Sec. 1.06, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 220, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 348, Sec.

1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 974, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(81), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.96, 2.97(a), 2.207(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 215, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1251, Sec. 6, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1275, Sec. 2(97), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 22, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(57), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1314 (H.B. 3235), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 16, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 442 (H.B. 52), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(50), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 45, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 745 (S.B. 531), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 858 (S.B. 2424), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 35 (S.B. 874), Sec. 1, eff. May 9, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.19(b), eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 418 (S.B. 406), Sec. 25, eff. November 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1168 (S.B. 492), Sec. 6, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.080, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.081, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(36), eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 302 (S.B. 654), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1015 (H.B. 1486), Sec. 2, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 12, eff. September 1, 2019.

Sec. 32.0241. REVIEW OF WAIVER REQUEST. The commission shall, at least biennially, review the feasibility of requesting a waiver for the elderly under Section 1915(c), federal Social Security Act (42 U.S.C. Section 1396n), if the reimbursement rates for nursing facilities under the medical assistance program have increased since the preceding review.

Added by Acts 1989, 71st Leg., ch. 1085, Sec. 2, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.082, eff. April 2, 2015.

Sec. 32.0242. VERIFICATION OF CERTAIN INFORMATION. To the extent possible, the commission shall verify an applicant's residential address at the time the application for medical assistance is filed.

Added by Acts 1999, 76th Leg., ch. 1289, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.082, eff. April 2, 2015.

Sec. 32.0243. PERIODIC REVIEW OF ELIGIBILITY FOR CERTAIN RECIPIENTS. (a) The commission, in cooperation with the United States Social Security Administration, shall periodically review the eligibility of a recipient of medical assistance who is eligible on the basis of the recipient's eligibility for Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq., as amended.

(b) In reviewing the eligibility of a recipient as required by Subsection (a), the commission shall ensure that only recipients who

reside in this state and who continue to be eligible for Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq., as amended, remain eligible for medical assistance.

Added by Acts 1999, 76th Leg., ch. 1289, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.082, eff. April 2, 2015.

Sec. 32.0244. NURSING FACILITY BEDS IN CERTAIN COUNTIES. (a) At the request of the commissioners court of a county in which not more than two nursing facilities are certified to participate in the state Medicaid program, and subject to Subsection (d), the commission may contract for additional nursing facility beds under the state Medicaid program in the county without regard to the occupancy rate of available Medicaid beds.

(b) A commissioners court that intends to make a request under Subsection (a) shall publish notice of its intent in the Texas Register and in a newspaper of general circulation in the county. The notice must request:

(1) comments on whether the request should be made; and

(2) proposals from persons interested in providing additional Medicaid beds in the county, including persons providing Medicaid beds in a nursing facility with a high occupancy rate.

(c) A commissioners court shall determine whether to proceed with a request after considering all comments and proposals received in response to the notices provided under Subsection (b). If the commissioners court proceeds with the request, the court may recommend that the commission contract with a specific nursing facility that submitted a proposal. In determining whether to proceed with the request and whether to recommend a specific nursing facility, the commissioners court shall consider:

(1) the demographic and economic needs of the county;

(2) the quality of existing nursing facility services under the state Medicaid program in the county;

(3) the quality of the proposals submitted; and

(4) the degree of community support for additional nursing facility services.

(d) The commission may not contract under this section for more

than 120 additional nursing facility beds per county per year and may not exceed 500 additional nursing facility beds statewide in a calendar year.

Added by Acts 1997, 75th Leg., ch. 555, Sec. 1, eff. Sept. 1, 1997.
Renumbered from Sec. 32.0246 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(73), eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.083, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.084, eff. April 2, 2015.

Sec. 32.0245. NURSING FACILITY BEDS FOR CERTAIN FACILITIES TREATING ALZHEIMER'S DISEASE. The commission shall waive for a nursing facility a restriction imposed by state law on the authority to contract under the state Medicaid program for nursing facility beds based on the percentage of beds that are occupied in a geographical area if the facility:

(1) is affiliated with a medical school operated by the state;

(2) is participating in a research program for the care and treatment of persons with Alzheimer's disease; and

(3) is designed to separate and treat Alzheimer's disease by stage or functional level.

Added by Acts 1995, 74th Leg., ch. 841, Sec. 1, eff. Aug. 28, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.085, eff. April 2, 2015.

Sec. 32.02451. ADDITIONAL PERSONAL NEEDS ALLOWANCE FOR GUARDIANSHIP EXPENSES OF CERTAIN RECIPIENTS. (a) In this section, "applied income" has the meaning assigned by Section 1155.201, Estates Code.

(b) To the extent allowed by federal law, the commission, in computing the applied income of a recipient of medical assistance, shall deduct in the manner provided by this section an additional personal needs allowance from the earned and unearned income of the

recipient or, if applicable, the recipient and the recipient's spouse, for compensation and costs ordered to be deducted under Section 1155.202, Estates Code. Subject to Subsection (f), a deduction ordered by the court under Section 1155.202, Estates Code, is effective beginning on the later of:

(1) the month in which the order is signed; or

(2) the first month of medical assistance eligibility for which the recipient is subject to a copayment.

(c) The commission shall compute the applied income of a recipient of medical assistance as follows:

(1) the commission shall deduct from the earned and unearned income the personal needs allowance authorized by Section 32.024(w) before making any other deduction;

(2) if after the deduction under Subdivision (1) the recipient has remaining income, the commission shall deduct the lesser of the following:

(A) the amount of the remaining income; or

(B) the amount of the additional personal needs allowance for compensation and costs ordered to be deducted under Section 1155.202, Estates Code; and

(3) if after the deductions under Subdivisions (1) and (2) the recipient has remaining income, the commission shall deduct any other authorized allowances.

(d) The amount of income remaining, if any, after the commission makes the deductions as provided by Subsection (c) is the amount of the applied income of the recipient of medical assistance.

(e) The executive commissioner shall adopt rules providing a procedure by which a recipient of medical assistance for whom amounts are ordered deducted under Section 1155.202, Estates Code, may submit to the commission a copy of the court order issued under that section to receive a deduction of those amounts from the recipient's income as provided by this section.

(f) The commission may not allow a deduction for the additional personal needs allowance for compensation and costs ordered to be deducted under Section 1155.202, Estates Code, if the order is issued after the recipient of medical assistance dies.

Added by Acts 2009, 81st Leg., R.S., Ch. 859 (S.B. 2435), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 599 (S.B. 220), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.086, eff. April 2, 2015.

Sec. 32.0247. MEDICAL ASSISTANCE FOR CERTAIN PERSONS MAKING TRANSITION FROM FOSTER CARE TO INDEPENDENT LIVING. (a) In this section, "independent foster care adolescent" has the meaning assigned by 42 U.S.C. Section 1396d(w)(1), as amended.

(b) The commission shall provide medical assistance, in accordance with commission rules, to an independent foster care adolescent who:

(1) is not otherwise eligible for medical assistance; and

(2) is not covered by a health benefits plan offering adequate benefits, as determined by the commission.

(c) To the extent allowed by federal law, the executive commissioner shall by rule establish a specific set of income, assets, or resources allowable for recipients under this section. The income level shall not be less than 200 percent or more than 400 percent of the federal poverty level. Allowable asset or resource levels shall not be less than:

(1) the levels allowed for individuals who are in foster care; and

(2) the levels allowed for a person under 19 years of age who is eligible for the medical assistance program.

(d) In setting allowable income, asset, or resource levels, the executive commissioner shall, to the extent allowed by federal law, exclude:

(1) any financial benefit used for the purpose of educational or vocational training, such as scholarships, student loans, or grants;

(2) any financial benefit used for the purpose of housing; and

(3) any grants or subsidies obtained as a result of the Foster Care Independence Act of 1999 (Pub. L. No. 106-169).

(e) The Department of Family and Protective Services shall certify the income, assets, or resources of each individual on the date the individual exits substitute care. An individual qualifying for medical assistance as established by this section shall remain

eligible for 12 calendar months after certification and after each recertification.

(f) The recertification process for individuals who are eligible for medical assistance under this section shall include the option of recertifying by mail or phone.

Added by Acts 2001, 77th Leg., ch. 1218, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.087, eff. April 2, 2015.

Sec. 32.02471. MEDICAL ASSISTANCE FOR CERTAIN FORMER FOSTER CARE ADOLESCENTS ENROLLED IN HIGHER EDUCATION. (a) In this section, "independent foster care adolescent" has the meaning assigned by Section 32.0247.

(b) The commission shall provide medical assistance to a person who:

(1) is 21 years of age or older but younger than 23 years of age;

(2) would be eligible to receive assistance as an independent foster care adolescent under Section 32.0247 if the person were younger than 21 years of age; and

(3) is enrolled in an institution of higher education, as defined by Section 61.003(8), Education Code, or a private or independent institution of higher education, as defined by Section 61.003(15), Education Code, that is located in this state and is making satisfactory academic progress as determined by the institution.

Added by Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 17, eff. September 1, 2007.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.088, eff. April 2, 2015.

Sec. 32.0249. MENTAL HEALTH SCREENINGS IN TEXAS HEALTH STEPS PROGRAM. The executive commissioner, in the rules governing the Texas Health Steps program, shall allow a provider to:

(1) conduct a mental health screening using one or more

validated, standardized mental health screening tools during each annual medical exam of a recipient who is at least 12 years of age but younger than 19 years of age; and

(2) be reimbursed for conducting one mental health screening using one or more validated, standardized mental health screening tools during each annual medical exam of a recipient described by Subdivision (1).

Added by Acts 2017, 85th Leg., R.S., Ch. 1028 (H.B. 1600), Sec. 1, eff. September 1, 2017.

Sec. 32.025. APPLICATION FOR MEDICAL ASSISTANCE. (a) A recipient of benefits under Chapter 31 or supplemental security income from the federal government is automatically eligible for medical assistance, and an application for benefits under these programs constitutes an application for medical assistance.

(b) The executive commissioner shall prescribe application forms for persons who are not recipients of benefits under Chapter 31 or supplemental security income from the federal government and shall adopt rules for processing the applications.

(c) The commission shall inform applicants for nursing facility care of any community services which might be available under the community care for the aged and disabled program.

(d) The executive commissioner shall adopt an application form and procedures for a request for medical assistance provided to a child under 19 years of age. To the extent allowed by federal law and except as otherwise provided by this section, the application form and procedures must be the same as the form and procedures adopted under Section 62.103, Health and Safety Code. The executive commissioner shall coordinate the form and procedures adopted under this subsection with the form and procedures adopted under Section 62.103, Health and Safety Code, to ensure that there is a single consolidated application for a child under 19 years of age to seek medical assistance or to request coverage under the state child health plan under Chapter 62, Health and Safety Code.

(e) The executive commissioner shall permit an application requesting medical assistance for a child under 19 years of age to be conducted by mail instead of through a personal appearance at an office, unless the executive commissioner determines that the

information needed to verify eligibility cannot be obtained in that manner. The executive commissioner by rule may develop procedures requiring an application for a child described by this subsection to be conducted through a personal interview with a commission representative only if the executive commissioner determines that information needed to verify eligibility cannot be obtained in any other manner.

(f) The executive commissioner by rule may develop procedures by which:

(1) any office of a health and human services agency may accept an application requesting medical assistance for a child under 19 years of age; and

(2) the commission may contract with hospital districts, hospitals, including state-owned teaching hospitals, federally qualified health centers, and county health departments to accept applications requesting medical assistance for a child under 19 years of age.

(g) The application form adopted under this section must include:

(1) for an applicant who is pregnant, a question regarding whether the pregnancy is the woman's first gestational pregnancy; and

(2) a question regarding the applicant's preferences for being contacted, as follows:

"If you are determined eligible for benefits, your managed care organization or health plan provider may contact you by telephone, text message, or e-mail about health care matters, including reminders for appointments and information about immunizations or well check visits. All preferred methods of contact listed on this application will be shared with your managed care organization or health plan provider. Please indicate below your preferred methods of contact in order of preference, with the number 1 being the most preferable method:

(1) By telephone (if contacted by cellular telephone, the call may be autodialed or prerecorded, and your carrier's usage rates may apply)? Yes No

Telephone number: _____

Order of preference: 1 2 3 (circle a number)

(2) By text message (a free autodialed service, but your carrier may charge message and data rates)? Yes No

Cellular telephone number: _____

Order of preference: 1 2 3 (circle a number)
(3) By e-mail? Yes No
E-mail address: _____
Order of preference: 1 2 3 (circle a number)".

Acts 1979, 66th Leg., p. 2350, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 1085, Sec. 5, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 584, Sec. 2; Acts 2003, 78th Leg., ch. 376, Sec. 2, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1251, Sec. 7, eff. June 20, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.089, eff. April 2, 2015.
Acts 2017, 85th Leg., R.S., Ch. 852 (H.B. 2466), Sec. 2(a), eff. September 1, 2017.

Sec. 32.0251. ELIGIBILITY NOTIFICATION AND REVIEW FOR CERTAIN CHILDREN. (a) The executive commissioner shall establish and the commission shall implement procedures under which the commission automatically reviews a child's eligibility for medical assistance if:

(1) the child originally establishes eligibility for medical assistance on the basis of receipt of financial assistance under Chapter 31, as provided by Section 32.025(a); and

(2) that receipt of financial assistance under Chapter 31 ceases.

(b) If the review required by this section indicates that the child may be eligible for medical assistance on a basis other than receipt of financial assistance under Chapter 31, the commission may provide for provisional eligibility for medical assistance for the child pending a recertification review. The provisional eligibility period authorized by this subsection may not exceed one month.

(c) In addition to the review required by this section, the commission shall also promote continued medical assistance for a child described by Subsection (a) through:

(1) revising client education and notification policies relating to a child's eligibility for medical assistance; and

(2) providing specific notification of a child's potential eligibility for medical assistance to the child's parent or other

caretaker at the time the parent or caretaker is notified of:

(A) a scheduled eligibility recertification review; or

(B) the termination of financial assistance.

Added by Acts 1999, 76th Leg., ch. 704, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.090, eff. April 2, 2015.

Sec. 32.0255. TRANSITIONAL MEDICAL ASSISTANCE. (a) The commission shall provide transitional medical assistance, in accordance with state rules and federal law, to a person who was receiving financial assistance under Chapter 31 but is no longer eligible to receive the assistance because:

(1) the person's household income has increased; or

(2) the person has exhausted the person's benefits under Section 31.0065.

(b) Except as provided by Section 31.012(c), the commission may provide the medical assistance only until the earlier of:

(1) the end of the applicable period prescribed by Section 31.0065 for the provision of transitional benefits; or

(2) the first anniversary of the date on which the person becomes ineligible for financial assistance because of increased household income.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 3.03, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.090, eff. April 2, 2015.

Sec. 32.0256. CONTINUATION OF MEDICAL ASSISTANCE FOR CERTAIN INDIVIDUALS. (a) A recipient described by Section 32.025(a) who experiences a temporary increase in income of a duration of one month or less that would result in the recipient being ineligible for medical assistance continues to be eligible for that assistance if the individual:

(1) either:

(A) receives services through a program for individuals

with an intellectual or developmental disability authorized under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)); or

(B) resides in an ICF-IID facility; and

(2) continues to meet the functional and diagnostic criteria for the receipt of services under a program described by Subdivision (1)(A) or for residency in an ICF-IID facility.

(b) To continue to be eligible for medical assistance, a recipient described by Subsection (a) must submit an application for medical assistance in accordance with Section 32.025(b) not later than the 90th day after the date on which the recipient is determined ineligible.

Added by Acts 2017, 85th Leg., R.S., Ch. 1072 (H.B. 3292), Sec. 1, eff. September 1, 2017.

Sec. 32.026. CERTIFICATION OF ELIGIBILITY AND NEED FOR MEDICAL ASSISTANCE. (a) The executive commissioner shall promulgate rules for determining and certifying a person's eligibility and need for medical assistance.

(b) The executive commissioner shall promulgate rules to provide for determination and certification of presumptive eligibility for any pregnant woman who applies for Medicaid and who meets the basic eligibility requirements under Title XIX of the federal Social Security Act (42 U.S.C. Section 1396 et seq.).

(c) Medical assistance payments may not be made on a person's behalf until the person's eligibility and need for medical assistance have been certified in accordance with commission rules.

(d) In adopting rules under this section, the executive commissioner shall ensure, to the extent allowed by federal law, that documentation and verification procedures used in determining and certifying the eligibility and need for medical assistance of a child under 19 years of age, including the documentation and verification procedures used to evaluate the assets and resources of the child, the child's parents, or the child's other caretaker for that purpose, if applicable, are the same as the documentation and verification procedures used to determine and certify a child's eligibility for coverage under Chapter 62, Health and Safety Code, except that the documentation and verification procedures adopted in accordance with this subsection may not be more stringent than the documentation and

verification procedures existing on January 1, 2001, for determination and certification of a child's eligibility for coverage under Chapter 62, Health and Safety Code.

(d-1) In adopting rules under this section, the executive commissioner shall, to the extent allowed by federal law, develop and implement an expedited process for determining eligibility for and enrollment in the medical assistance program for an active duty member of the United States armed forces, reserves, or National Guard or of the state military forces, or the spouse or dependent of that person.

(e) The executive commissioner shall permit a recertification review of the eligibility and need for medical assistance of a child under 19 years of age to be conducted by telephone or mail instead of through a personal appearance at an office, unless the commission determines that the information needed to verify eligibility cannot be obtained in that manner. The executive commissioner by rule may develop procedures to determine whether there is a need for a recertification review of a child described by this subsection to be conducted through a personal interview with a commission representative. Procedures developed under this subsection shall be based on objective, risk-based factors and conditions and shall focus on a targeted group of recertification reviews for which there is a high probability that eligibility will not be recertified.

(f) In adopting rules under this section, the executive commissioner shall ensure, to the extent allowed by federal law, that forms and procedures used in conducting a recertification review of the eligibility and need for medical assistance of a child under 19 years of age, including documentation and verification procedures, are the same as the forms and procedures used to determine and certify a child's renewal of coverage under Chapter 62, Health and Safety Code.

(g) Notwithstanding any other provision of this code, the commission may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance to the extent that verification is applicable under federal law. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles vehicle registration record database.

Acts 1979, 66th Leg., p. 2350, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 1215, Sec. 1, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 584, Sec. 3; Acts 2003, 78th Leg., ch. 198, Sec. 2.99(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 376, Sec. 3, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1251, Sec. 8, eff. June 20, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1028 (H.B. 1633), Sec. 1, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3G.02, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.090, eff. April 2, 2015.

Sec. 32.0261. CONTINUOUS ELIGIBILITY. The executive commissioner shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under this chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the commission and regardless of changes in the child's resources or income, until the earlier of:
(1) the end of the six-month period following the date on which the child's eligibility was determined; or
(2) the child's 19th birthday.

Added by Acts 2001, 77th Leg., ch. 584, Sec. 4, eff. Sept. 1, 2002.
Amended by:
Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 23, eff. September 1, 2005.
Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 3.02, eff. August 29, 2005.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.090, eff. April 2, 2015.

Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS

AND HIGHER EDUCATION SAVINGS PLANS. (a) Except as provided by Subsection (b), in determining eligibility and need for medical assistance, the commission may not consider as assets or resources, to the extent applicable under federal law, a right to assets held in or a right to receive payments or benefits under:

(1) any fund or plan established under Subchapter G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account;

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986; or

(3) any school-based account or bond described by Section 28.0024(b)(2), Education Code.

(a-1) The amount of exclusion under Subsection (a)(3) of assets held in or the right to receive payments or benefits under a school-based account or bond described by Section 28.0024(b)(2)(C), (D), or (E), Education Code, is limited to the amount of the cost of undergraduate resident tuition and required fees for one academic year consisting of 30 semester credit hours charged by the general academic teaching institution with the highest such tuition and fee costs for the most recent academic year, as determined by the Texas Higher Education Coordinating Board under Section 54.753, Education Code.

(b) In determining eligibility and need for medical assistance for an applicant who may be eligible on the basis of the applicant's eligibility for medical assistance for the aged, blind, or disabled under 42 U.S.C. Section 1396a(a)(10), the commission may consider as assets or resources, to the extent applicable under federal law, a right to assets held in or a right to receive payments or benefits under any fund, account, bond, plan, or tuition program described by Subsection (a).

(c) Notwithstanding Subsection (b), the commission shall seek a federal waiver authorizing the commission to exclude, for purposes of determining the eligibility of an applicant described by that subsection and to the extent included under federal law, the right to assets held in or a right to receive payments or benefits under any fund, account, bond, plan, or tuition program described by Subsection (a) if the fund, account, bond, plan, or tuition program was established before the 21st birthday of the beneficiary of the fund, account, bond, plan, or tuition program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1186 (H.B. 3708), Sec. 9, eff. June 17, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.090, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1265 (H.B. 3987), Sec. 4, eff. June 20, 2015.

Sec. 32.02613. LIFE INSURANCE ASSETS; LIFE INSURANCE POLICY CONVERSION. (a) For purposes of this section, "long-term care services and support" includes home health care, assisted living, and nursing facility services.

(b) The owner of a life insurance policy with a face amount of more than $10,000 may enter into a life settlement contract under Chapter 1111A, Insurance Code, for the benefit of a recipient of long-term care services and support in exchange for direct payments to:

(1) a health care provider for the provision of those services to that recipient; or

(2) the state to offset the costs of providing those services to that recipient under the medical assistance program.

(c) The proceeds of a life settlement contract entered into under this section must be used for the payment of long-term care services and support, except for the amount specified in Subsection (d)(1). To the extent feasible and allowed under federal law, the medical assistance program may act only as the secondary payor for long-term care services and support provided to a person who is eligible for medical assistance and for whose benefit an owner of a life insurance policy has entered into a life settlement contract under this section.

(d) In addition to the requirements under Chapter 1111A, Insurance Code, a life settlement contract entered into under this section must:

(1) provide that the lesser of five percent of the face amount of the life insurance policy or $5,000 is reserved and is payable to the owner's estate or a named beneficiary for funeral expenses;

(2) provide that the balance of proceeds under the life settlement contract that are unpaid on the death of the owner must be

paid to the owner's estate or a named beneficiary; and

(3) specify the total amount payable for the benefit of the recipient of long-term care services and support under the life settlement contract.

(e) All proceeds of a life settlement contract entered into under this section must be held in an irrevocable state or federally insured account for the benefit of the recipient of long-term care services and support or for payment as otherwise required by this section.

(f) Only a recipient of long-term care services and support for whose benefit an owner enters into a life settlement contract under this section may choose the provider and type of services provided to the recipient and paid for out of an account described by Subsection (e). Any attempt by a person to require the recipient to choose a specific provider is strictly prohibited and constitutes an unfair method of competition or an unfair or deceptive act or practice under the Insurance Code.

(g) A person who enters into a life settlement contract with an owner of a life insurance policy under this section must maintain:

(1) a surety bond executed and issued by an insurer authorized to issue surety bonds in this state;

(2) a policy of errors and omissions insurance; or

(3) a deposit in the amount of $500,000 in any combination of cash, certificates of deposit, or securities.

(h) In accordance with the requirements of Chapter 1111A, Insurance Code, a life settlement contract provider who enters into life settlement contracts with owners of life insurance policies under this section must file with the Texas Department of Insurance:

(1) all life settlement contract forms used by the provider; and

(2) all advertising and marketing materials used by the provider.

(i) Section 1111A.022(a)(2)(A), Insurance Code, does not apply to a life insurance policy that is the subject of a life settlement contract entered into under this section if the contract has been in force at least five years.

(j) A claim against a life settlement contract provider with whom an owner of a life insurance policy enters into a life settlement contract under this section by the owner, the owner's estate, a named beneficiary, or any other person with respect to the

contract may not exceed the face amount of the policy, less the proceeds paid under the contract, plus the total amount of premiums paid by the owner since entering into the contract. A life settlement contract provider must pay a claim under this subsection from the funds in an account described by Subsection (e).

(k) In accordance with Chapter 1111A, Insurance Code, the Texas Department of Insurance may conduct periodic market examinations of each life settlement contract provider who enters into a life settlement contract with an owner of a life insurance policy under this section.

(l) The commission shall educate applicants for long-term care services and support under the medical assistance program about options for life insurance policies, including options that do not allow a life insurance policy to be considered as an asset or resource in determining eligibility for medical assistance.

(m) The executive commissioner, in consultation with the commissioner of insurance, shall adopt rules necessary to implement this section. The rules must ensure that:

(1) proceeds from a life settlement contract are used to reimburse a provider of long-term care services and support or the state to offset the cost of medical assistance long-term care services and support;

(2) eligibility and need for medical assistance are determined without considering the balance of proceeds from a life settlement contract as provided in this section; and

(3) payments to a provider of long-term care services and support and applied income payments are made in accordance with this chapter.

(n) The entry into a life settlement contract by an owner of a life insurance policy under this section is not the only method by which the owner may avoid having the policy considered as an asset or resource in determining the eligibility of the owner for medical assistance.

(o) Notwithstanding the provisions of this section, the commission may not implement a provision of this section if the commission determines that implementation of the provision is not cost-effective or feasible.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1001 (H.B. 2383), Sec. 1, eff. June 14, 2013.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.091, eff. April 2, 2015.

Sec. 32.0262. ELIGIBILITY TRANSITION. (a) The executive commissioner shall develop procedures to ensure that all necessary information regarding a child who will be denied continued medical assistance under this chapter because of an increase in income, assets, or resources but who is eligible for enrollment in the child health plan under Chapter 62, Health and Safety Code, is promptly transmitted to the child health plan in accordance with the standards established under Section 62.104(d), Health and Safety Code.

(b) The executive commissioner shall develop procedures to ensure that the parent or caretaker of a child who will be denied continued medical assistance under this chapter because of a failure to keep an appointment, including an appointment for recertification of eligibility, a failure to provide information, or for another procedural reason, is promptly contacted and informed of:

(1) the need to recertify eligibility for continued medical assistance under this chapter; and

(2) the availability of medical coverage under the child health plan under Chapter 62, Health and Safety Code.

(c) The commission shall develop materials under this section in consultation with the appropriate agencies administering all or part of the child health plan under Chapter 62, Health and Safety Code.

(d) The executive commissioner by rule shall adopt procedures to assist a family whose child loses eligibility for medical assistance under this chapter in making a transition to the child health plan under Chapter 62, Health and Safety Code, with no interruption in coverage.

Added by Acts 2001, 77th Leg., ch. 584, Sec. 4.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.092, eff. April 2, 2015.

Sec. 32.0263. HEALTH CARE ORIENTATION. (a) The commission

shall require that the parent or guardian of a child under 19 years of age who originally establishes eligibility for medical assistance must:

(1) attend an in-person counseling session with a commission representative not later than the 31st day after the date the child originally establishes eligibility; or

(2) accompany the child to an appointment with a health care provider for a comprehensive health care orientation not later than the 61st day after the date the child originally establishes eligibility.

(b) The executive commissioner by rule shall develop procedures to verify that:

(1) the parent or guardian of the child who originally establishes eligibility complies with the requirement of Subsection (a)(2), if applicable; and

(2) the child is provided a comprehensive health care orientation at the appointment with the health care provider.

Added by Acts 2001, 77th Leg., ch. 584, Sec. 4.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.092, eff. April 2, 2015.

Sec. 32.0264. SUSPENSION AND AUTOMATIC REINSTATEMENT OF ELIGIBILITY FOR CHILDREN IN JUVENILE FACILITIES. (a) In this section, "juvenile facility" means a facility for the placement, detention, or commitment of a child under Title 3, Family Code.

(b) To the extent allowed under federal law, if a child is placed in a juvenile facility, the commission shall suspend the child's eligibility for medical assistance during the period the child is placed in the facility.

(c) Not later than 48 hours after the commission is notified of the release from a juvenile facility of a child whose eligibility for medical assistance has been suspended under this section, the commission shall reinstate the child's eligibility. Following the reinstatement, the child remains eligible until the expiration of the period for which the child was certified as eligible, excluding the period during which the child's eligibility was suspended.

Added by Acts 2015, 84th Leg., R.S., Ch. 862 (H.B. 839), Sec. 2, eff.

June 18, 2015.

Sec. 32.0265. NOTICE OF CERTAIN PLACEMENTS IN JUVENILE FACILITIES. (a) In this section:

(1) "Custodian" and "guardian" have the meanings assigned by Section 51.02, Family Code.

(2) "Juvenile facility" has the meaning assigned by Section 32.0264.

(b) A juvenile facility may notify the commission on the placement in the facility of a child who is receiving medical assistance benefits.

(c) If a juvenile facility chooses to provide the notice described by Subsection (b), the facility shall provide the notice electronically or by other appropriate means as soon as possible, but not later than the 30th day, after the date of the child's placement.

(d) A juvenile facility may notify the commission of the release of a child who, immediately before the child's placement in the facility, was receiving medical assistance benefits.

(e) If a juvenile facility chooses to provide the notice described by Subsection (d), the facility shall provide the notice electronically or by other appropriate means not later than 48 hours after the child's release from the facility.

(f) If a juvenile facility chooses to provide the notice described by Subsection (d), at the time of the child's release, the facility shall provide the child's guardian or custodian, as appropriate, with a written copy of the notice and a telephone number at which the commission may be contacted regarding confirmation of or assistance relating to reinstatement of the child's eligibility for medical assistance benefits.

(g) The commission shall establish a means by which a juvenile facility, or an employee of the facility, may determine whether a child placed in the facility is or was, as appropriate, receiving medical assistance benefits for purposes of this section.

(h) A juvenile facility, or an employee of the facility, is not liable in a civil action for damages resulting from a failure to comply with this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 862 (H.B. 839), Sec. 2, eff. June 18, 2015.

Sec. 32.0266. SUSPENSION, TERMINATION, AND AUTOMATIC REINSTATEMENT OF ELIGIBILITY FOR INDIVIDUALS CONFINED IN COUNTY JAILS. (a) In this section, "county jail" means a facility operated by or for a county for the confinement of persons accused or convicted of an offense.

(b) To the extent allowed by federal law, if an individual is confined in a county jail and the sheriff of the county has notified the commission of the confinement under Section 351.046, Local Government Code, the commission shall suspend or terminate, as appropriate, the individual's eligibility for medical assistance during the period the individual is confined in the county jail.

(c) Not later than 48 hours after the commission is notified under Section 351.046, Local Government Code, of the release from a county jail of an individual whose eligibility for medical assistance has been suspended under this section, the commission shall reinstate the individual's eligibility, provided the individual's eligibility certification period has not elapsed. To the extent allowed by federal law, following the reinstatement, the individual remains eligible until the expiration of the period for which the individual was certified as eligible.

Added by Acts 2017, 85th Leg., R.S., Ch. 778 (H.B. 337), Sec. 1, eff. September 1, 2017.

Sec. 32.027. SELECTION OF PROVIDER OF MEDICAL ASSISTANCE. (a) Except as provided by Subsections (f) and (g), a recipient of medical assistance authorized in this chapter may select any provider authorized by the commission to provide medical assistance.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(38), eff. April 2, 2015.

(c) Repealed by Acts 2003, 78th Leg., ch. 1167, Sec. 4.

(d) The commission shall permit a recipient of medical assistance under this chapter to receive services relating to physical therapy from any person authorized to practice physical therapy under Chapter 453, Occupations Code.

(e) Repealed by Acts 2003, 78th Leg., ch. 198, Sec. 2.156(a)(2).

(e) Repealed by Acts 2005, 79th Leg., Ch. 349, Sec. 7(b), eff. September 1, 2005.

(f) The executive commissioner by rule may develop a system of selective contracting with health care providers for the provision of nonemergency inpatient hospital services to a recipient of medical assistance under this chapter. In implementing this subsection, the executive commissioner shall:

(1) seek input from consumer representatives and from representatives of hospitals licensed under Chapter 241, Health and Safety Code, and from organizations representing those hospitals; and

(2) ensure that providers selected under the system meet the needs of a recipient of medical assistance under this chapter.

(g) The process to select a hospital must afford each disproportionate share hospital an opportunity to negotiate for a contract. The process will take into account the special circumstances of disproportionate share hospitals when evaluating proposals.

(h) A proposal or bid submitted by a hospital and any work papers, cost reports, or other financial data used to prepare the proposal or bid shall be confidential and not subject to required disclosure by the commission or the hospital under any other statute until the executed contracts have been awarded.

(i) In its establishment of provider criteria for hospitals, home health providers, or hospice providers, the commission shall accept licensure by the Department of Aging and Disability Services or the Department of State Health Services, as appropriate, or certification by the Medicare program, Title XVIII of the Social Security Act (42 U.S.C. Section 1395 et seq.).

(j) The commission shall assure that a recipient of medical assistance under this chapter may select a nurse first assistant, as defined by Section 301.354, Occupations Code, to perform any health care service or procedure covered under the medical assistance program if:

(1) the selected nurse first assistant is authorized by law to perform the service or procedure; and

(2) the physician requests that the service or procedure be performed by the nurse first assistant.

(k) The commission shall assure that a recipient of medical assistance under this chapter may select a surgical assistant licensed under Chapter 206, Occupations Code, to perform any health

care service or procedure covered under the medical assistance program if:

(1) the selected surgical assistant is authorized by law to perform the service or procedure; and

(2) the physician requests that the service or procedure be performed by the surgical assistant.

(l) Subject to appropriations, the commission shall assure that a recipient of medical assistance under this chapter may select a licensed psychologist, a licensed marriage and family therapist, as defined by Section 502.002, Occupations Code, a licensed professional counselor, as defined by Section 503.002, Occupations Code, or a licensed master social worker, as defined by Section 505.002, Occupations Code, to perform any health care service or procedure covered under the medical assistance program if the selected person is authorized by law to perform the service or procedure. This subsection shall be liberally construed.

Acts 1979, 66th Leg., p. 2351, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 1085, Sec. 4, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1173, Sec. 1, eff. Aug. 28, 1989; Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(14), eff. Sept. 6, 1990; Acts 1993, 73rd Leg., ch. 390, Sec. 1, 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 965, Sec. 57, eff. June 16, 1995; Acts 1999, 76th Leg., ch. 930, Sec. 1, eff. Jan. 1, 2000; Acts 2001, 77th Leg., ch. 812, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1014, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.813, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.156(a)(2), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1167, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1251, Sec. 9, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 7(a), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 7(b), eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.093, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.094, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.095, eff.

April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(38), eff. April 2, 2015.

Sec. 32.028. FEES, CHARGES, AND RATES. (a) The executive commissioner shall adopt reasonable rules and standards governing the determination of fees, charges, and rates for medical assistance payments.

(b) The fee, charge, or rate for a professional service is the usual and customary fee, charge, or rate that prevails in the community.

(c) The fee, charge, or rate for other medical assistance is the usual and customary fee, charge, or rate that prevails in the community unless the payment is limited by state or federal law.

(d) The executive commissioner in the adoption of reasonable rules and standards governing the determination of rates paid for inpatient hospital services on a prospective payment basis shall:

(1) assure that the payment rates are reasonable and adequate to meet the costs incurred by the hospital in rendering services to Medicaid recipients;

(2) assure that the prospective payment methodology for hospital services sets the hospital-specific standardized amount at a minimum level of $1,600; and

(3) assure that the adjustment in payment rates for hospital services furnished by disproportionate share hospitals takes into account the essential role of rural hospitals in providing access to hospital services to medically indigent persons in rural areas of the state.

(e) The executive commissioner in the adoption of reasonable rules and standards governing the determination of rates paid for services provided by a federally qualified health center, as defined by 42 U.S.C. Section 1396d(l)(2)(B), shall assure that a center is reimbursed for 100 percent of reasonable costs incurred by the center in rendering services to Medicaid recipients.

(f) The executive commissioner in the adoption of reasonable rules and standards governing the determination of rates paid for services provided by a rural health clinic, as defined by 42 U.S.C. Section 1396d(l)(1), shall assure that a clinic is reimbursed for 100 percent of reasonable costs incurred by the clinic in rendering

services to Medicaid recipients.

(g) Subject to Subsection (i), the executive commissioner shall ensure that the rules governing the determination of rates paid for nursing facility services improve the quality of care by:

(1) providing a program offering incentives for increasing direct care staff and direct care wages and benefits, but only to the extent that appropriated funds are available after money is allocated to base rate reimbursements as determined by the commission's nursing facility rate setting methodologies; and

(2) if appropriated funds are available after money is allocated for payment of incentive-based rates under Subdivision (1), providing incentives that incorporate the use of a quality of care index, a customer satisfaction index, and a resolved complaints index developed by the commission.

(h) The executive commissioner shall ensure that the rules governing the determination of rates paid for nursing facility services provide for the rate component derived from reported liability insurance costs to be paid only to those facilities that purchase liability insurance acceptable to the commission.

(i) The executive commissioner shall ensure that rules governing the incentives program described by Subsection (g)(1):

(1) provide that participation in the program by a nursing facility is voluntary;

(2) do not impose on a nursing facility not participating in the program a minimum spending requirement for direct care staff wages and benefits;

(3) do not set a base rate for a nursing facility participating in the program that is more than the base rate for a nursing facility not participating in the program; and

(4) establish a funding process to provide incentives for increasing direct care staff and direct care wages and benefits in accordance with appropriations provided.

(j) The executive commissioner shall adopt rules governing the determination of the amount of reimbursement or credit for restocking drugs under Section 562.1085, Occupations Code, that recognize the costs of processing the drugs, including the cost of:

(1) reporting the drug's prescription number and date of original issue;

(2) verifying whether the drug's expiration date or the drug's recommended shelf life exceeds 120 days;

(3) determining the source of payment; and

(4) preparing credit records.

(k) The commission shall provide an electronic system for the issuance of credit for returned drugs that complies with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended. To ensure a cost-effective system, only drugs for which the credit exceeds the cost of the restocking fee by at least 100 percent are eligible for credit.

(l) The executive commissioner shall establish a task force to develop the rules necessary to implement Subsections (j) and (k). The task force must include representatives of nursing facilities and pharmacists.

(m) The commission may not fund an incentive program under Subsection (g)(1) using money appropriated for base rate reimbursements for nursing facilities.

(n) The executive commissioner shall ensure that rules governing the determination of rates paid for nursing facility services provide for the reporting of all revenue and costs, without regard to whether a cost is an allowable cost for reimbursement under the medical assistance program, except:

(1) as provided by Subsection (h); and

(2) a penalty imposed under this chapter or Chapter 242, Health and Safety Code.

Acts 1979, 66th Leg., p. 2351, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 1219, Sec. 2, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 1411, Sec. 1.16, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 974, Sec. 31, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1284, Sec. 10.01, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.102(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 321, Sec. 3, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 667 (S.B. 48), Sec. 2, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.096, eff. April 2, 2015.

Sec. 32.0281. RULES AND NOTICE RELATING TO PAYMENT RATES. (a) The executive commissioner shall by rule describe the process used to

determine payment rates for medical assistance and shall notify providers, consumers, the Legislative Budget Board, and the Governor's Office of Budget, Planning, and Policy of that process.

(b) The executive commissioner shall adopt rules relating to payment rates that include:

(1) a description of the process used to determine payment rates;

(2) a description of each cost of living index used in calculating inflation rates and the procedure for determining the level of inflation used in the executive commissioner's calculations;

(3) the criteria for desk audits;

(4) the procedure for notifying providers of exclusions and adjustments to reported expenses, if notification is requested; and

(5) a method of adjusting rates if new legislation, regulations, or economic factors affect costs.

(c) The commission shall include in the Title XIX State Medicaid Plan submitted to the federal government for approval the procedures for making available to the public the data and methodology used in establishing payment rates.

(d) The procedures for adopting rules under this section shall be governed by Chapter 2001, Government Code.

(e) An interested party may appeal an action taken by the commission under this section, and an appeal of such action shall be governed by the procedures for a contested case hearing under Chapter 2001, Government Code. The filing of an appeal under this section shall not stay the implementation of payment rates adopted by the executive commissioner in accordance with commission rules.

Added by Acts 1989, 71st Leg., ch. 1085, Sec. 2, eff. Sept. 1, 1989.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.097, eff. April 2, 2015.

Sec. 32.0282. PUBLIC HEARING ON RATES. (a) The commission shall hold a public hearing to allow interested persons to present comments relating to proposed payment rates for medical assistance.

(b) The commission shall provide notice of each hearing to the

public.

Added by Acts 1989, 71st Leg., ch. 1085, Sec. 2, eff. Sept. 1, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.098, eff. April 2, 2015.

Sec. 32.0284. CALCULATION OF PAYMENTS UNDER CERTAIN SUPPLEMENTAL HOSPITAL PAYMENT PROGRAMS. (a) In this section, "supplemental hospital payment program" means:

(1) the disproportionate share hospitals supplemental payment program administered according to 42 U.S.C. Section 1396r-4; and

(2) the uncompensated care payment program established under the Texas Health Care Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315).

(b) For purposes of calculating the hospital-specific limit used to determine a hospital's uncompensated care payment under a supplemental hospital payment program, the commission shall ensure that to the extent a third-party commercial payment exceeds the Medicaid allowable cost for a service provided to a recipient and for which reimbursement was not paid under the medical assistance program, the payment is not considered a medical assistance payment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1310 (S.B. 7), Sec. 6.07, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.099, eff. April 2, 2015.

Sec. 32.029. METHODS OF PAYMENT. (a) The commission may prescribe a method of payment for medical assistance claims by establishing a direct vendor payment program that is administered by the commission, or by an insurance plan, a hospital or medical service plan, or any other health service plan authorized to do business in the state, or by a combination of those plans.

(b) The commission may use any fiscal intermediary, method of payment, or combination of methods it finds most satisfactory and

economical. The commission may make whatever changes it finds necessary from time to time to administer the program in an economical and equitable manner consistent with simplicity of administration and the best interest of the recipients of medical assistance.

(c) If the commission elects to make direct vendor payments, the payments shall be made by vouchers and warrants drawn by the comptroller on the proper account. The commission shall furnish the comptroller with a list of those vendors entitled to payments and the amounts to which each is entitled. When the warrants are drawn, they must be delivered to the commission, which shall supervise the delivery to vendors.

(d) If at any time state funds are not available to fully pay all claims for medical assistance, the executive commissioner shall prorate the claims.

(e) The commission or its designee must notify providers of health care services in clear and concise language of the status of their claims on any claim not paid or denied within 30 days of receipt by the payor.

Acts 1979, 66th Leg., p. 2351, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 12, eff. Aug. 26, 1985; Acts 1993, 73rd Leg., ch. 390, Sec. 3, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 6, Sec. 4, eff. March 23, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.100, eff. April 2, 2015.

Sec. 32.0291. PREPAYMENT REVIEWS AND PAYMENT HOLDS. (a) Notwithstanding any other law, the commission may:

(1) perform a prepayment review of a claim for reimbursement under the medical assistance program to determine whether the claim involves fraud or abuse; and

(2) as necessary to perform that review, withhold payment of the claim for not more than five working days without notice to the person submitting the claim.

(b) Subject to Section 531.102, Government Code, and notwithstanding any other law, the commission may impose a payment hold on future claims submitted by a provider.

(c) A payment hold authorized by this section is governed by the requirements and procedures specified for a payment hold under Section 531.102, Government Code, including the notice requirements under Subsection (g) of that section.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 622, Sec. 6, eff. September 1, 2013.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.103, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 622 (S.B. 1803), Sec. 4, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 622 (S.B. 1803), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 622 (S.B. 1803), Sec. 6, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.101, eff. April 2, 2015.

Sec. 32.031. RECEIPT AND EXPENDITURE OF FUNDS. (a) The commission may accept federal funds for the support of the medical assistance program and may expend the funds in the manner prescribed by this chapter or other laws. The expenditures must be made in accordance with appropriate agreements between the state and the federal government.

(b) The commission may administer and expend state funds appropriated for the program in accordance with commission rules and the provisions of this chapter.

(c) The amount of state funds spent for medical assistance on behalf of a qualified individual may not exceed the amount that is matchable with federal funds, and the total amount of state funds spent for all medical assistance on behalf of all qualified individuals may not exceed the amount that is matchable with federal funds.

(d) The executive commissioner is empowered and authorized to pursue the use of local funds as part of the state share under the Medicaid program as provided by federal law and regulation.

(e) Public hospitals, including hospitals owned, operated, or leased by a governmental entity, including a municipality, county,

hospital district, or this state, and specifically including a state teaching hospital, may transfer funds to the commission for use as the state share under the Medicaid disproportionate share program.

Acts 1979, 66th Leg., p. 2352, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 1215, Sec. 4, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 6, Sec. 6, eff. March 23, 1995. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.102, eff. April 2, 2015.

Sec. 32.0311. DRUG REIMBURSEMENT UNDER CERTAIN PROGRAMS. The commission shall require a recipient of medical assistance to exhaust drug benefits available under the medical assistance program before reimbursing the recipient, pharmacist, or other health care provider for drugs purchased by or on behalf of the recipient under the Kidney Health Care Program or the Children with Special Health Care Needs Services Program.

Added by Acts 1999, 76th Leg., ch. 669, Sec. 1, eff. June 18, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.103, eff. April 2, 2015.

For expiration of this section, see Subsection (e).

Sec. 32.03115. REIMBURSEMENT FOR MEDICATION-ASSISTED TREATMENT FOR OPIOID OR SUBSTANCE USE DISORDER. (a) In this section, "medication-assisted opioid or substance use disorder treatment" means the use of methadone, buprenorphine, oral buprenorphine/naloxone, or naltrexone to treat opioid or substance use disorder.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 640 (S.B. 1564), Sec. 2, and Ch. 1167 (H.B. 3285), Sec. 9

(b) Notwithstanding Sections 531.072 and 531.073, Government Code, or any other law and subject to Subsections (c) and (d), the commission shall provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment without requiring a recipient of medical assistance or health care

provider to obtain prior authorization or precertification for the treatment.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 13

(b) Notwithstanding Sections 531.072 and 531.073, Government Code, or any other law and subject to Subsections (c) and (d), the commission shall provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment without requiring a recipient of medical assistance or health care provider to obtain prior authorization or precertification for the treatment, except as needed to minimize the opportunity for fraud, waste, or abuse.

(c) The duty to provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment under Subsection (b) does not apply with respect to:

(1) a prescription for methadone;

(2) a recipient for whom medication-assisted opioid or substance use disorder treatment is determined to be medically contraindicated by the recipient's physician; or

(3) a recipient who is subject to an age-related restriction applicable to medication-assisted opioid or substance use disorder treatment.

(d) The commission may provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment only if the treatment is prescribed to a recipient of medical assistance by a licensed health care provider who is authorized to prescribe methadone, buprenorphine, oral buprenorphine/naloxone, or naltrexone.

(e) This section expires August 31, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 640 (S.B. 1564), Sec. 2, eff. June 10, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 13, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 1167 (H.B. 3285), Sec. 9, eff. September 1, 2019.

Sec. 32.0312. REIMBURSEMENT FOR SERVICES ASSOCIATED WITH PREVENTABLE ADVERSE EVENTS. The executive commissioner shall adopt

rules regarding the denial or reduction of reimbursement under the medical assistance program for preventable adverse events that occur in a hospital setting. In adopting the rules, the executive commissioner:

(1) shall ensure that the commission imposes the same reimbursement denials or reductions for preventable adverse events as the Medicare program imposes for the same types of health care-associated adverse conditions and the same types of health care providers and facilities under a policy adopted by the federal Centers for Medicare and Medicaid Services;

(2) shall consult an advisory committee on health care quality, if established by the executive commissioner, to obtain the advice of that committee regarding denial or reduction of reimbursement claims for any other preventable adverse events that cause patient death or serious disability in health care settings, including events on the list of adverse events identified by the National Quality Forum; and

(3) may allow the commission to impose reimbursement denials or reductions for preventable adverse events described by Subdivision (2).

Added by Acts 2009, 81st Leg., R.S., Ch. 724 (S.B. 203), Sec. 3(a), eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.104, eff. April 2, 2015.

Sec. 32.0313. INDUCED DELIVERIES OR CESAREAN SECTIONS BEFORE 39TH WEEK. (a) The commission shall achieve cost savings with improved outcomes by adopting and implementing quality initiatives that are evidence-based, tested, and fully consistent with established standards of clinical care and that are designed to reduce the number of elective or nonmedically indicated induced deliveries or cesarean sections performed at a hospital on a medical assistance recipient before the 39th week of gestation.

(b) The commission shall coordinate with physicians, hospitals, managed care organizations, and the commission's billing contractor for the medical assistance program to develop a process for collecting information regarding the number of induced deliveries and

cesarean sections described by Subsection (a) that occur during prescribed periods.

Added by Acts 2011, 82nd Leg., R.S., Ch. 299 (H.B. 1983), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.105, eff. April 2, 2015.

Sec. 32.0314. REIMBURSEMENT FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES. The executive commissioner shall adopt rules requiring the electronic submission of any claim for reimbursement for durable medical equipment and supplies under the medical assistance program.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.18, eff. September 28, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.105, eff. April 2, 2015.

Sec. 32.03141. AUTHORITY OF ADVANCED PRACTICE REGISTERED NURSES AND PHYSICIAN ASSISTANTS REGARDING DURABLE MEDICAL EQUIPMENT AND SUPPLIES. To the extent allowed by federal law, an advanced practice registered nurse or physician assistant acting under adequate physician supervision and to whom a physician has delegated the authority to prescribe and order drugs and devices under Chapter 157, Occupations Code, may order and prescribe durable medical equipment and supplies under the medical assistance program.

Added by Acts 2013, 83rd Leg., R.S., Ch. 418 (S.B. 406), Sec. 26, eff. November 1, 2013.

Sec. 32.0315. FUNDS FOR GRADUATE MEDICAL EDUCATION. (a) Subject to appropriated state funds, the executive commissioner shall establish procedures and formulas for the allocation of federal medical assistance funds that are directed to be used to support graduate medical education in connection with the medical assistance program.

(b) The executive commissioner shall allocate the funds in the manner the executive commissioner determines most effectively and equitably achieves the purposes for which those federal funds are received, consistent with the needs of this state for graduate medical education and the training of resident physicians in accredited residency programs in appropriate fields and specialties, taking into account other money available to support graduate medical education. In determining the needs of this state for graduate medical education, the executive commissioner shall give primary emphasis to graduate medical education in primary care specialties and shall also recognize the growth in residency training slots since 1997 in the Lower Rio Grande Valley and other health care shortage areas of this state.

(c) The executive commissioner shall consult with the Texas Higher Education Coordinating Board before adopting or revising a formula under this section. At the request of the executive commissioner, the coordinating board shall provide the executive commissioner with any information the board possesses to assist the executive commissioner in administering this section.

Added by Acts 1997, 75th Leg., ch. 252, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.100(a), (b), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 733 (H.B. 2420), Sec. 1, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.106, eff. April 2, 2015.

Sec. 32.0316. ELECTRONIC TRANSACTIONS; MEDICAID. The executive commissioner shall adopt and the commission shall implement policies that encourage the use of electronic transactions in Medicaid. The policies shall require payment to Medicaid providers by electronic funds transfer, including electronic remittance and status reports. The policies shall also include the establishment of incentives to submit claims electronically and of disincentives to submit claims on paper that are reasonably based on the higher administrative costs to process claims submitted on paper.

Added by Acts 1999, 76th Leg., ch. 1411, Sec. 1.10, eff. Sept. 1,

1999.
Transferred, redesignated and amended from Health and Safety Code, Section 12.0124 by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0017, eff. April 2, 2015.

Sec. 32.032. PREVENTION AND DETECTION OF FRAUD AND ABUSE. The executive commissioner shall adopt reasonable rules for minimizing the opportunity for fraud and abuse, for establishing and maintaining methods for detecting and identifying situations in which a question of fraud or abuse in the program may exist, and for referring cases where fraud or abuse appears to exist to the appropriate law enforcement agencies for prosecution.

Acts 1979, 66th Leg., p. 2352, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.104, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 257, Sec. 2, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.106, eff. April 2, 2015.

Sec. 32.0321. SURETY BOND. (a) The executive commissioner by rule may require each provider of medical assistance in a provider type that has demonstrated significant potential for fraud or abuse to file with the commission a surety bond in a reasonable amount. The executive commissioner by rule shall require a provider of medical assistance to file with the commission a surety bond in a reasonable amount if the commission identifies a pattern of suspected fraud or abuse involving criminal conduct relating to the provider's services under the medical assistance program that indicates the need for protection against potential future acts of fraud or abuse.

(b) The bond under Subsection (a) must be payable to the commission to compensate the commission for damages resulting from or penalties or fines imposed in connection with an act of fraud or abuse committed by the provider under the medical assistance program.

(c) Subject to Subsection (d) or (e), the executive commissioner by rule may require each provider of medical assistance that establishes a resident's trust fund account to post a surety

bond to secure the account. The bond must be payable to the commission to compensate residents of the bonded provider for trust funds that are lost, stolen, or otherwise unaccounted for if the provider does not repay any deficiency in a resident's trust fund account to the person legally entitled to receive the funds.

(d) The executive commissioner may not require the amount of a surety bond posted for a single facility provider under Subsection (c) to exceed the average of the total average monthly balance of all the provider's resident trust fund accounts for the 12-month period preceding the bond issuance or renewal date.

(e) If an employee of a provider of medical assistance is responsible for the loss of funds in a resident's trust fund account, the resident, the resident's family, and the resident's legal representative are not obligated to make any payments to the provider that would have been made out of the trust fund had the loss not occurred.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 2.03, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.105, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 257, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.107, eff. April 2, 2015.

Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION; ENROLLMENT OF PROVIDERS. (a) The commission or the office of inspector general established under Chapter 531, Government Code, may obtain from any law enforcement or criminal justice agency the criminal history record information that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program.

(a-1) The criminal history record information the commission and the office of inspector general are authorized to obtain under Subsection (a) includes criminal history record information relating to:

(1) a person with a direct or indirect ownership or control interest, as defined by 42 C.F.R. Section 455.101, in a provider of five percent or more; and

(2) a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

(b) Subject to Subsections (b-1) and (e), the executive commissioner by rule shall establish criteria for the commission or the commission's office of inspector general to suspend a provider's billing privileges under the medical assistance program, revoke a provider's enrollment under the program, or deny a person's application to enroll as a provider under the program based on:

(1) the results of a criminal history check;

(2) any exclusion or debarment of the provider from participation in a state or federally funded health care program;

(3) the provider's failure to bill for medical assistance or refer clients for medical assistance within a 12-month period; or

(4) any of the provider screening or enrollment provisions contained in 42 C.F.R. Part 455, Subpart E.

(b-1) In adopting rules under this section, the executive commissioner shall require revocation of a provider's enrollment or denial of a person's application for enrollment as a provider under the medical assistance program if the person has been excluded or debarred from participation in a state or federally funded health care program as a result of:

(1) a criminal conviction or finding of civil or administrative liability for committing a fraudulent act, theft, embezzlement, or other financial misconduct under a state or federally funded health care program; or

(2) a criminal conviction for committing an act under a state or federally funded health care program that caused bodily injury to:

(A) a person who is 65 years of age or older;

(B) a person with a disability; or

(C) a person under 18 years of age.

(c) As a condition of eligibility to participate as a provider in the medical assistance program, the executive commissioner by rule shall:

(1) require a provider or a person applying to enroll as a provider to disclose:

(A) all persons described by Subsection (a-1)(1);

(B) any managing employees of the provider; and

(C) an agent or subcontractor of the provider if:

(i) the provider or a person described by

Subsection (a-1)(1) has a direct or indirect ownership interest of at least five percent in the agent or subcontractor; or

(ii) the provider engages in a business transaction with the agent or subcontractor that meets the criteria specified by 42 C.F.R. Section 455.105; and

(2) require disclosure by persons applying for enrollment as providers and provide for screening of applicants for enrollment in conformity and compliance with the requirements of 42 C.F.R. Part 455, Subparts B and E.

(d) In adopting rules under this section, the executive commissioner shall adopt rules as authorized by and in conformity with 42 C.F.R. Section 455.470 for the imposition of a temporary moratorium on enrollment of new providers, or to impose numerical caps or other limits on the enrollment of providers, that the commission or the commission's office of inspector general determines have a significant potential for fraud, waste, or abuse.

(e) The commission may reinstate a provider's enrollment under the medical assistance program or grant a person's previously denied application to enroll as a provider, including a person described by Subsection (b-1), if the commission finds:

(1) good cause to determine that it is in the best interest of the medical assistance program; and

(2) the person has not committed an act that would require revocation of a provider's enrollment or denial of a person's application to enroll since the person's enrollment was revoked or application was denied, as appropriate.

(f) The commission must support a determination made under Subsection (e) with written findings of good cause for the determination.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 2.04(a), eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 3.15, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 28, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1311 (S.B. 8), Sec. 10, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.108, eff.

April 2, 2015.

Sec. 32.033. SUBROGATION. (a) The filing of an application for or receipt of medical assistance constitutes an assignment of the applicant's or recipient's right of recovery from:

(1) personal insurance;

(2) other sources; or

(3) another person for personal injury caused by the other person's negligence or wrong.

(b) A person who applies for or receives medical assistance shall inform the commission, at the time of application or at any time during eligibility and receipt of services, of any unsettled tort claim which may affect medical needs and of any private accident or sickness insurance coverage that is or may become available. A recipient shall inform the commission of any injury requiring medical attention that is caused by the act or failure to act of some other person. An applicant or a recipient shall inform the commission as required by this subsection within 60 days of the date the person learns of his or her insurance coverage, tort claim, or potential cause of action. An applicant or recipient who knowingly and intentionally fails to disclose the information required by this subsection commits a Class C misdemeanor.

(c) A claim for damages for personal injury does not constitute grounds for denying or discontinuing assistance under this chapter.

(d) A separate and distinct cause of action in favor of the state is hereby created, and the commission may, without written consent, take direct civil action in any court of competent jurisdiction. A suit brought under this section need not be ancillary to or dependent upon any other action.

(e) The commission's right of recovery is limited to the amount of the cost of medical care services paid by the commission. Other subrogation rights granted under this section are limited to the cost of the services provided.

(f) The executive commissioner may waive the commission's right of recovery in whole or in part when the executive commissioner finds that enforcement would tend to defeat the purpose of public assistance.

(g) The commission may designate an agent to collect funds the commission has a right to recover from third parties under this

section. The commission shall use any funds collected to pay costs of administering the medical assistance program.

(h) The executive commissioner may adopt rules for the enforcement of the commission's right of recovery.

Acts 1979, 66th Leg., p. 2352, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2436, ch. 842, art. 2, Sec. 10, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.109, eff. April 2, 2015.

Sec. 32.034. CONTRACT CANCELLATION; NOTICE AND HEARING. (a) The commission has authority to adjudicate claims of contested cases in accordance with Chapter 2001, Government Code. When the commission intends to cancel its contract or impose monetary penalties under a contract with a person providing medical assistance, the commission shall give reasonable notice and an opportunity for hearing if one is requested. The executive commissioner shall adopt rules consistent with Chapter 2001, Government Code, to implement this section, and hearings under this section are contested cases under that act.

(b) The commission may not terminate a contract during the pendency of a hearing under this section. The commission may withhold payments during the pendency of a hearing, but the commission shall pay the withheld payments and resume contract payments if the final determination is favorable to the contractor. The commission's authority to withhold payments shall be established by contract.

(c) The section does not apply if federal matching funds are not available to pay the facility whose contract is being cancelled. If federal matching funds cannot be used, no state funds may be used to pay the facility.

Acts 1979, 66th Leg., p. 2352, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 2.02, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.22, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1159, Sec. 2.03, eff. Sept. 1, 1997.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.110, eff. April 2, 2015.

Sec. 32.035. APPEALS. The provisions of Section 31.034 governing the right of appeal of an applicant for or recipient of financial assistance authorized under Chapter 31 also apply to applicants for medical assistance authorized in this chapter.

Acts 1979, 66th Leg., p. 2353, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.111, eff. April 2, 2015.

Sec. 32.036. PROGRAM PAYMENTS NONASSIGNABLE AND EXEMPT FROM LEGAL PROCESS. (a) Neither medical assistance nor payments to providers of medical assistance under this chapter are transferable or assignable at law or in equity.

(b) No money paid or payable under the provisions of this chapter is subject to execution, levy, attachment, garnishment, or any other legal process, or the operation of any insolvency law.

(c) This section does not apply to the extent that it conflicts with the Social Security Act (42 U.S.C. Section 1396a(a)(32)).

Acts 1979, 66th Leg., p. 2353, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 216, Sec. 1, eff. May 23, 1997.

Sec. 32.038. COLLECTION OF INSURANCE PAYMENTS. (a) The commission may receive directly from an insurance company any payments to which the commission is entitled under Section 1204.153, Insurance Code.

(b) The executive commissioner shall adopt rules to implement this section, including rules establishing procedures relating to:

(1) notification to the commission that a child receiving benefits under Chapter 31 or this chapter is covered by an insurance policy under which the commission is eligible to receive direct

payments;

(2) claims made by the commission to receive payments under Subsection (a);

(3) notification to the commission of any change in the status of the child or the parent; and

(4) notification to the insurance company that the commission is to receive payments under Subsection (a).

(c) Commission rules relating to the notice prescribed by Subsection (b)(4) must require the notice to be attached to the claim for insurance benefits when the claim is first submitted to the insurance company.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 2.03, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.128, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.112, eff. April 2, 2015.

Sec. 32.0381. ICF-IID PAYMENT RATES. (a) The executive commissioner shall set the payment rates for ICF-IID facilities at least annually.

(b) The executive commissioner shall adopt by rule the methodology used by the executive commissioner in setting payment rates for ICF-IID facilities. The methodology shall clearly define the procedures and methods used in projecting the costs of economic and efficient facilities and the procedures and methods used in setting payment rates that reasonably reimburse facilities at each level of care and in each class of providers, including size categories.

(c) The executive commissioner shall ensure that the methodology used in projecting costs and setting payment rates and its implementation is the same for state-operated ICF-IID facilities and for private ICF-IID facilities. Methods used to project costs, including those involving the handling of gifts, grants, and donations, upper limits on facility and administrative costs, occupancy adjustments, and in assessing the cost impact of new or revised requirements, must be the same for state-operated and private

facilities.

(d) To the extent allowed by federal law, any differences in methodology or its implementation between state-operated facilities and private facilities must be stated explicitly in the rule, must be related to actual differences in the nature of the expenses incurred by the class of providers, including size categories, and must not favor state-operated facilities in setting payment rates. When the proposed rule or amendments to the rule are published for public comment, the executive commissioner must certify that any differences in methodology between classes of providers, including size categories, are necessitated by cost structure and will not favor state-operated facilities in the setting of payment rates.

Added by Acts 1989, 71st Leg., ch. 1141, Sec. 11(a), eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.112, eff. April 2, 2015.

Sec. 32.039. DAMAGES AND PENALTIES. (a) In this section:

(1) "Claim" means an application for payment of health care services under Title XIX of the federal Social Security Act (42 U.S.C. Section 1396 et seq.) that is submitted by a person who is under a contract or provider agreement with the commission.

(1-a) "Inducement" includes a service, cash in any amount, entertainment, or any item of value.

(2) "Managed care organization" means any entity or person that is authorized or otherwise permitted by law to arrange for or provide a managed care plan.

(3) "Managed care plan" means a plan under which a person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care service. A part of the plan must consist of arranging for or providing health care services as distinguished from indemnification against the cost of those services on a prepaid basis through insurance or otherwise. The term does not include a plan that indemnifies a person for the cost of health care services through insurance.

(4) A person "should know" or "should have known" information to be false if the person acts in deliberate ignorance of

the truth or falsity of the information or in reckless disregard of the truth or falsity of the information, and proof of the person's specific intent to defraud is not required.

(b) A person commits a violation if the person:

(1) presents or causes to be presented to the commission a claim that contains a statement or representation the person knows or should know to be false;

(1-a) engages in conduct that violates Section 102.001, Occupations Code;

(1-b) solicits or receives, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind for referring an individual to a person for the furnishing of, or for arranging the furnishing of, any item or service for which payment may be made, in whole or in part, under the medical assistance program, provided that this subdivision does not prohibit the referral of a patient to another practitioner within a multispecialty group or university medical services research and development plan (practice plan) for medically necessary services;

(1-c) solicits or receives, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind for purchasing, leasing, or ordering, or arranging for or recommending the purchasing, leasing, or ordering of, any good, facility, service, or item for which payment may be made, in whole or in part, under the medical assistance program;

(1-d) offers or pays, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind to induce a person to refer an individual to another person for the furnishing of, or for arranging the furnishing of, any item or service for which payment may be made, in whole or in part, under the medical assistance program, provided that this subdivision does not prohibit the referral of a patient to another practitioner within a multispecialty group or university medical services research and development plan (practice plan) for medically necessary services;

(1-e) offers or pays, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind to induce a person to purchase, lease, or order, or arrange for or recommend the purchase, lease, or order of, any good, facility, service, or item for which payment may be made, in whole or in part, under the medical assistance program;

(1-f) provides, offers, or receives an inducement in a manner or for a purpose not otherwise prohibited by this section or Section 102.001, Occupations Code, to or from a person, including a recipient, provider, employee or agent of a provider, third-party vendor, or public servant, for the purpose of influencing or being influenced in a decision regarding:

(A) selection of a provider or receipt of a good or service under the medical assistance program;

(B) the use of goods or services provided under the medical assistance program; or

(C) the inclusion or exclusion of goods or services available under the medical assistance program;

(2) is a managed care organization that contracts with the commission to provide or arrange to provide health care benefits or services to individuals eligible for medical assistance and:

(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract with the commission;

(B) fails to provide to the commission information required to be provided by law, commission rule, or contractual provision;

(C) engages in a fraudulent activity in connection with the enrollment in the organization's managed care plan of an individual eligible for medical assistance or in connection with marketing the organization's services to an individual eligible for medical assistance; or

(D) engages in actions that indicate a pattern of:

(i) wrongful denial of payment for a health care benefit or service that the organization is required to provide under the contract with the commission; or

(ii) wrongful delay of at least 45 days or a longer period specified in the contract with the commission, not to exceed 60 days, in making payment for a health care benefit or service that the organization is required to provide under the contract with the commission; or

(3) fails to maintain documentation to support a claim for payment in accordance with the requirements specified by commission rule or medical assistance program policy or engages in any other conduct that a commission rule has defined as a violation of the medical assistance program.

(b-1) A person who commits a violation described by Subsection (b)(3) is liable to the commission for either the amount paid in response to the claim for payment or the payment of an administrative penalty in an amount not to exceed $500 for each violation, as determined by the commission.

(c) A person who commits a violation under Subsection (b) is liable to the commission for:

(1) the amount paid, if any, as a result of the violation and interest on that amount determined at the rate provided by law for legal judgments and accruing from the date on which the payment was made; and

(2) payment of an administrative penalty of an amount not to exceed twice the amount paid, if any, as a result of the violation, plus an amount:

(A) not less than $5,000 or more than $15,000 for each violation that results in injury to an elderly person, as defined by Section 48.002(a)(1), a person with a disability, as defined by Section 48.002(a)(8)(A), or a person younger than 18 years of age; or

(B) not more than $10,000 for each violation that does not result in injury to a person described by Paragraph (A).

(d) Unless the provider submitted information to the commission for use in preparing a voucher that the provider knew or should have known was false or failed to correct information that the provider knew or should have known was false when provided an opportunity to do so, this section does not apply to a claim based on the voucher if the commission calculated and printed the amount of the claim on the voucher and then submitted the voucher to the provider for the provider's signature. In addition, the provider's signature on the voucher does not constitute fraud. The executive commissioner shall adopt rules that establish a grace period during which errors contained in a voucher prepared by the commission may be corrected without penalty to the provider.

(e) In determining the amount of the penalty to be assessed under Subsection (c)(2), the commission shall consider:

(1) the seriousness of the violation;

(2) whether the person had previously committed a violation; and

(3) the amount necessary to deter the person from committing future violations.

(f) If after an examination of the facts the commission

concludes that the person committed a violation, the commission may issue a preliminary report stating the facts on which it based its conclusion, recommending that an administrative penalty under this section be imposed and recommending the amount of the proposed penalty.

(g) The commission shall give written notice of the report to the person charged with committing the violation. The notice must include a brief summary of the facts, a statement of the amount of the recommended penalty, and a statement of the person's right to an informal review of the alleged violation, the amount of the penalty, or both the alleged violation and the amount of the penalty.

(h) Not later than the 10th day after the date on which the person charged with committing the violation receives the notice, the person may either give the commission written consent to the report, including the recommended penalty, or make a written request for an informal review by the commission.

(i) If the person charged with committing the violation consents to the penalty recommended by the commission or fails to timely request an informal review, the commission shall assess the penalty. The commission shall give the person written notice of its action. The person shall pay the penalty not later than the 30th day after the date on which the person receives the notice.

(j) If the person charged with committing the violation requests an informal review as provided by Subsection (h), the commission shall conduct the review. The commission shall give the person written notice of the results of the review.

(k) Not later than the 10th day after the date on which the person charged with committing the violation receives the notice prescribed by Subsection (j), the person may make to the commission a written request for a hearing. The hearing must be conducted in accordance with Chapter 2001, Government Code.

(l) If, after informal review, a person who has been ordered to pay a penalty fails to request a formal hearing in a timely manner, the commission shall assess the penalty. The commission shall give the person written notice of its action. The person shall pay the penalty not later than the 30th day after the date on which the person receives the notice.

(m) Within 30 days after the date on which the commission's order issued after a hearing under Subsection (k) becomes final as provided by Section 2001.144, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(n) A person who acts under Subsection (m)(3) within the 30-day period may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the commission's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive commissioner by certified mail.

(o) If the executive commissioner receives a copy of an affidavit under Subsection (n)(2), the executive commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(p) If the person charged does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the commission may forward the matter to the attorney general for enforcement of the penalty and interest as provided by law for legal judgments. An action to enforce a penalty order under this section

must be initiated in a court of competent jurisdiction in Travis County or in the county in which the violation was committed.

(q) Judicial review of a commission order or review under this section assessing a penalty is under the substantial evidence rule. A suit may be initiated by filing a petition with a district court in Travis County, as provided by Subchapter G, Chapter 2001, Government Code.

(r) If a penalty is reduced or not assessed, the commission shall remit to the person the appropriate amount plus accrued interest if the penalty has been paid or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the commission under this subsection shall be paid at a rate equal to the rate provided by law for legal judgments and shall be paid for the period beginning on the date the penalty is paid to the commission under this section and ending on the date the penalty is remitted.

(s) A damage, cost, or penalty collected under this section is not an allowable expense in a claim or cost report that is or could be used to determine a rate or payment under the medical assistance program.

(t) All funds collected under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(u) Except as provided by Subsection (w), a person found liable for a violation under Subsection (c) that resulted in injury to an elderly person, as defined by Section 48.002(a)(1), a person with a disability, as defined by Section 48.002(a)(8)(A), or a person younger than 18 years of age may not provide or arrange to provide health care services under the medical assistance program for a period of 10 years. The executive commissioner by rule may provide for a period of ineligibility longer than 10 years. The period of ineligibility begins on the date on which the determination that the person is liable becomes final.

(v) Except as provided by Subsection (w), a person found liable for a violation under Subsection (c) that did not result in injury to an elderly person, as defined by Section 48.002(a)(1), a person with a disability, as defined by Section 48.002(a)(8)(A), or a person younger than 18 years of age may not provide or arrange to provide health care services under the medical assistance program for a period of three years. The executive commissioner by rule may provide for a period of ineligibility longer than three years. The

period of ineligibility begins on the date on which the determination that the person is liable becomes final.

(w) The executive commissioner by rule may prescribe criteria under which a person described by Subsection (u) or (v) is not prohibited from providing or arranging to provide health care services under the medical assistance program. The criteria may include consideration of:

(1) the person's knowledge of the violation;

(2) the likelihood that education provided to the person would be sufficient to prevent future violations;

(3) the potential impact on availability of services in the community served by the person; and

(4) any other reasonable factor identified by the executive commissioner.

(x) Subsections (b)(1-b) through (1-f) do not prohibit a person from engaging in:

(1) generally accepted business practices, as determined by commission rule, including:

(A) conducting a marketing campaign;

(B) providing token items of minimal value that advertise the person's trade name; and

(C) providing complimentary refreshments at an informational meeting promoting the person's goods or services;

(2) the provision of a value-added service if the person is a managed care organization; or

(3) other conduct specifically authorized by law, including conduct authorized by federal safe harbor regulations (42 C.F.R. Section 1001.952).

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 2.04, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), (53), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1153, Sec. 3.01(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 12, Sec. 1, 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 257, Sec. 4, 5, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 127 (S.B. 1694), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 3.16, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 29, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.113, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.114, eff. April 2, 2015.

Sec. 32.0391. CRIMINAL OFFENSE. (a) A person commits an offense if the person intentionally or knowingly commits a violation under Section 32.039(b)(1-b), (1-c), (1-d), (1-e), or (1-f).

(b) An offense under this section is a state jail felony.

(c) If conduct constituting an offense under this section also constitutes an offense under another provision of law, including a provision in the Penal Code, the person may be prosecuted under either this section or the other provision.

(d) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section.

Added by Acts 2003, 78th Leg., ch. 257, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 127 (S.B. 1694), Sec. 3, eff. September 1, 2007.

Sec. 32.040. IDENTIFICATION OF HUSBAND OR ALLEGED FATHER. (a) A woman receiving medical assistance in the form of prenatal care, child delivery care, and obstetrical care related to prenatal care and child delivery care shall identify her husband, or, if unmarried, shall provide the name and last known address of the alleged father of the unborn child.

(b) If the woman receiving medical assistance is under 18 years of age and resides with one or both parents, the parents shall cooperate in identifying the husband or the alleged father.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 25, Sec. 37, eff. Jan. 1, 1990.

Sec. 32.042. INFORMATION REQUIRED FROM HEALTH INSURERS. (a) An insurer shall maintain a file system that contains:

(1) the name, address, including claim submission address, group policy number, employer's mailing address, social security number, and date of birth of each enrollee, beneficiary, subscriber, or policyholder covered by the insurer; and

(2) the name, address, including claim submission address, and date of birth of each dependent of each enrollee, beneficiary, subscriber, or policyholder covered by the insurer.

(b) The state's Medicaid third-party recovery division shall identify state medical assistance recipients who have third-party health coverage or insurance as provided by this subsection. The commission may:

(1) provide to an insurer Medicaid data tapes that identify medical assistance recipients and request that the insurer identify each enrollee, beneficiary, subscriber, or policyholder of the insurer whose name also appears on the Medicaid data tape; or

(2) request that an insurer provide to the commission identifying information for each enrollee, beneficiary, subscriber, or policyholder of the insurer.

(b-1) An insurer from which the commission requests information under Subsection (b) shall provide that information, except that the insurer is only required to provide the commission with the information maintained under Subsection (a) by the insurer or made available to the insurer from the plan. A plan administrator is subject to Subsection (b) and shall provide information under that subsection to the extent the information is made available to the plan administrator from the insurer or plan.

(c) An insurer may not be required to provide information in response to a request under this section more than once every six months.

(d) An insurer shall provide the information required under Subsection (b)(1) only if the commission certifies that the identified individuals are applicants for or recipients of services under Medicaid or are legally responsible for an applicant for or recipient of Medicaid services.

(e) The commission shall enter into an agreement to reimburse an insurer or plan administrator for necessary and reasonable costs incurred in providing information requested under Subsection (b)(1), not to exceed $5,000 for each data match made under that subdivision.

If the commission makes a data match using information provided under Subsection (b)(2), the commission shall reimburse the insurer or plan administrator for reasonable administrative expenses incurred in providing the information. The reimbursement for information under Subsection (b)(2) may not exceed $5,000 for initially producing information with respect to a person, or $200 for each subsequent production of information with respect to the person. The commission may enter into an agreement with an insurer or plan administrator that provides procedures for requesting and providing information under this section. An agreement under this subsection may not be inconsistent with any law relating to the confidentiality or privacy of personal information or medical records. The procedures agreed to under this subsection must state the time and manner the procedures take effect.

(f) Information required to be furnished to the commission under this section is limited to information necessary to determine whether health benefits have been or should have been claimed and paid under a health insurance policy or plan for medical care or services received by an individual for whom Medicaid coverage would otherwise be available.

(g) Information regarding an individual certified to an insurer as an applicant for or recipient of medical assistance may only be used to identify the records or information requested and may not violate the confidentiality of the applicant or recipient. The commission shall establish guidelines not later than the date on which the procedures agreed to under Subsection (e) take effect.

(h) This section applies to a plan administrator in the same manner and to the same extent as an insurer if the plan administrator has the information necessary to comply with the applicable requirement.

(i) In this section:

(1) "Insurer" means a group hospital service corporation, a health maintenance organization, a self-funded or self-insured welfare or benefit plan or program to the extent the regulation of the plan or program is not preempted by federal law, and any other entity that provides health coverage in this state through an employer, union, trade association, or other organization or other source.

(2) "Plan administrator" means a third-party administrator, prescription drug payer or administrator, pharmacy benefit manager,

or dental payer or administrator.

Added by Acts 1993, 73rd Leg., ch. 816, Sec. 1.01, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 88, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 2(b), eff. September 1, 2005.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.115, eff. April 2, 2015.

Sec. 32.0421. ADMINISTRATIVE PENALTY FOR FAILURE TO PROVIDE INFORMATION. (a) The commission may impose an administrative penalty on a person who does not comply with a request for information made under Section 32.042(b).

(b) The amount of the penalty may not exceed $10,000 for each day of noncompliance that occurs after the 180th day after the date of the request. The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(c) The enforcement of the penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the commission to contest the affidavit as provided by those rules.

(d) The attorney general may sue to collect the penalty.

(e) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

Added by Acts 1999, 76th Leg., ch. 88, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.116, eff. April 2, 2015.

Sec. 32.0422. HEALTH INSURANCE PREMIUM PAYMENT REIMBURSEMENT PROGRAM FOR MEDICAL ASSISTANCE RECIPIENTS. (a) In this section, "group health benefit plan" means a plan described by Section 1207.001, Insurance Code.

(b) The commission shall identify individuals, otherwise entitled to medical assistance, who are eligible to enroll in a group health benefit plan. The commission must include individuals eligible for or receiving health care services under a Medicaid managed care delivery system.

(b-1) To assist the commission in identifying individuals described by Subsection (b):

(1) the commission shall include on an application for medical assistance and on a form for recertification of a recipient's eligibility for medical assistance:

(A) an inquiry regarding whether the applicant or recipient, as applicable, is eligible to enroll in a group health benefit plan; and

(B) a statement informing the applicant or recipient, as applicable, that reimbursements for required premiums and cost-sharing obligations under the group health benefit plan may be available to the applicant or recipient; and

(2) not later than the 15th day of each month, the office of the attorney general shall provide to the commission the name, address, and social security number of each newly hired employee reported to the state directory of new hires operated under Chapter 234, Family Code, during the previous calendar month.

(c) The commission shall require an individual requesting medical assistance or a recipient, during the recipient's eligibility recertification review, to provide information as necessary relating to any group health benefit plan that is available to the individual or recipient through an employer of the individual or recipient or an employer of the individual's or recipient's spouse or parent to assist the commission in making the determination required by Subsection (d).

(d) For an individual identified under Subsection (b), the commission shall determine whether it is cost-effective to enroll the

individual in the group health benefit plan under this section.

(e) If the commission determines that it is cost-effective to enroll the individual in the group health benefit plan, the commission shall:

(1) require the individual to apply to enroll in the group health benefit plan as a condition for eligibility under the medical assistance program; and

(2) provide written notice to the issuer of the group health benefit plan in accordance with Chapter 1207, Insurance Code.

(e-1) This subsection applies only to an individual who is identified under Subsection (b) as being eligible to enroll in a group health benefit plan offered by an employer. If the commission determines under Subsection (d) that enrolling the individual in the group health benefit plan is not cost-effective, but the individual prefers to enroll in that plan instead of receiving benefits and services under the medical assistance program, the commission, if authorized by a waiver obtained under federal law, shall:

(1) allow the individual to voluntarily opt out of receiving services through the medical assistance program and enroll in the group health benefit plan;

(2) consider that individual to be a recipient of medical assistance; and

(3) provide written notice to the issuer of the group health benefit plan in accordance with Chapter 1207, Insurance Code.

(f) Except as provided by Subsection (f-1), the commission shall provide for payment of:

(1) the employee's share of required premiums for coverage of an individual enrolled in the group health benefit plan; and

(2) any deductible, copayment, coinsurance, or other cost-sharing obligation imposed on the enrolled individual for an item or service otherwise covered under the medical assistance program.

(f-1) For an individual described by Subsection (e-1) who enrolls in a group health benefit plan, the commission shall provide for payment of the employee's share of the required premiums, except that if the employee's share of the required premiums exceeds the total estimated Medicaid costs for the individual, as determined by the executive commissioner, the individual shall pay the difference between the required premiums and those estimated costs. The individual shall also pay all deductibles, copayments, coinsurance, and other cost-sharing obligations imposed on the individual under

the group health benefit plan.

(g) A payment made by the commission under Subsection (f) or (f-1) is considered to be a payment for medical assistance.

(h) A payment of a premium for an individual who is a member of the family of an individual enrolled in a group health benefit plan under Subsection (e) and who is not eligible for medical assistance is considered to be a payment for medical assistance for an eligible individual if:

(1) enrollment of the family members who are eligible for medical assistance is not possible under the plan without also enrolling members who are not eligible; and

(2) the commission determines it to be cost-effective.

(i) A payment of any deductible, copayment, coinsurance, or other cost-sharing obligation of a family member who is enrolled in a group health benefit plan in accordance with Subsection (h) and who is not eligible for medical assistance:

(1) may not be paid under this chapter; and

(2) is not considered to be a payment for medical assistance for an eligible individual.

(i-1) The commission shall make every effort to expedite payments made under this section, including by ensuring that those payments are made through electronic transfers of money to the recipient's account at a financial institution, if possible. In lieu of reimbursing the individual enrolled in the group health benefit plan for required premium or cost-sharing payments made by the individual, the commission may, if feasible:

(1) make payments under this section for required premiums directly to the employer providing the group health benefit plan in which an individual is enrolled; or

(2) make payments under this section for required premiums and cost-sharing obligations directly to the group health benefit plan issuer.

(j) The commission shall treat coverage under the group health benefit plan as a third party liability to the program. Subject to Subsection (j-1), enrollment of an individual in a group health benefit plan under this section does not affect the individual's eligibility for medical assistance benefits, except that the state is entitled to payment under Sections 32.033 and 32.038.

(j-1) An individual described by Subsection (e-1) who enrolls in a group health benefit plan is not ineligible for home and

community-based services provided under a Section 1915(c) waiver program or another federal home and community-based services waiver program solely based on the individual's enrollment in the group health benefit plan, and the individual may receive those services if the individual is otherwise eligible for the program. The individual is otherwise limited to the health benefits coverage provided under the health benefit plan in which the individual is enrolled, and the individual may not receive any benefits or services under the medical assistance program other than the premium payment as provided by Subsection (f-1) and, if applicable, waiver program services described by this subsection.

(k) Repealed by Acts 2015, 84th Leg., R.S., Ch. 945 , Sec. 13(2), eff. September 1, 2015.

(l) The commission, in consultation with the Texas Department of Insurance, shall provide training to agents who hold a general life, accident, and health license under Chapter 4054, Insurance Code, regarding the health insurance premium payment reimbursement program and the eligibility requirements for participation in the program. Participation in a training program established under this subsection is voluntary, and a general life, accident, and health agent who successfully completes the training is entitled to receive continuing education credit under Subchapter B, Chapter 4004, Insurance Code, in accordance with rules adopted by the commissioner of insurance.

(m) The commission may pay a referral fee, in an amount determined by the commission, to each general life, accident, and health agent who, after completion of the training program established under Subsection (l), successfully refers an eligible individual to the commission for enrollment in a group health benefit plan under this section.

(n) The commission shall develop procedures by which an individual described by Subsection (e-1) who enrolls in a group health benefit plan may, at the individual's option, resume receiving benefits and services under the medical assistance program instead of the group health benefit plan.

(o) The commission shall develop procedures which ensure that, prior to allowing an individual described by Subsection (e-1) to enroll in a group health benefit plan or allowing the parent or caretaker of an individual described by Subsection (e-1) under the age of 21 to enroll that child in a group health benefit plan:

(1) the individual must receive counseling informing them that for the period in which the individual is enrolled in the group health benefit plan:

(A) the individual shall be limited to the health benefits coverage provided under the health benefit plan in which the individual is enrolled;

(B) the individual may not receive any benefits or services under the medical assistance program other than the premium payment as provided by Subsection (f-1);

(C) the individual shall pay the difference between the required premiums and the premium payment as provided by Subsection (f-1) and shall also pay all deductibles, copayments, coinsurance, and other cost-sharing obligations imposed on the individual under the group health benefit plan; and

(D) the individual may, at the individual's option through procedures developed by the commission, resume receiving benefits and services under the medical assistance program instead of the group health benefit plan; and

(2) the individual must sign and the commission shall retain a copy of a waiver indicating the individual has provided informed consent.

(p) The executive commissioner shall adopt rules as necessary to implement this section.

Added by Acts 2001, 77th Leg., ch. 1165, Sec. 2, eff. Aug. 31, 2001.
Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.07(b), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.129, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.130, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 18, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.117, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 945 (S.B. 207), Sec. 13(2), eff. September 1, 2015.

Sec. 32.0423. RECOVERY OF REIMBURSEMENTS FROM HEALTH COVERAGE PROVIDERS. To the extent allowed by federal law, a health care service provider must seek reimbursement from available third-party health coverage or insurance that the provider knows about or should know about before billing the medical assistance program.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.106(a), eff. Sept. 1, 2003.

Sec. 32.0424. REQUIREMENTS OF THIRD-PARTY HEALTH INSURERS. (a) A third-party health insurer is required to provide to the commission, on the commission's request, information in a form prescribed by the executive commissioner necessary to determine:

(1) the period during which an individual entitled to medical assistance, the individual's spouse, or the individual's dependents may be, or may have been, covered by coverage issued by the health insurer;

(2) the nature of the coverage; and

(3) the name, address, and identifying number of the health plan under which the person may be, or may have been, covered.

(b) A third-party health insurer shall accept the state's right of recovery and the assignment under Section 32.033 to the state of any right of an individual or other entity to payment from the third-party health insurer for an item or service for which payment was made under the medical assistance program.

(c) A third-party health insurer shall respond to any inquiry by the commission regarding a claim for payment for any health care item or service reimbursed by the commission under the medical assistance program not later than the third anniversary of the date the health care item or service was provided.

(d) A third-party health insurer may not deny a claim submitted by the commission or the commission's designee for which payment was made under the medical assistance program solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point of service that is the basis of the claim, if:

(1) the claim is submitted by the commission or the commission's designee not later than the third anniversary of the date the item or service was provided; and

(2) any action by the commission or the commission's designee to enforce the state's rights with respect to the claim is commenced not later than the sixth anniversary of the date the commission or the commission's designee submits the claim.

(e) This section does not limit the scope or amount of information required by Section 32.042.

Added by Acts 2009, 81st Leg., R.S., Ch. 745 (S.B. 531), Sec. 3, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.118, eff. April 2, 2015.

Sec. 32.04242. PAYOR OF LAST RESORT. The executive commissioner shall adopt rules to ensure, to the extent allowed by federal law, that the Medicaid program:

(1) is the payor of last resort; and

(2) provides reimbursement for services, including long-term care services, only if, and to the extent, other adequate public or private sources of payment are not available.

Added by Acts 2011, 82nd Leg., R.S., Ch. 821 (H.B. 2722), Sec. 1, eff. June 17, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.119, eff. April 2, 2015.

Sec. 32.0425. REIMBURSEMENT FOR WHEELED MOBILITY SYSTEMS. (a) In this section:

(1) "Qualified rehabilitation professional" means a person who:

(A) holds a certification as an assistive technology professional or a rehabilitation engineering technologist issued by, and is in good standing with, the Rehabilitation Engineering and Assistive Technology Society of North America, provided that the requirements for that certification are at least as stringent as the requirements in effect on January 1, 2009; or

(B) is otherwise qualified to conduct the professional activities of a person who holds a certification described by

Paragraph (A), as determined by rules adopted by the executive commissioner.

(2) "Wheeled mobility system" means an item of durable medical equipment that is a customized powered or manual mobility device or a feature or component of the device, including the following features and components:

(A) seated positioning components;

(B) powered or manual seating options;

(C) specialty driving controls;

(D) multiple adjustment frame;

(E) nonstandard performance options; and

(F) other complex or specialized components.

(b) The commission may provide medical assistance reimbursement for the provision of, or the performance of a major modification to, a wheeled mobility system only if:

(1) the system is delivered to a recipient by a medical assistance provider that is, or directly employs or contracts with, a qualified rehabilitation professional and that professional was present and involved in any clinical assessment of the recipient that is required for obtaining the system; and

(2) at the time the wheeled mobility system is delivered to the recipient, the qualified rehabilitation professional:

(A) is present for and directs a fitting to ensure that the system is appropriate for the recipient; and

(B) verifies that the system functions relative to the recipient.

(c) The executive commissioner shall adopt rules specifying:

(1) the scope, including any required components, of the fitting and verification of functionality required by Subsection (b);

(2) documentation of the fitting and verification of functionality that must be submitted as part of a claim for reimbursement for the provision or modification of a wheeled mobility system; and

(3) the appropriate reimbursement methodology for compensating the evaluation and final fitting services provided by qualified rehabilitation professionals involved in the provision or modification of wheeled mobility systems.

Added by Acts 2009, 81st Leg., R.S., Ch. 832 (S.B. 1804), Sec. 1, eff. September 1, 2009.

Redesignated from Human Resources Code, Section 32.0424 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(32), eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.120, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.121, eff. April 2, 2015.

Sec. 32.043. PROCUREMENT RULES FOR PUBLIC DISPROPORTIONATE SHARE HOSPITALS. (a) A public hospital that is designated as a disproportionate share hospital during a fiscal year may acquire goods and services in accordance with this section during the succeeding fiscal year. A procurement of goods or services made in accordance with this section is considered to satisfy any state law requiring purchases by competitive bidding or competitive proposals.

(b) The public hospital shall acquire goods or services by any procurement method approved by the commission that provides the best value to the public hospital. The public hospital shall document that it considered all relevant factors under Subsection (c) in making the acquisition.

(c) The public hospital may consider all relevant factors in determining the best value, including:

(1) any installation costs;

(2) the delivery terms;

(3) the quality and reliability of the vendor's goods or services;

(4) the extent to which the goods or services meet the public hospital's needs;

(5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience and responsibility, and the vendor's ability to provide reliable maintenance agreements;

(6) the impact on the ability of the public hospital to comply with laws and rules relating to historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities;

(7) the total long-term cost to the public hospital of

acquiring the vendor's goods or services;

(8) the cost of any employee training associated with the acquisition;

(9) the effect of an acquisition on the public hospital's productivity;

(10) the acquisition price; and

(11) any other factor relevant to determining the best value for the public hospital in the context of a particular acquisition.

(d) The state auditor or the commission may audit the public hospital's acquisitions of goods and services to the extent that state money or federal money appropriated by the state is used to acquire the goods and services.

(e) The public hospital may adopt rules and procedures for the acquisition of goods and services under this section.

Added by Acts 1997, 75th Leg., ch. 1045, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.122, eff. April 2, 2015.

Sec. 32.044. GROUP PURCHASING FOR DISPROPORTIONATE SHARE HOSPITALS. (a) A public or private hospital that is designated as a disproportionate share hospital during a fiscal year may purchase goods and services in accordance with this section during the succeeding fiscal year. A purchase of goods or services made in accordance with this section is considered to satisfy any state law requiring purchases by competitive bidding or competitive proposals.

(b) A state or local governmental entity may allow the public or private hospital to purchase goods or services by participating in one or more of the entity's contracts for the purchase of goods or services.

(c) The public or private hospital may purchase goods or services in accordance with this section through a group purchasing program that offers discount prices to hospitals or other providers of health care services.

(d) The executive commissioner with the assistance of the comptroller shall adopt rules under this section that allow the public or private hospital to make purchases through group purchasing

programs except when the commission has reason to believe that a better value is available through another procurement method.

(e) This section applies to private hospitals only to the extent it authorizes private hospitals to participate in purchasing contracts with governmental entities or to satisfy any state law that may require goods and services the hospital purchases to be competitively procured. This section does not impose new purchasing requirements on a private hospital, except to the extent that the private hospital agrees to be bound by the terms of a contract that is authorized by this section and that it chooses to enter. This section does not affect any explicit or implicit authority that a private hospital has under other law to participate in a group purchasing program or to participate in a purchasing contract with a public entity.

Added by Acts 1997, 75th Leg., ch. 1045, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.95, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.123, eff. April 2, 2015.

Sec. 32.045. ENHANCED REIMBURSEMENT. The commission shall develop a procedure for:

(1) identifying each service provided under the medical assistance program for which the state is eligible to receive enhanced reimbursement of costs from the federal government; and

(2) ensuring that the state seeks the highest level of federal reimbursement available for each service provided.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 1.04(a), eff. June 20, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.124, eff. April 2, 2015.

Sec. 32.046. SANCTIONS AND PENALTIES RELATED TO THE PROVISION OF PHARMACY PRODUCTS. (a) The executive commissioner shall adopt rules governing sanctions and penalties that apply to a provider who

participates in the vendor drug program or is enrolled as a network pharmacy provider of a managed care organization contracting with the commission under Chapter 533, Government Code, or its subcontractor and who submits an improper claim for reimbursement under the program.

(b) The commission shall notify each provider in the vendor drug program that the provider is subject to sanctions and penalties for submitting an improper claim.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 3.02, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.02(k), eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.124, eff. April 2, 2015.

Sec. 32.0461. VENDOR DRUG PROGRAM; COMPETITIVE BIDDING. (a) The commission shall seek competitive bids for the claims processing function of the vendor drug program.

(b) The commission shall require any person seeking to contract for services under this section to comply with competitive bidding procedures adopted by the executive commissioner.

(c) The commission may award a contract under this section to another person only if the commission determines that the provision of services under that contract would be more cost-effective and the time to process claims under the contract would be the same as or faster than having employees of the commission continue to process claims.

(d) The commission may consult with the comptroller in administering this section.

Added by Acts 1999, 76th Leg., ch. 103, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.124, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 24 (S.B. 706), Sec. 4, eff. September 1, 2017.

Sec. 32.0462. VENDOR DRUG PROGRAM; PRICING STANDARD. (a) Notwithstanding any other provision of state law, the commission shall:

(1) consider a nationally recognized, unbiased pricing standard for prescription drugs in determining reimbursement amounts under the vendor drug program; and

(2) update reimbursement amounts under the vendor drug program at least weekly.

(b) The executive commissioner shall adopt rules implementing this section. In adopting rules, the executive commissioner shall ensure that implementation of this section does not adversely affect the amount of federal funds available to the state for providing benefits under the vendor drug program.

Added by Acts 2003, 78th Leg., ch. 1251, Sec. 10, eff. June 20, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.124, eff. April 2, 2015.

Sec. 32.0463. MEDICATIONS AND MEDICAL SUPPLIES. The executive commissioner may adopt rules establishing procedures for the purchase and distribution of medically necessary, over-the-counter medications and medical supplies under the medical assistance program that were previously being provided by prescription if the executive commissioner determines it is more cost-effective than obtaining those medications and medical supplies through a prescription.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.107(a), eff. Sept. 1, 2003.
Renumbered from Human Resources Code, Section 32.0462 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(58), eff. September 1, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.124, eff. April 2, 2015.

Sec. 32.047. PROHIBITION OF CERTAIN HEALTH CARE SERVICE PROVIDERS. (a) A person is permanently prohibited from providing or arranging to provide health care services under the medical

assistance program if:

(1) the person is convicted of an offense arising from a fraudulent act under the program; and

(2) the person's fraudulent act results in injury to an elderly person, as defined by Section 48.002(a)(1), a person with a disability, as defined by Section 48.002(a)(8)(A), or a person younger than 18 years of age.

(b) The executive commissioner shall adopt rules for prohibiting a person from participating in the medical assistance program as a health care provider for a reasonable period, as determined by the executive commissioner, if the person:

(1) fails to repay overpayments under the program; or

(2) owns, controls, manages, or is otherwise affiliated with and has financial, managerial, or administrative influence over a provider who has been suspended or prohibited from participating in the program.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 3.03, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 30, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.124, eff. April 2, 2015.

Sec. 32.048. MANAGED CARE INFORMATION AND TRAINING PLAN. (a) Subject to the availability of funds, the commission shall develop a comprehensive plan to provide information and training about the requirements of a managed care plan to recipients of medical assistance, providers of medical assistance, local health and human services agencies, and other interested parties in each service area in which the commission provides medical assistance through a managed care plan.

(b) The commission shall include in the comprehensive plan:

(1) information and training at regular intervals determined by the commission; and

(2) performance measures to evaluate the effectiveness of the information and training.

(c) In developing the comprehensive plan, the commission shall

consult with the Medicaid medical care advisory committee.

Added by Acts 1997, 75th Leg., ch. 618, Sec. 1, eff. June 11, 1997. Renumbered from Sec. 32.043 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(74), eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 23(6), eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(108), eff. June 17, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.124, eff. April 2, 2015.

Sec. 32.049. MANAGED CARE CONTRACT COMPLIANCE. (a) The commission shall review each managed care organization that has contracted with the commission to provide medical assistance to medical assistance recipients through a managed care plan issued by the organization to determine whether the organization is prepared to meet its contractual obligations.

(b)(1) The commission shall require each managed care organization that has contracted with the commission to submit an implementation plan not later than the 90th day before the date on which the managed care organization plans to begin to provide medical assistance through a managed care plan in a service area. The implementation plan must include:

(A) specific staffing patterns by function for all operations, including enrollment, information systems, member services, quality improvement, claims management, case management, and provider and enrollee training; and

(B) specific time frames for demonstrating preparedness for implementation before the date on which the managed care organization plans to begin to provide medical assistance through a managed care plan in a service area.

(2) The commission shall respond within 10 working days if the implementation plan does not adequately meet preparedness guidelines.

(3) The commission shall require each managed care organization that has contracted with the commission to submit status reports on the implementation plan not later than the 60th day and

the 30th day before the date on which the managed care organization plans to begin to provide medical assistance through a managed care plan in a service area and every 30th day after the managed care organization begins to provide medical assistance through a managed care plan in a service area until the 180th day of operations.

(c) The commission shall conduct a compliance and readiness review of each managed care organization that contracts with the state not later than the 15th day before the date on which the process of enrolling recipients in a managed care plan issued by the managed care organization is to begin in a service area and again not later than the 15th day before the date on which the managed care organization plans to begin to provide medical assistance through a managed care plan in that service area. The review shall include an on-site inspection and tests of service authorization and claims payment systems, complaint processing systems, and any other process or system required by the contract.

(d) The commission may delay enrollment of medical assistance recipients in a managed care plan if the review reveals that the managed care organization is not prepared to meet its contractual obligations.

Added by Acts 1997, 75th Leg., ch. 692, Sec. 1, eff. June 17, 1997. Renumbered from Sec. 32.043 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(75), eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.124, eff. April 2, 2015.

Sec. 32.050. DUAL MEDICAID AND MEDICARE COVERAGE. (a) At least annually the commission shall identify each individual receiving medical assistance under the medical assistance program who is eligible to receive similar assistance under the Medicare program.

(b) The commission shall analyze claims submitted for payment for a service provided under the medical assistance program to an individual identified under Subsection (a) to ensure that payment is sought first under the Medicare program to the extent allowed by law.

(c) For an ambulance service provided to an individual who is eligible under the medical assistance program and Medicare, the medical assistance program shall pay the Medicare deductibles and

coinsurance.

(d) Except as provided by Subsection (e), a nursing facility, a home health services provider, or any other similar long-term care services provider that is Medicare-certified and provides care to individuals who are eligible for Medicare must:

(1) seek reimbursement from Medicare before billing the medical assistance program for services provided to an individual identified under Subsection (a); and

(2) as directed by the commission, appeal Medicare claim denials for payment services provided to an individual identified under Subsection (a).

(e) A home health services provider is not required to seek reimbursement from Medicare before billing the medical assistance program for services provided to a person who is eligible for Medicare and who:

(1) has been determined as not being homebound; or

(2) meets other criteria determined by the executive commissioner.

(f) Repealed by Acts 2005, 79th Leg., Ch. 1067, Sec. 1, eff. June 18, 2005.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 1.03(a), eff. June 20, 1997. Amended by Acts 1999, 76th Leg., ch. 710, Sec. 1. Renumbered from Sec. 32.043 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(76), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.108, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1067 (H.B. 1502), Sec. 1, eff. June 18, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.125, eff. April 2, 2015.

Sec. 32.051. MISDIRECTED BILLING. To the extent authorized by federal law, the commission shall develop a procedure for the state to:

(1) match claims for payment for medical assistance provided under the medical assistance program against data available from other entities, including the United States Department of Veterans Affairs and nursing facilities, to determine alternative

responsibility for payment of the claims; and

(2) ensure that the appropriate entity bears the cost of a claim.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 1.03(a), eff. June 20, 1997. Renumbered from Sec. 32.044 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(77), eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.126, eff. April 2, 2015.

Sec. 32.052. WAIVER PROGRAMS FOR CHILDREN WITH DISABILITIES OR SPECIAL HEALTH CARE NEEDS. (a) This section applies to services under the medical assistance program provided to children younger than 23 years of age with disabilities or special health care needs under a waiver granted under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)).

(b) In this section, "permanency planning" means a philosophy and planning process designed to achieve family support through the facilitation of a permanent living arrangement that has as its primary feature an enduring and nurturing parental relationship.

(c) In developing and providing services subject to this section, the commission shall:

(1) fully assess a child at the time the child applies for assistance to determine all appropriate services for the child under the medical assistance program, including both waiver and nonwaiver services;

(2) ensure that permanency planning is implemented to identify and establish the family support necessary to maintain a child's permanent living arrangement with a family;

(3) implement a transition and referral process to prevent breaks in services when a child is leaving a medical assistance waiver program or moving between service delivery systems due to a change in the child's disability status or needs, aging out of the current delivery system, or moving between geographic areas within the state;

(4) identify and provide core services addressing a child's developmental needs and the needs of the child's family to strengthen and maintain the child's family;

(5) provide for comprehensive coordination and use of available services and resources in a manner that ensures support for families in keeping their children at home;

(6) ensure that eligibility requirements, assessments for service needs, and other components of service delivery are designed to be fair and equitable for all families, including families with parents who work outside the home; and

(7) provide for a broad array of service options and a reasonable choice of service providers.

(d) To ensure that services subject to this section are cost neutral and not duplicative of other services provided under the medical assistance program, the commission shall coordinate the provision of services subject to this section with services provided under the Texas Health Steps Comprehensive Care Program.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(41), eff. April 2, 2015.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(41), eff. April 2, 2015.

Added by Acts 1999, 76th Leg., ch. 1012, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.127, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(41), eff. April 2, 2015.

Sec. 32.053. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE). (a) The commission, as an integral part of the medical assistance program, shall develop and implement a program of all-inclusive care for the elderly (PACE) in accordance with Section 4802 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33), as amended. The commission shall provide medical assistance to a participant in the PACE program in the manner and to the extent authorized by federal law.

(b) The executive commissioner shall adopt rules as necessary to implement this section. In adopting rules, the executive commissioner shall:

(1) use the Bienvivir Senior Health Services of El Paso initiative as a model for the program;

(2) ensure that a person is not required to hold a certificate of authority as a health maintenance organization under Chapter 843, Insurance Code, to provide services under the PACE program;

(3) ensure that participation in the PACE program is available as an alternative to enrollment in a Medicaid managed care plan under Chapter 533, Government Code, for eligible recipients, including recipients eligible for assistance under both the medical assistance and Medicare programs;

(4) ensure that managed care organizations that contract under Chapter 533, Government Code, consider the availability of the PACE program when considering whether to refer a recipient to a nursing facility or other long-term care facility; and

(5) establish protocols for the referral of eligible persons to the PACE program.

(c) The commission may not contract with a person to provide services under the PACE program unless the person:

(1) purchases reinsurance in an amount determined by the commission that is sufficient to ensure the person's continued solvency; or

(2) has the financial resources sufficient to cover expenses in the event of the person's insolvency.

(d) To demonstrate sufficiency of financial resources for purposes of Subsection (c)(2), a person may use cash reserves, a letter of credit, a guarantee of a company affiliated with the person, or a combination of those arrangements. The amount of a person's financial arrangement must be at least equal to the sum of:

(1) the total capitation revenue for one month; and

(2) the average monthly payment of operating expenses.

(e) The Department of Aging and Disability Services and area agencies on aging shall develop and implement a coordinated plan to promote PACE program sites operating under this section. The executive commissioner shall adopt policies and procedures, including operating guidelines, to ensure that caseworkers and any other appropriate department staff discuss the benefits of participating in the PACE program with long-term care clients.

(f) The commission shall consider the PACE program as a community-based service option under any "Money Follows the Person" demonstration project or other initiative that is designed to eliminate barriers or mechanisms that prevent or restrict the

flexible use of funds under the medical assistance program to enable a recipient to receive long-term services or supports in a setting of the recipient's choice.

(g) A PACE program site may coordinate with entities that are eligible to obtain discount prescription drug prices under Section 340B, Public Health Service Act (42 U.S.C. Section 256b), as necessary to enable the PACE program site to obtain those discounts.

(h) The executive commissioner shall adopt a standard reimbursement methodology for the payment of all PACE organizations for purposes of encouraging a natural increase in the number of PACE program sites throughout the state.

(i) To the extent allowed by the General Appropriations Act, the commission may transfer general revenue funds appropriated to the commission for the medical assistance program to the Department of Aging and Disability Services to provide PACE services in PACE program service areas to eligible recipients whose medical assistance benefits would otherwise be delivered as home and community-based services through the STAR + PLUS Medicaid managed care program and whose personal incomes are at or below the level of income required to receive Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq.

Added by Acts 2001, 77th Leg., ch. 170, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1168 (H.B. 2903), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1310 (S.B. 7), Sec. 6.08, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.128, eff. April 2, 2015.

Sec. 32.0531. PACE PROGRAM TEAM. (a) The Department of Aging and Disability Services shall establish a PACE program team composed of experienced personnel. The team is responsible for:

(1) increasing public attention and awareness of the availability of PACE program sites;

(2) increasing the number of PACE program sites operating in this state; and

(3) serving as a liaison with the state and federal

agencies responsible for administering the PACE program, participants in the program, and PACE program sites.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1168 (H.B. 2903), Sec. 2, eff. September 1, 2011.

Sec. 32.0532. PACE PROGRAM REIMBURSEMENT METHODOLOGY. (a) In this section and Sections 32.0533 and 32.0534, "PACE program" means the program of all-inclusive care for the elderly (PACE) established under Section 32.053.

(b) In setting the reimbursement rates under the PACE program, the executive commissioner shall ensure that:

(1) reimbursement rates for providers under the program are adequate to sustain the program; and

(2) the program is cost-neutral or costs less when compared to the cost to serve a population in the STAR + PLUS Medicaid managed care program that is comparable in:

(A) age;

(B) eligibility factors, including:

(i) income level;

(ii) health status; and

(iii) impairment level;

(C) geographic location;

(D) living environment; and

(E) other factors determined to be necessary.

(c) For purposes of Subsection (b)(2), the commission shall consider data on the cost of services provided to comparable recipients enrolled in the STAR + PLUS Medicaid managed care program to calculate the upper payment limit component of the PACE program reimbursement rates. The cost of those services includes the Medicaid capitation payment per recipient and Medicaid payments made on a fee-for-service basis for services not covered by the capitation payment.

Added by Acts 2015, 84th Leg., R.S., Ch. 823 (H.B. 3823), Sec. 1, eff. June 17, 2015.

Sec. 32.0533. DATA COLLECTION: PACE AND STAR + PLUS MEDICAID MANAGED CARE PROGRAMS. The commission, in collaboration with the

Department of Aging and Disability Services and appropriate stakeholder groups, shall modify the methods by which the commission and the department collect data for evaluation of the PACE and STAR + PLUS Medicaid managed care programs to allow comparison of recipient outcomes between the programs. The modification to data collection methods must include changes to:

(1) survey instruments that measure recipient experience;

(2) compilation of the same or similar complaint, disenrollment, and appeals data; and

(3) compilation of the same or similar hospital admissions and readmissions data.

Added by Acts 2015, 84th Leg., R.S., Ch. 823 (H.B. 3823), Sec. 1, eff. June 17, 2015.

Sec. 32.054. DENTAL SERVICES. (a) For purposes of this section, the "dental necessity" for a dental service or product is based on whether a prudent dentist, acting in accordance with generally accepted practices of the professional dental community and within the American Dental Association's Parameters of Care for Dentistry and within the quality assurance criteria of the American Academy of Pediatric Dentistry, as applicable, would provide the service or product to a patient to diagnose, prevent, or treat orofacial pain, infection, disease, dysfunction, or disfiguration.

(b) A dental service or product may not be provided under the medical assistance program unless there is a dental necessity for the service or product.

(c) In providing dental services under the medical assistance program, the commission shall:

(1) ensure that a stainless steel crown is not used as a preventive measure;

(2) require a dentist participating in the medical assistance program to document, through x-rays or other methods established by commission rule, the dental necessity for a stainless steel crown before the crown is applied;

(3) require a dentist participating in the medical assistance program to comply with a minimum standard of documentation and recordkeeping for each of the dentist's patients, regardless of whether the patient's costs are paid privately or through the medical

assistance program;

(4) replace the 15-point system used for determining the dental necessity for hospitalization and general anesthesia with a more objective and comprehensive system developed by the commission; and

(5) take all necessary action to eliminate unlawful acts described by Section 36.002 in the provision of dental services under the medical assistance program, including:

(A) aggressively investigating and prosecuting any dentist who abuses the system for reimbursement under the medical assistance program; and

(B) conducting targeted audits of dentists whose billing activities under the medical assistance program are excessive or otherwise inconsistent with the billing activities of other similarly situated dentists.

(d) In setting reimbursement rates for dental services under the medical assistance program, the executive commissioner shall:

(1) provide for reimbursement of a behavior management fee only if:

(A) the patient receiving dental treatment has been previously diagnosed with an intellectual or developmental disability or a mental disability or disorder, and extraordinary behavior management techniques are necessary for therapeutic dental treatment because of the patient's uncooperative behavior; and

(B) the dentist includes in the patient's records and on the claim form for reimbursement a narrative description of:

(i) the specific behavior problem demonstrated by the patient that required the use of behavior management techniques;

(ii) the dentist's initial efforts to manage the patient's behavior through routine behavior management techniques; and

(iii) the dentist's extraordinary behavior management techniques subsequently required to manage the patient's behavior; and

(2) redistribute amounts made available through limitation of the behavior management fee under Subdivision (1) to other commonly billed dental services for which adequate accountability measures exist.

(e) The commission shall develop the minimum standard described by Subsection (c)(3) in cooperation with the State Board of Dental

Examiners.

Added by Acts 2001, 77th Leg., ch. 1470, Sec. 1.01, eff. Sept. 1, 2001. Renumbered from Human Resources Code Sec. 32.053 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(98), eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.129, eff. April 2, 2015.

Sec. 32.055. CATASTROPHIC CASE MANAGEMENT. (a) The commission shall develop and implement a catastrophic case management system to be used in providing medical assistance to persons with catastrophic health problems.

(b) The system must provide for the assignment of a case manager to a recipient of medical assistance with catastrophic health problems that are likely to:

(1) require the services of multiple, specialized health care providers; and

(2) result in major medical costs.

(c) The commission shall identify the services to be provided by a case manager assigned under the system. The services must include assessment of the recipient's needs and coordination of all available medical services and payment options. The services may include other support services such as:

(1) assistance with making arrangements to receive care from medical facilities;

(2) assistance with travel and lodging in connection with receipt of medical care;

(3) education of the recipient and the recipient's family members regarding the nature of the recipient's health problems;

(4) referral to appropriate support groups; and

(5) any other service likely to result in better care provided in a cost-effective manner.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(109), eff. June 17, 2011.

Added by Acts 2001, 77th Leg., ch. 408, Sec. 1, eff. Sept. 1, 2001. Renumbered from Human Resources Code Sec. 32.053 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(99), eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 23(7), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(109), eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.130, eff. April 2, 2015.

Sec. 32.0551. OPTIMIZATION OF CASE MANAGEMENT SYSTEMS. The commission shall:

(1) create and coordinate staffing and other administrative efficiencies for case management initiatives across the commission and health and human services agencies; and

(2) optimize federal funding revenue sources and maximize the use of state funding resources for case management initiatives across the commission and health and human services agencies.

Added by Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 8(a), eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.131, eff. April 2, 2015.

Sec. 32.056. COMPLIANCE WITH TEXAS HEALTH STEPS COMPREHENSIVE CARE PROGRAM. The executive commissioner by rule shall develop procedures to ensure that recipients of medical assistance who are eligible for Texas Health Steps Comprehensive Care Program comply with the regimen of care prescribed by the program.

Added by Acts 2001, 77th Leg., ch. 584, Sec. 5, eff. Jan. 1, 2002. Renumbered from Human Resources Code Sec. 32.053 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(100), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.131, eff. April 2, 2015.

Sec. 32.0561. MATERNAL DEPRESSION SCREENING. (a) In this section, "maternal depression" means depression of any severity with postpartum onset.

(b) The commission shall provide medical assistance reimbursement for a maternal depression screening for a recipient's mother, regardless of whether the mother is also a recipient, that is performed during a covered examination for the recipient under the Texas Health Steps Comprehensive Care Program that occurs before the recipient's first birthday.

(c) The executive commissioner shall adopt rules necessary to implement this section. The rules must be based on:

(1) clinical and empirical evidence concerning maternal depression; and

(2) information provided by relevant physicians and behavioral health organizations.

(d) The commission shall seek, accept, and spend any federal funds that are available for the purposes of this section, including priority funding authorized by Section 317L-1 of the Public Health Service Act (42 U.S.C. Section 201 et seq.), as added by the 21st Century Cures Act (Pub. L. No. 114-255).

Added by Acts 2017, 85th Leg., R.S., Ch. 852 (H.B. 2466), Sec. 3, eff. September 1, 2017.

Sec. 32.057. CONTRACTS FOR DISEASE MANAGEMENT PROGRAMS. (a) The commission shall request contract proposals from providers of disease management programs to provide program services to recipients of medical assistance who:

(1) have a disease or other chronic health condition, such as heart disease, hemophilia, chronic kidney disease and its medical complications, diabetes, respiratory illness, end-stage renal disease, HIV infection, or AIDS, that the commission determines is a disease or condition that needs disease management; and

(2) are not eligible to receive those services under a Medicaid managed care plan.

(b) The commission may contract with a public or private entity to:

(1) write the requests for proposals;

(2) determine how savings will be measured;

(3) identify populations that need disease management;

(4) develop appropriate contracts; and

(5) assist the commission in:

(A) developing the content of disease management programs; and

(B) obtaining funding for those programs.

(c) The executive commissioner by rule shall prescribe the minimum requirements a provider of a disease management program must meet to be eligible to receive a contract under this section. The provider must, at a minimum, be required to:

(1) use disease management approaches that are based on evidence-supported models, standards of care in the medical community, and clinical outcomes; and

(2) ensure that a recipient's primary care physician and other appropriate specialty physicians, or registered nurses, advanced practice nurses, or physician assistants specified and directed or supervised in accordance with applicable law by the recipient's primary care physician or other appropriate specialty physicians, become directly involved in the disease management program through which the recipient receives services.

(c-1) A managed care health plan that develops and implements a disease management program under Section 533.009, Government Code, and a provider of a disease management program under this section shall coordinate during a transition period beneficiary care for patients that move from one disease management program to another program.

(d) The commission may not award a contract for a disease management program under this section unless the contract includes a written guarantee of state savings on expenditures for the group of medical assistance recipients covered by the program.

(e) The commission may enter into a contract under this section with a comprehensive hemophilia diagnostic treatment center that receives funding through a maternal and child health services block grant under Section 501(a)(2), Social Security Act (42 U.S.C. Section 701(a)(2)), and the center shall be considered a disease management provider.

(f) Directly or through a provider of a disease management program that enters into a contract with the commission under this section, the commission shall, as appropriate and to the extent possible without cost to the state:

(1) identify recipients of medical assistance under this chapter or, at the discretion of the commission, enrollees in the child health plan under Chapter 62, Health and Safety Code, who are

eligible to participate in federally funded disease management research programs operated by research-based disease management providers; and

(2) assist and refer eligible persons identified by the commission under Subdivision (1) to participate in the research programs described by Subdivision (1).

Added by Acts 2003, 78th Leg., ch. 208, Sec. 1, eff. June 16, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 19(b), eff. September 1, 2005.
Renumbered from Human Resources Code, Section 32.059 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(59), eff. September 1, 2005.
Amended by:
Acts 2005, 79th Leg., Ch. 1047 (H.B. 1252), Sec. 2, eff. September 1, 2005.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.132, eff. April 2, 2015.

Sec. 32.058. LIMITATION ON MEDICAL ASSISTANCE IN CERTAIN ALTERNATIVE COMMUNITY-BASED CARE SETTINGS. (a) In this section:

(1) "Department" means the Department of Aging and Disability Services.

(2) "Medical assistance waiver program" means a program operated by the Department of Aging and Disability Services, other than the Texas home living waiver program, that provides services under a waiver granted in accordance with 42 U.S.C. Section 1396n(c).

(b) Except as provided by Subsection (c), (d), (e), or (f), the department may not provide services under a medical assistance waiver program to a person if the projected cost of providing those services over a 12-month period exceeds the individual cost limit specified in the medical assistance waiver program.

(c) The department shall continue to provide services under a medical assistance waiver program to a person who was receiving those services on September 1, 2005, at a cost that exceeded the individual cost limit specified in the medical assistance waiver program, if continuation of those services:

(1) is necessary for the person to live in the most

integrated setting appropriate to the needs of the person; and

(2) does not affect the department's compliance with the federal average per capita expenditure requirement of the medical assistance waiver program under 42 U.S.C. Section 1396n(c)(2)(D).

(d) The department may continue to provide services under a medical assistance waiver program, other than the home and community-based services program, to a person who is ineligible to receive those services under Subsection (b) and to whom Subsection (c) does not apply if:

(1) the projected cost of providing those services to the person under the medical assistance waiver program over a 12-month period does not exceed 133.3 percent of the individual cost limit specified in the medical assistance waiver program; and

(2) continuation of those services does not affect the department's compliance with the federal average per capita expenditure requirement of the medical assistance waiver program under 42 U.S.C. Section 1396n(c)(2)(D).

(e) The department may exempt a person from the cost limit established under Subsection (d)(1) for a medical assistance waiver program if the department determines that:

(1) the person's health and safety cannot be protected by the services provided within the cost limit established for the program under that subdivision; and

(2) there is no available living arrangement, other than one provided through the program or another medical assistance waiver program, in which the person's health and safety can be protected, as evidenced by:

(A) an assessment conducted by clinical staff of the department; and

(B) supporting documentation, including the person's medical and service records.

(f) The department may continue to provide services under the home and community-based services program to a person who is ineligible to receive those services under Subsection (b) and to whom Subsection (c) does not apply if the department makes, with regard to the person's receipt of services under the home and community-based services program, the same determinations required by Subsections (e)(1) and (2) in the same manner provided by Subsection (e) and determines that continuation of those services does not affect:

(1) the department's compliance with the federal average

per capita expenditure requirement of the home and community-based services program under 42 U.S.C. Section 1396n(c)(2)(D); and

(2) any cost-effectiveness requirements provided by the General Appropriations Act that limit expenditures for the home and community-based services program.

(g) The executive commissioner may adopt rules to implement Subsections (d), (e), and (f).

(h) If a federal agency determines that compliance with any provision in this section would make this state ineligible to receive federal funds to administer a program to which this section applies, a state agency may, but is not required to, implement that provision.

Added by Acts 2005, 79th Leg., Ch. 317 (S.B. 626), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 19(a), eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.133, eff. April 2, 2015.

Sec. 32.059. USE OF RESPIRATORY THERAPISTS FOR RESPIRATORY THERAPY SERVICES. The executive commissioner by rule shall require that respiratory therapy services for ventilator-dependent persons furnished as part of a plan of care under this chapter be provided by a respiratory care practitioner authorized to practice respiratory care under Chapter 604, Occupations Code, when:

(1) respiratory therapy is determined by the recipient's treating physician to be the most effective method of treatment; and

(2) the use of a respiratory care practitioner is practicable and cost-neutral or cost-effective.

Acts 2003, 78th Leg., ch. 1167, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.134, eff. April 2, 2015.

Sec. 32.061. COMMUNITY ATTENDANT SERVICES PROGRAM. (a) Any home and community-based services that the commission provides under Section 1929, Social Security Act (42 U.S.C. Section 1396t) and its

subsequent amendments to functionally disabled individuals who have income that exceeds the limit established by federal law for Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.) and its subsequent amendments shall be provided through the community attendant services program.

(b) In determining an applicant's eligibility for home and community-based services described by Subsection (a), the commission shall exclude $20 of unearned or earned income from the applicant's monthly income.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.110, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 1(a), eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.135, eff. April 2, 2015.

Sec. 32.062. ADMISSIBILITY OF CERTAIN EVIDENCE RELATING TO NURSING INSTITUTIONS. (a) The following are not admissible as evidence in a civil action:

(1) any finding by the Department of Aging and Disability Services that an institution licensed under Chapter 242, Health and Safety Code, has violated a standard for participation in the medical assistance program under this chapter; or

(2) the fact of the assessment of a monetary penalty against an institution under Section 32.021 or the payment of the penalty by an institution.

(b) This section does not apply in an enforcement action in which the state or an agency or political subdivision of the state is a party.

(c) Notwithstanding any other provision of this section, evidence described by Subsection (a) is admissible as evidence in a civil action only if:

(1) the evidence relates to a material violation of this chapter or a rule adopted under this chapter or assessment of a monetary penalty with respect to:

(A) the particular incident and the particular individual whose personal injury is the basis of the claim being

brought in the civil action; or

(B) a finding by the Department of Aging and Disability Services that directly involves substantially similar conduct that occurred at the institution within a period of one year before the particular incident that is the basis of the claim being brought in the civil action;

(2) the evidence of a material violation has been affirmed by the entry of a final adjudicated and unappealable order of the Department of Aging and Disability Services after formal appeal; and

(3) the record is otherwise admissible under the Texas Rules of Evidence.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 16.01, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1120 (H.B. 1218), Sec. 3, eff. September 1, 2009.
Redesignated from Human Resources Code, Section 32.060 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(33), eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.136, eff. April 2, 2015.

Sec. 32.063. THIRD-PARTY BILLING VENDORS. (a) A third-party billing vendor may not submit a claim with the commission for reimbursement on behalf of a provider of medical services under the medical assistance program unless the vendor has entered into a contract with the commission authorizing that activity.

(b) To the extent practical, the contract shall contain provisions comparable to the provisions contained in contracts between the commission and providers of medical services, with an emphasis on provisions designed to prevent fraud or abuse under the medical assistance program. At a minimum, the contract must require the third-party billing vendor to:

(1) provide documentation of the vendor's authority to bill on behalf of each provider for whom the vendor submits claims;

(2) submit a claim in a manner that permits the commission to identify and verify the vendor, any computer or telephone line

used in submitting the claim, any relevant user password used in submitting the claim, and any provider number referenced in the claim; and

(3) subject to any confidentiality requirements imposed by federal law, provide the commission, the office of the attorney general, or authorized representatives with:

(A) access to any records maintained by the vendor, including original records and records maintained by the vendor on behalf of a provider, relevant to an audit or investigation of the vendor's services or another function of the commission or office of the attorney general relating to the vendor; and

(B) if requested, copies of any records described by Paragraph (A) at no charge to the commission, the office of the attorney general, or authorized representatives.

(c) On receipt of a claim submitted by a third-party billing vendor, the commission shall send a remittance notice directly to the provider referenced in the claim. The notice must:

(1) include detailed information regarding the claim submitted on behalf of the provider; and

(2) require the provider to review the claim for accuracy and notify the commission promptly regarding any errors.

(d) The commission shall take all action necessary, including any modifications of the commission's claims processing system, to enable the commission to identify and verify a third-party billing vendor submitting a claim for reimbursement under the medical assistance program, including identification and verification of any computer or telephone line used in submitting the claim, any relevant user password used in submitting the claim, and any provider number referenced in the claim.

(e) The commission shall audit each third-party billing vendor subject to this section at least annually to prevent fraud and abuse under the medical assistance program.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.111(a), eff. Jan. 1, 2004.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.137, eff. April 2, 2015.

Sec. 32.064. COST SHARING. (a) To the extent permitted under Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.), as amended, and any other applicable law or regulations, the executive commissioner shall adopt provisions requiring recipients of medical assistance to share the cost of medical assistance, including provisions requiring recipients to pay:

(1) an enrollment fee;

(2) a deductible; or

(3) coinsurance or a portion of the plan premium, if the recipients receive medical assistance under the Medicaid managed care program under Chapter 533, Government Code.

(b) Subject to Subsection (d), cost-sharing provisions adopted under this section shall ensure that families with higher levels of income are required to pay progressively higher percentages of the cost of the medical assistance.

(c) If cost-sharing provisions imposed under Subsection (a) include requirements that recipients pay a portion of the plan premium, the commission shall specify the manner in which the premium is paid. The commission may require that the premium be paid to the commission, an agency operating part of the medical assistance program, or the Medicaid managed care plan.

(d) Cost-sharing provisions adopted under this section may be determined based on the maximum level authorized under federal law and applied to income levels in a manner that minimizes administrative costs.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.112(a), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.138, eff. April 2, 2015.

Sec. 32.0641. RECIPIENT ACCOUNTABILITY PROVISIONS; COST-SHARING REQUIREMENT TO IMPROVE APPROPRIATE UTILIZATION OF SERVICES. (a) To the extent permitted under and in a manner that is consistent with Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.) and any other applicable law or regulation or under a federal waiver or other authorization, the executive commissioner shall adopt cost-sharing provisions that encourage personal accountability and

appropriate utilization of health care services, including a cost-sharing provision applicable to a recipient who chooses to receive a nonemergency medical service through a hospital emergency room.

(b) The commission may not seek a federal waiver or other authorization under this section that would:

(1) prevent a Medicaid recipient who has a condition requiring emergency medical services from receiving care through a hospital emergency room; or

(2) waive any provision under Section 1867, Social Security Act (42 U.S.C. Section 1395dd).

Added by Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 20, eff. September 1, 2007.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.09(b), eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.139, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 3.37, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 2.34, eff. January 1, 2016.

Sec. 32.067. DELIVERY OF COMPREHENSIVE CARE SERVICES TO CERTAIN RECIPIENTS OF MEDICAL ASSISTANCE. (a) In this section, "certified agency" and "home health service" have the meanings assigned by Section 142.001, Health and Safety Code.

(b) The commission shall assure that any agency licensed to provide home health services under Chapter 142, Health and Safety Code, and not only a certified agency licensed under that chapter, may provide home health services to individuals enrolled in the Texas Health Steps Comprehensive Care Program.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.204, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.140, eff. April 2, 2015.

Sec. 32.068. IN-PERSON EVALUATION REQUIRED FOR CERTAIN SERVICES. (a) A medical assistance provider may order or otherwise authorize the provision of home health services for a recipient only if the provider has conducted an in-person evaluation of the recipient within the 12-month period preceding the date the order or other authorization was issued.

(b) A physician, physician assistant, nurse practitioner, clinical nurse specialist, or certified nurse-midwife that orders or otherwise authorizes the provision of durable medical equipment for a recipient in accordance with Chapter 157, Occupations Code, and other applicable law, including rules, must certify on the order or other authorization that the person conducted an in-person evaluation of the recipient within the 12-month period preceding the date the order or other authorization was issued.

(c) The executive commissioner shall adopt rules necessary to implement this section. The executive commissioner may by rule adopt limited exceptions to the requirements of this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 31, eff. September 1, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.141, eff. April 2, 2015.

Sec. 32.069. CHRONIC KIDNEY DISEASE MANAGEMENT INITIATIVE. A provider of disease management programs under Section 32.057 shall develop a program to provide screening for and diagnosis and treatment of chronic kidney disease and its medical complications under the medical assistance program. The program must use generally recognized clinical practice guidelines and laboratory assessments that identify chronic kidney disease on the basis of impaired kidney function or the presence of kidney damage.

Added by Acts 2005, 79th Leg., Ch. 1047 (H.B. 1252), Sec. 3, eff. September 1, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.142, eff. April 2, 2015.

Sec. 32.070. AUDITS OF PROVIDERS. (a) In this section, "provider" means an individual, firm, partnership, corporation, agency, association, institution, or other entity that is or was approved by the commission to provide medical assistance under contract or provider agreement with the commission.

(b) The executive commissioner shall adopt rules governing the audit of providers in the medical assistance program.

(c) The rules must:

(1) provide that the agency conducting the audit must notify the provider, and the provider's corporate headquarters, if the provider is a pharmacy that is incorporated, of the impending audit not later than the seventh day before the date the field audit portion of the audit begins;

(2) limit the period covered by an audit to three years;

(3) provide that the agency conducting the audit must accommodate the provider's schedule to the greatest extent possible when scheduling the field audit portion of the audit;

(4) require the agency conducting the audit to conduct an entrance interview before beginning the field audit portion of the audit;

(5) provide that each provider must be audited under the same standards and parameters as other providers of the same type;

(6) provide that the audit must be conducted in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States or other appropriate standards;

(7) require the agency conducting the audit to conduct an exit interview at the close of the field audit portion of the audit with the provider to review the agency's initial findings;

(8) provide that, at the exit interview, the agency conducting the audit shall:

(A) allow the provider to:

(i) respond to questions by the agency;

(ii) comment, if the provider desires, on the initial findings of the agency; and

(iii) correct a questioned cost by providing additional supporting documentation that meets the auditing standards required by Subdivision (6) if there is no indication that the error or omission that resulted in the questioned cost demonstrates intent to commit fraud; and

(B) provide to the provider a preliminary audit report and a copy of any document used to support a proposed adjustment to the provider's cost report;

(9) permit the provider to produce documentation to address any exception found during an audit not later than the 10th day after the date the field audit portion of the audit is completed;

(10) provide that the agency conducting the audit shall deliver a draft audit report to the provider not later than the 60th day after the date the field audit portion of the audit is completed;

(11) permit the provider to submit to the agency conducting the audit a written management response to the draft audit report or to appeal the findings in the draft audit report not later than the 30th day after the date the draft audit report is delivered to the provider;

(12) provide that the agency conducting the audit shall deliver the final audit report to the provider not later than the 180th day after the date the field audit portion of the audit is completed or the date on which a final decision is issued on an appeal made under Subdivision (13), whichever is later; and

(13) establish an ad hoc review panel, composed of providers practicing or doing business in this state appointed by the executive commissioner, to administer an informal process through which:

(A) a provider may obtain an early review of an audit report or an unfavorable audit finding without the need to obtain legal counsel; and

(B) a recommendation to revise or dismiss an unfavorable audit finding that is found to be unsubstantiated may be made by the review panel to the agency, provided that the recommendation is not binding on the agency.

(d) This section does not apply to a computerized audit conducted using the Medicaid Fraud Detection System or an audit or investigation of fraud and abuse conducted by the Medicaid fraud control unit of the office of the attorney general, the office of the state auditor, the office of the inspector general, or the Office of Inspector General in the United States Department of Health and Human Services.

Added by Acts 2005, 79th Leg., Ch. 811 (S.B. 630), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.143, eff. April 2, 2015.

Sec. 32.0705. EXTERNAL AUDITS OF CERTAIN MEDICAID CONTRACTORS BASED ON RISK. (a) In this section, "Medicaid contractor" means an entity that:

(1) is not a health and human services agency as defined by Section 531.001, Government Code; and

(2) under a contract with the commission or otherwise on behalf of the commission, performs one or more administrative services in relation to the commission's operation of Medicaid, such as claims processing, utilization review, client enrollment, provider enrollment, quality monitoring, or payment of claims.

(b) The commission shall contract with an independent auditor to perform annual independent external financial and performance audits of any Medicaid contractor used in the commission's operation of Medicaid. The commission regularly shall review the Medicaid contracts and ensure that:

(1) the frequency and extent of audits of a Medicaid contractor under this section are based on the amount of risk to the state involved in the administrative services being performed by the contractor;

(2) audit procedures related to financial audits and performance audits are used consistently in audits under this section; and

(3) to the extent possible, audits under this section are completed in a timely manner.

(c) If another state agency succeeds to the commission's operation of a part of Medicaid for which the commission used a Medicaid contractor, the successor agency shall comply with this section with regard to the Medicaid contractor, including the requirement to contract with an independent auditor to perform the external financial and performance audits required by this section.

(d) An audit required by this section must be completed before the end of the fiscal year immediately following the fiscal year for which the audit is performed.

Added by Acts 1999, 76th Leg., ch. 1411, Sec. 1.10, eff. Sept. 1,

1999.
Transferred, redesignated and amended from Health and Safety Code, Section 12.0123 by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0016, eff. April 2, 2015.

Sec. 32.071. RECIPIENT AND PROVIDER EDUCATION. (a) The commission shall develop and implement a comprehensive medical assistance education campaign for recipients and providers to ensure that care is provided in such a way as to improve patient outcomes and maximize cost-effectiveness. The commission shall ensure that educational information developed under this section is demographically relevant and appropriate for each recipient or provider to whom the information is provided.

(b) The comprehensive medical assistance education campaign must include elements designed to encourage recipients to obtain, maintain, and use a medical home and to reduce their use of high-cost emergency department services for conditions that can be treated through primary care or nonemergency physicians or other providers. The campaign must include the dissemination of educational information through newsletters and emergency department staff members and at local health fairs, unless the department determines that these methods of dissemination are not effective in increasing recipients' appropriate use of the health care system.

(c) The commission shall evaluate whether certain risk groups may disproportionately increase their appropriate use of the health care system as a result of targeted elements of an education campaign. If the commission determines that certain risk groups will respond with more appropriate use of the system, the commission shall develop and implement the appropriate targeted educational elements.

(d) The commission shall develop a system for reviewing recipient prescription drug use and educating providers with respect to that drug use in a manner that emphasizes reducing inappropriate prescription drug use and the possibility of adverse drug interactions.

(e) The commission shall coordinate the medical assistance education campaign with area health education centers, federally qualified health centers, as defined by 42 U.S.C. Section 1396d(l)(2)(B), and other stakeholders who use public funds to educate recipients and providers about the health care system in this

state. The commission shall make every effort to maximize state funds by working through these partners to maximize receipt of additional federal funding for administrative and other costs.

(f) The commission shall coordinate with other state and local agencies to ensure that community-based health workers, health educators, state eligibility determination employees who work in hospitals and other provider locations, and promoters are used in the medical assistance education campaign, as appropriate.

(g) The commission shall ensure that all state agencies that work with recipients, all administrative persons who provide eligibility determination and enrollment services, and all service providers use the same curriculum for recipient and provider education, as appropriate.

Added by Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 9(a), eff. September 1, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.144, eff. April 2, 2015.

Sec. 32.072. DIRECT ACCESS TO EYE HEALTH CARE SERVICES. (a) Notwithstanding any other law, a recipient of medical assistance is entitled to:

(1) select an ophthalmologist or therapeutic optometrist who is a medical assistance provider to provide eye health care services, other than surgery, that are within the scope of:

(A) services provided under the medical assistance program; and

(B) the professional specialty practice for which the ophthalmologist or therapeutic optometrist is licensed; and

(2) have direct access to the selected ophthalmologist or therapeutic optometrist for the provision of the nonsurgical services without any requirement that the patient or ophthalmologist or therapeutic optometrist obtain:

(A) a referral from a primary care physician or other gatekeeper or health care coordinator; or

(B) any other prior authorization or precertification.

(b) The commission may require an ophthalmologist or therapeutic optometrist selected as provided by this section by a

recipient of medical assistance who is otherwise required to have a primary care physician or other gatekeeper or health care coordinator to forward to the recipient's physician, gatekeeper, or health care coordinator information concerning the eye health care services provided to the recipient.

(c) This section may not be construed to expand the scope of eye health care services provided under the medical assistance program.

Added by Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 21(a), eff. September 1, 2007.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.145, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 901 (H.B. 3675), Sec. 1, eff. September 1, 2017.

Sec. 32.073. HEALTH INFORMATION TECHNOLOGY STANDARDS. (a) In this section, "health information technology" means information technology used to improve the quality, safety, or efficiency of clinical practice, including the core functionalities of an electronic health record, an electronic medical record, a computerized health care provider order entry, electronic prescribing, and clinical decision support technology.

(b) The commission shall ensure that any health information technology used by the commission or any entity acting on behalf of the commission in the medical assistance program conforms to standards required under federal law.

(c) Not later than the second anniversary of the date national standards for electronic prior authorization of benefits are adopted, the commission shall require a health benefit plan issuer participating in the medical assistance program or the agent of the health benefit plan issuer that manages or administers prescription drug benefits to exchange prior authorization requests electronically with a prescribing provider participating in the medical assistance program who has electronic prescribing capability and who initiates a request electronically.

Added by Acts 2009, 81st Leg., R.S., Ch. 1120 (H.B. 1218), Sec. 4, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1311 (S.B. 8), Sec. 11, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.146, eff. April 2, 2015.

Sec. 32.074. ACCESS TO PERSONAL EMERGENCY RESPONSE SYSTEM. (a) In this section, "personal emergency response system" has the meaning assigned by Section 1702.331, Occupations Code.

(b) The commission shall ensure that each Medicaid recipient enrolled in a home and community-based services waiver program that includes a personal emergency response system as a service has access to a personal emergency response system, if necessary, without regard to the recipient's access to a landline telephone.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.20, eff. September 28, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.147, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.021, eff. September 1, 2015.

Sec. 32.075. EMPLOYMENT ASSISTANCE AND SUPPORTED EMPLOYMENT. (a) In this section:

(1) "Employment assistance" means assistance provided to an individual to help the individual locate paid employment in the community. Employment assistance includes:

(A) identifying an individual's employment preferences, job skills, and requirements for a work setting and work conditions;

(B) locating prospective employers offering employment compatible with an individual's identified preferences, skills, and requirements; and

(C) contacting a prospective employer on behalf of an individual and negotiating the individual's employment.

(2) "Supported employment" means assistance provided, in order to sustain paid employment, to an individual who, because of a disability, requires intensive, ongoing support to be self-employed,

work from home, or perform in a work setting at which individuals without disabilities are employed. Supported employment includes adaptations, supervision, and training related to an individual's diagnosis.

(b) This section applies only to the following medical assistance waiver programs:

(1) the community based alternatives program;

(2) the community living assistance and support services program;

(3) the deaf-blind with multiple disabilities program;

(4) the home and community-based services program;

(5) the medically dependent children program;

(6) the STAR + PLUS Medicaid managed care program;

(7) the Texas home living program; and

(8) the youth empowerment services program.

(c) The commission shall provide employment assistance and supported employment to participants in the waiver programs identified in Subsection (b).

Added by Acts 2013, 83rd Leg., R.S., Ch. 506 (S.B. 45), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.148, eff. April 2, 2015.

Sec. 32.076. SUBSTITUTE DENTISTS. To the extent allowed by federal law, the executive commissioner of the Health and Human Services Commission shall adopt rules ensuring that the same standards applying to a physician who bills the medical assistance program for services provided by a substitute physician apply also to a dentist who bills the medical assistance program for services provided by a substitute dentist.

Added by Acts 2015, 84th Leg., R.S., Ch. 739 (H.B. 1661), Sec. 1, eff. June 17, 2015.

SUBCHAPTER C. MEDICAL ASSISTANCE PROGRAM PROVIDER DATABASE

Sec. 32.101. DEFINITIONS. In this subchapter:

(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1 , Sec.

4.465(a)(43), eff. April 2, 2015.

(2) "Health care provider" means a person, other than a physician, who:

(A) is licensed or otherwise authorized to provide a health care service in this state, including:

(i) a pharmacist, dentist, optometrist, mental health counselor, social worker, advanced practice nurse, physician assistant, or durable medical equipment supplier; or

(ii) a pharmacy, hospital, or other institution or organization;

(B) is wholly owned or controlled by:

(i) a health care provider or a group of health care providers described by Paragraph (A); or

(ii) one or more hospitals and physicians, including a physician-hospital organization;

(C) is a professional association of physicians organized under the Texas Professional Association Law, as described by Section 1.008, Business Organizations Code;

(D) is an approved nonprofit health corporation certified under Chapter 162, Occupations Code;

(E) is a medical and dental unit, as defined by Section 61.003, Education Code, a medical school, as defined by Section 61.501, Education Code, or a health science center described by Subchapter K, Chapter 74, Education Code, that employs or contracts with physicians to teach or provide medical services, or employs physicians and contracts with physicians in a practice plan; or

(F) is another person wholly owned by physicians.

(3) "Managed care organization" has the meaning assigned by Section 533.001, Government Code.

(4) "Managed care plan" has the meaning assigned by Section 533.001, Government Code.

(5) "Participating provider" means a physician or health care provider who is a provider of medical assistance, including a physician or health care provider who contracts or otherwise agrees with a managed care organization to provide medical assistance under this chapter.

(6) "Physician" means an individual licensed to practice medicine in this state.

(7) "Recipient" means a recipient of medical assistance.

Added by Acts 2007, 80th Leg., R.S., Ch. 883 (H.B. 2042), Sec. 1, eff. June 15, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(43), eff. April 2, 2015.

Sec. 32.102. DATABASE OF MEDICAL ASSISTANCE PROGRAM PROVIDERS. (a) The executive commissioner shall establish and administer an electronic, searchable, Internet-based database of all participating providers in the medical assistance program.

(b) The database must include, as applicable, at least the following information regarding each participating provider:

(1) the provider's:

(A) name;

(B) specialty;

(C) location;

(D) office hours, including any office hours outside of regular business hours; and

(E) telephone number;

(2) whether the provider:

(A) is accepting new recipients, and if the provider is accepting new recipients and if applicable, the managed care organization or managed care plan under which new recipients are being accepted;

(B) has any practice limitations, including specific age range limitations; and

(C) speaks any languages other than English;

(3) a list of the medical assistance program services offered by the provider; and

(4) any waiver program or other program within the medical assistance program in which the provider is a participant, including the Texas Health Steps program.

(c) In establishing the database, the executive commissioner shall ensure that the database:

(1) allows a person to search a managed care organization by name and by participating provider within each of the managed care plans offered by that managed care organization;

(2) allows a participating provider to electronically access and change or update the information required by Subsection

(b)(1), (2), or (3); and

(3) is available and accessible to each participating provider and each recipient.

(d) The executive commissioner shall ensure that the database is updated continually and at least once a month.

Added by Acts 2007, 80th Leg., R.S., Ch. 883 (H.B. 2042), Sec. 1, eff. June 15, 2007.

Sec. 32.103. CERTAIN FEES PROHIBITED. A person, including the executive commissioner, a person acting under a contract under Section 32.104, or a managed care organization, may not charge a participating provider or a recipient a fee, directly or indirectly, for making information available or for accessing information in the database established under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 883 (H.B. 2042), Sec. 1, eff. June 15, 2007.

Sec. 32.104. AUTHORITY TO CONTRACT. (a) The executive commissioner may contract with a state agency or a private entity for the creation, operation, and maintenance of the database required by this subchapter.

(b) A contract entered into under this section must allow the executive commissioner to oversee and supervise the contractor and the database.

Added by Acts 2007, 80th Leg., R.S., Ch. 883 (H.B. 2042), Sec. 1, eff. June 15, 2007.

Sec. 32.105. RULES. The executive commissioner shall adopt rules to implement and administer this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 883 (H.B. 2042), Sec. 1, eff. June 15, 2007.

SUBCHAPTER E. ELECTRONIC COMMUNICATIONS

Sec. 32.201. DEFINITIONS. In this subchapter:

(1) "Electronic health record" means electronically originated and maintained health and claims information regarding the health status of an individual that may be derived from multiple sources and includes the following core functionalities:

(A) a patient health and claims information or data entry function to aid with medical diagnosis, nursing assessment, medication lists, allergy recognition, demographics, clinical narratives, and test results;

(B) a results management function that may include computerized laboratory test results, diagnostic imaging reports, interventional radiology reports, and automated displays of past and present medical or laboratory test results;

(C) a computerized physician order entry of medication, care orders, and ancillary services;

(D) clinical decision support that may include electronic reminders and prompts to improve prevention, diagnosis, and management; and

(E) electronic communication and connectivity that allows online communication:

(i) among physicians and health care providers; and

(ii) among the commission, the operating agencies, and participating providers.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(44), eff. April 2, 2015.

(3) "Health care provider" means a person, other than a physician, who is licensed or otherwise authorized to provide a health care service in this state.

(4) "Health information technology" means information technology used to improve the quality, safety, or efficiency of clinical practice, including the core functionalities of an electronic health record, electronic medical record, computerized physician or health care provider order entry, electronic prescribing, and clinical decision support technology.

(5) "Operating agency" means a health and human services agency operating part of the medical assistance program.

(6) "Participating provider" means a physician or health care provider who is a provider of medical assistance, including a physician or health care provider who contracts or otherwise agrees with a managed care organization to provide medical assistance under

this chapter.

(7) "Physician" means an individual licensed to practice medicine in this state under the authority of Subtitle B, Title 3, Occupations Code, or a person that is:

(A) a professional association of physicians formed under the Texas Professional Association Law, as described by Section 1.008, Business Organizations Code;

(B) an approved nonprofit health corporation certified under Chapter 162, Occupations Code, that employs or contracts with physicians to provide medical services;

(C) a medical and dental unit, as defined by Section 61.003, Education Code, a medical school, as defined by Section 61.501, Education Code, or a health science center described by Subchapter K, Chapter 74, Education Code, that employs or contracts with physicians to teach or provide medical services, or employs physicians and contracts with physicians in a practice plan; or

(D) a person wholly owned by a person described by Paragraph (A), (B), or (C).

(8) "Recipient" means a recipient of medical assistance.

Added by Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 22, eff. September 1, 2007.
Renumbered from Human Resources Code, Section 32.101 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(57), eff. September 1, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.149, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(44), eff. April 2, 2015.

Sec. 32.202. ELECTRONIC COMMUNICATIONS. (a) To the extent allowed by federal law, the executive commissioner may adopt rules allowing the commission to permit, facilitate, and implement the use of health information technology for the medical assistance program to allow for electronic communication among the commission, the operating agencies, and participating providers for:

(1) eligibility, enrollment, verification procedures, and prior authorization for health care services or procedures covered by

the medical assistance program, as determined by the executive commissioner, including diagnostic imaging;

(2) the update of practice information by participating providers;

(3) the exchange of recipient health care information, including electronic prescribing and electronic health records;

(4) any document or information requested or required under the medical assistance program by the commission, the operating agencies, or participating providers; and

(5) the enhancement of clinical and drug information available through the vendor drug program to ensure a comprehensive electronic health record for recipients.

(b) If the executive commissioner determines that a need exists for the use of health information technology in the medical assistance program and that the technology is cost-effective, the commission may, for the purposes prescribed by Subsection (a):

(1) acquire and implement the technology; or

(2) evaluate the feasibility of developing and, if feasible, develop the technology through the use or expansion of other systems or technologies the commission uses for other purposes, including the health passport developed under Section 266.006, Family Code.

(c) The commission:

(1) must ensure that health information technology used under this section complies with the applicable requirements of the Health Insurance Portability and Accountability Act;

(2) may require the health information technology used under this section to include technology to extract and process claims and other information collected, stored, or accessed by the medical assistance program, program contractors, participating providers, and state agencies operating any part of the medical assistance program for the purpose of providing patient information at the location where the patient is receiving care;

(3) must ensure that a paper record or document is not required to be filed if the record or document is permitted or required to be filed or transmitted electronically by rule of the executive commissioner;

(4) may provide for incentives to participating providers to encourage their use of health information technology under this subchapter;

(5) may provide recipients with a method to access their own health information; and

(6) may present recipients with an option to decline having their health information maintained in an electronic format under this subchapter.

(d) The executive commissioner shall consult with participating providers and other interested stakeholders in developing any proposed rules under this section. The executive commissioner shall request advice and information from those stakeholders concerning the proposed rules, including advice regarding the impact of and need for a proposed rule.

Added by Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 22, eff. September 1, 2007.
Renumbered from Human Resources Code, Section 32.102 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(57), eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.150, eff. April 2, 2015.

SUBCHAPTER F. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

Sec. 32.251. DEFINITIONS. In this subchapter:

(1) "Approved plan" means a long-term care benefit plan that is approved by the Texas Department of Insurance under Subchapter C, Chapter 1651, Insurance Code.

(2) "Asset disregard" means the total equity value of assets and resources not exempt under rules governing the medical assistance program that are disregarded in determining eligibility for the medical assistance program and in determining estate recovery obligations.

(3) "Asset protection" means the right extended to a plan holder of an approved plan to dollar-for-dollar asset disregard under the medical assistance program.

(4) "Dollar-for-dollar asset disregard" means an asset disregard in which the amount of the disregard is equal to the sum of qualifying benefit payments made on behalf of the qualified plan holder.

(5) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec.

4.465(a)(45), eff. April 2, 2015.

(6) "Partnership for long-term care program" means the program established under this subchapter and Subchapter C, Chapter 1651, Insurance Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 2, eff. March 1, 2008.
Renumbered from Human Resources Code, Section 32.101 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(58), eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(45), eff. April 2, 2015.

Sec. 32.252. PARTNERSHIP FOR LONG-TERM CARE PROGRAM. The partnership for long-term care program is administered as part of the medical assistance program by the commission with the assistance of the Texas Department of Insurance. The program must be consistent with provisions governing the expansion of a state long-term care partnership program established under the federal Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 2, eff. March 1, 2008.
Renumbered from Human Resources Code, Section 32.102 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(58), eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.151, eff. April 2, 2015.

Sec. 32.253. ASSET DISREGARD. (a) To the extent allowed by the federal Deficit Reduction Act of 2005 (Pub. L. No. 109-171) and other federal law, the executive commissioner, in adopting rules and standards governing the medical assistance program, shall allow for dollar-for-dollar asset disregard in determining eligibility for medical assistance for an individual receiving long-term care services if the individual is or was covered by a long-term care benefit plan providing coverage for long-term care that meets the

applicable minimum benefit standards of the commissioner of the Texas Department of Insurance under Subchapter C, Chapter 1651, Insurance Code, and other requirements for approval under the partnership for long-term care program.

(b) The commission may not consider the resources of an individual who has used all or part of the individual's benefits under an approved plan to the extent those resources are the subject of a dollar-for-dollar asset disregard in determining:

(1) eligibility for medical assistance under the medical assistance program;

(2) the amount of medical assistance provided; or

(3) any subsequent recovery by this state from the individual's estate for medical assistance provided to the individual.

(c) The commission may not provide to an individual eligible for medical assistance under this section those medical assistance services covered under the medical assistance program that are also covered by the individual's benefits under the approved plan until the individual has fully exhausted the individual's benefits under the plan.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 2, eff. March 1, 2008.
Renumbered from Human Resources Code, Section 32.103 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(58), eff. September 1, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.152, eff. April 2, 2015.

Sec. 32.254. RECIPROCAL AGREEMENTS. The commission may enter into reciprocal agreements with other states to extend asset protection to a resident of this state who purchased a long-term care benefit plan in another state that has a substantially similar asset disregard program.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 2, eff. March 1, 2008.
Renumbered from Human Resources Code, Section 32.104 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(58), eff. September

1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.153, eff. April 2, 2015.

Sec. 32.255. TRAINING; INFORMATION AND TECHNICAL ASSISTANCE. The commission shall provide information and technical assistance to the Texas Department of Insurance regarding that department's role in ensuring that each individual who sells a long-term care benefit plan under the partnership for long-term care program receives training and demonstrates evidence of an understanding of these plans as required by Section 1651.105, Insurance Code. The training must satisfy the training requirements imposed under the provisions governing the expansion of a state long-term care partnership program established under the federal Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 2, eff. March 1, 2008.
Renumbered from Human Resources Code, Section 32.105 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(58), eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.153, eff. April 2, 2015.

Sec. 32.256. RULES. (a) The executive commissioner shall adopt rules as necessary to administer the partnership for long-term care program and to implement this subchapter.

(b) In adopting rules under this section, the executive commissioner shall:

(1) provide for dollar-for-dollar asset disregard and asset protection for purchasers of an approved plan; and

(2) count benefits paid under the approved plan toward the dollar-for-dollar asset disregard to the extent the benefits are provided for covered services under the approved plan.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 2, eff. March 1, 2008.

Renumbered from Human Resources Code, Section 32.106 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(58), eff. September 1, 2009.

CHAPTER 33. NUTRITIONAL ASSISTANCE PROGRAMS

SUBCHAPTER A. NUTRITIONAL ASSISTANCE PROGRAMS IN GENERAL

Sec. 33.0005. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of agriculture.

(1-a) "Department" means the Department of Agriculture.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "Supplemental nutrition assistance program" and "SNAP" mean the program operated pursuant to 7 U.S.C. Section 2011 et seq.

Added by Acts 2007, 80th Leg., R.S., Ch. 963 (H.B. 4062), Sec. 5, eff. June 15, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.154, eff. April 2, 2015.

Sec. 33.0006. OPERATION OF SNAP. The commission operates the supplemental nutrition assistance program.

Added by Acts 2007, 80th Leg., R.S., Ch. 963 (H.B. 4062), Sec. 5, eff. June 15, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.154, eff. April 2, 2015.

Sec. 33.001. DISTRIBUTION OF SURPLUS COMMODITIES. (a) The department is the state agency designated to cooperate with the federal government in administering the distribution of federal surplus commodities and other resources.

(b) The department may cooperate with a city or county in any manner necessary for the proper operation of this program.

Acts 1979, 66th Leg., p. 2353, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 33.002. DISTRIBUTION OF COMMODITIES AND SNAP BENEFITS. (a) The department is responsible for the distribution of commodities and the commission is responsible for the distribution of supplemental nutrition assistance program benefits allocated respectively to the department and the commission by the federal government.

(b) The department and commission may enter into agreements with federal agencies that are required as a prerequisite to the allocation of the commodities or supplemental nutrition assistance program benefits. The department and commission may enter into agreements with eleemosynary institutions, schools, and other eligible agencies and recipients of the commodities and supplemental nutrition assistance program benefits. The department may cooperate with a municipality or county as necessary to properly administer the distribution of federal surplus commodities and other resources for which the department is responsible.

(c) The department and the executive commissioner, as applicable, shall establish policies and rules that will ensure the widest and most efficient distribution of the commodities and supplemental nutrition assistance program benefits to those eligible to receive them.

(c-1) The executive commissioner by rule shall establish a schedule for the distribution of supplemental nutrition assistance program benefits that ensures the even distribution of the benefits each month over a 28-day period.

(d) The commission shall continually monitor the expedited issuance of supplemental nutrition assistance program benefits to ensure that each region in the state complies with federal regulations and that those households eligible for expedited issuance are identified, processed, and certified within the timeframes prescribed within the federal regulations.

(e) The commission shall screen all applicants for expedited issuance of supplemental nutrition assistance program benefits on a priority basis within one working day. Applicants who meet the federal criteria for expedited issuance and have an immediate need for food assistance shall receive those benefits within one working day.

(f) The commission shall conspicuously post in each local

supplemental nutrition assistance program benefits office a notice of the availability of and procedure for applying for expedited issuance.

(g) The commission may, within federal limits, modify the one-day screening and service delivery requirements prescribed by Subsection (e) if the commission determines that the modification is necessary to reduce fraud in the supplemental nutrition assistance program.

Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 150, Sec. 4, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 1052, Sec. 7.01, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 655, Sec. 8.09, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 693, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 963 (H.B. 4062), Sec. 6, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 15, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 17, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.155, eff. April 2, 2015.

Acts 2019, 86th Leg., R.S., Ch. 173 (H.B. 1218), Sec. 1, eff. May 24, 2019.

Sec. 33.0021. APPLICATION INFORMATION. (a) The commission shall develop general informational materials that contain eligibility guidelines for supplemental nutrition assistance program benefits under this chapter and that clearly and simply explain the process for applying for benefits, as well as indicate the availability of expedited benefits, the existence of toll-free telephone hotlines, and the existence of a procedure in each region to handle complaints. These informational materials shall be nonpromotional in nature.

(b) The materials must contain a list of the specific items necessary to verify an application.

(c) The commission shall distribute the materials to community action agencies, legal services offices, and emergency food programs

and other programs likely to have contact with potential applicants.

Added by Acts 1985, 69th Leg., ch. 150, Sec. 5, eff. Aug. 26, 1985.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.156, eff. April 2, 2015.

Sec. 33.0023. SNAP INFORMATION MATCHING SYSTEM. (a) To detect and prevent fraud in the supplemental nutrition assistance program, the commission, through the use of a computerized matching system, shall compare at least semiannually commission information relating to supplemental nutrition assistance program benefits transactions and redemptions by benefits recipients and retailers with information obtained from the comptroller and other appropriate state agencies relating to those recipients and retailers.

(b) The commission, the comptroller, and the appropriate agencies shall take all necessary measures to protect the confidentiality of information provided under this section, in compliance with all existing state and federal privacy guidelines.

(c) In this section, "retailer" means a business approved for participation in the supplemental nutrition assistance program.

Added by Acts 1997, 75th Leg., ch. 322, Sec. 3, eff. May 26, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.157, eff. April 2, 2015.

Sec. 33.0024. DISASTER SNAP. (a) In this section, "program" means the program to provide supplemental nutrition assistance benefits to victims of a disaster as authorized by 7 U.S.C. Section 2014.

(b) The commission shall:

(1) in collaboration with local government officials:

(A) create a directory of local points of contact for the operation of the program;

(B) determine the best method for communication between the commission and local government officials regarding the program; and

(C) evaluate, develop, and maintain a list of potential

sites for in-person application for program benefits that meet federal requirements;

(2) enter into memorandums of understanding with local government agencies documenting the roles and responsibilities of the commission and each local government agency regarding the determination of the need for and the location of sites for in-person application for program benefits; and

(3) provide information regarding the program and strategies for effective collaboration between local governments and the commission to local government officials in coastal counties by hosting webinars, conducting conference calls, or holding in-person meetings.

Added by Acts 2019, 86th Leg., R.S., Ch. 1117 (H.B. 2335), Sec. 1, eff. June 14, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 1341 (S.B. 981), Sec. 1, eff. June 14, 2019.

Sec. 33.003. DISTRIBUTION DISTRICTS; AGENTS. (a) The department may establish distribution districts and employ distributing agents or may make other arrangements necessary to provide for the efficient distribution of commodities.

(b) A distributing agent must be bonded. The department shall audit a distributing agent's records at least once annually and at any other time considered expedient by the department.

Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.158, eff. April 2, 2015.

Sec. 33.004. COMMODITY DISTRIBUTION PROGRAM ADVISORY BOARDS. (a) The department may establish state or district-level advisory boards to facilitate the operations of the commodity distribution program.

(b) The advisory boards shall be of the size, membership, and experience that the commissioner determines to be essential for the accomplishment of the purposes of this chapter and not in conflict

with or duplicative of other laws on this subject.

Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 963 (H.B. 4062), Sec. 7, eff. June 15, 2007.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.159, eff. April 2, 2015.

Sec. 33.005. PROCESSING PERISHABLE COMMODITIES. (a) The department may enter into nonprofit contracts with state institutions or state or private agencies for the processing of perishable commodities to preserve them for subsequent distribution to eligible recipients.

(b) The cost of processing shall be borne by each recipient on a pro rata basis in relation to the amount of the processed commodities received by each distribution district.

Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 33.006. HANDLING CHARGES. (a) The department may assess reasonable handling charges against the recipients of commodities to cover the cost of distribution. The total operation must be conducted on a nonprofit basis.

(b) The department shall make the assessments at the times and in the amounts that it considers necessary for the proper administration of the commodity distribution program. However, the assessments must be uniform in each distribution district and may not exceed $1 per recipient per year.

Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 399, ch. 81, Sec. 18(a), eff. Sept. 1, 1983.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.160, eff. April 2, 2015.

Sec. 33.008. SALE OF USED COMMODITY CONTAINERS. The department may sell used commodity containers. Proceeds from the sales in each distribution district shall be deposited in the general revenue fund.

Acts 1979, 66th Leg., p. 2355, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.161, eff. April 2, 2015.

Sec. 33.011. PROHIBITED ACTIVITIES; PENALTIES. (a) A person commits an offense if the person knowingly uses, alters, or transfers a supplemental nutrition assistance program electronic benefit transfer card in any manner not authorized by law. An offense under this subsection is a Class A misdemeanor if the value of the supplemental nutrition assistance program electronic benefit transfer card is less than $200 and a felony of the third degree if the value is $200 or more.

(b) A person commits an offense if the person knowingly possesses a supplemental nutrition assistance program electronic benefit transfer card when not authorized by law to possess the card, knowingly redeems supplemental nutrition assistance program benefits when not authorized by law to redeem them, or knowingly redeems supplemental nutrition assistance program benefits for purposes not authorized by law. An offense under this subsection is a Class A misdemeanor if the value of the supplemental nutrition assistance program electronic benefit transfer card possessed, or the program benefits redeemed, is less than $200 and a felony of the third degree if the value of the supplemental nutrition assistance program electronic benefit transfer card possessed, or the program benefits redeemed, is $200 or more.

(d) When cash, exchange value, or supplemental nutrition assistance program electronic benefit transfer cards of various values are obtained in violation of this section pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the values aggregated in determining the grade of the offense.

(e) The commission may contract with county commissioners courts to provide funds to pay for professional and support services

necessary for the enforcement of any criminal offense that involves illegally obtaining, possessing, or misusing supplemental nutrition assistance program benefits.

(f) For the purposes of Subsections (a) and (b), the value of a supplemental nutrition assistance program electronic benefit transfer card is the cash or exchange value obtained in violation of this section.

(g) In this section, "supplemental nutrition assistance program benefits" includes electronic benefit transfer (EBT) cards.

Acts 1979, 66th Leg., p. 2355, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2435, ch. 842, art. 2, Sec. 6, eff. Sept. 1, 1979; Acts 1993, 73rd Leg., ch. 249, Secs. 1, 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 788, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.162, eff. April 2, 2015.

Sec. 33.012. CHEMICAL DEPENDENCY TREATMENT PROGRAM AS REPRESENTATIVE. The commission shall provide an individual's supplemental nutrition assistance program allotment to the residential chemical dependency treatment program in which the person resides to the extent allowed under Section 8(f), Food Stamp Act of 1977 (7 U.S.C. Section 2017(e)), if the individual designates the program as the individual's authorized representative.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.163, eff. April 2, 2015.

Sec. 33.013. INFORMATION AND REFERRAL SERVICES. (a) Each local supplemental nutrition assistance program benefits office shall compile and maintain a current list of emergency food providers in the area served by the local supplemental nutrition assistance program benefits office and refer individuals who need food to local programs that may be able to provide assistance.

(b) The commission shall establish regional or statewide toll-

free telephone hotlines to provide emergency food information and to refer needy individuals to local programs that may be able to provide assistance. The commission shall publish the telephone number for referrals in the emergency telephone numbers section of local telephone books. The commission shall display this telephone number in all of its offices.

(c) Where emergency food programs do not exist, the commission shall assist community groups in establishing emergency food assistance programs.

(d) The commission may establish other local, regional, or statewide programs to provide emergency food information and referral services where needed and where none presently exist.

Added by Acts 1985, 69th Leg., ch. 150, Sec. 2, eff. Aug. 26, 1985.
Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 7.02, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 963 (H.B. 4062), Sec. 8, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.163, eff. April 2, 2015.

Sec. 33.015. INITIAL ESTABLISHMENT AND RECERTIFICATION OF ELIGIBILITY FOR CERTAIN PERSONS. (a) In administering the supplemental nutrition assistance program, the commission shall, except as provided by Subsection (c), allow a person to comply with initial eligibility requirements, including any initial interview, and with subsequent periodic eligibility recertification requirements by telephone instead of through a personal appearance at commission offices if:

(1) the person and each member of the person's household:

(A) have no earned income; and

(B) are elderly or persons with disabilities; or

(2) the person is subject to a hardship, as determined by commission rule.

(b) For purposes of rules under Subsection (a)(2), a hardship includes a situation in which a person is prevented from personally appearing at commission offices because the person is:

(1) subject to a work or training schedule;

(2) subject to transportation difficulties;

(3) subject to other difficulties arising from the person's residency in a rural area;

(4) subject to prolonged severe weather;

(5) ill; or

(6) needed to care for a member of the person's household.

(c) The commission may require a person described by Subsection (a) to personally appear at commission offices to establish initial eligibility or to comply with periodic eligibility recertification requirements if the commission considers a personal appearance necessary to:

(1) protect the integrity of the supplemental nutrition assistance program; or

(2) prevent an adverse determination regarding the person's eligibility that would be less likely to occur if the person made a personal appearance.

(d) A person described by Subsection (a) may elect to personally appear at commission offices to establish initial eligibility or to comply with periodic eligibility recertification requirements.

(e) The commission shall require a person exempted under this section from making a personal appearance at commission offices to provide verification of the person's entitlement to the exemption on initial eligibility certification and on each subsequent periodic eligibility recertification. If the person does not provide verification and the commission considers the verification necessary to protect the integrity of the supplemental nutrition assistance program, the commission shall initiate a fraud referral to the commission's office of inspector general.

Added by Acts 2001, 77th Leg., ch. 93, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.163, eff. April 2, 2015.

Sec. 33.018. SNAP ELIGIBILITY FOLLOWING CERTAIN CRIMINAL CONVICTIONS. (a) As authorized by 21 U.S.C. Section 862a(d)(1) and except as provided by this section, 21 U.S.C. Section 862a(a)(2) does not apply in determining the eligibility of any person for the

supplemental nutrition assistance program.

(b) 21 U.S.C. Section 862a(a)(2) applies in determining the eligibility for the supplemental nutrition assistance program of a person who has been convicted of, and released on parole or placed on community supervision for, any felony offense that has as an element the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. Section 802, if the person violates any condition of that parole or community supervision. A person described by this subsection is ineligible for the supplemental nutrition assistance program only for a two-year period beginning on the date the person is found to have violated the condition of parole or community supervision, as authorized by 21 U.S.C. Section 862a(d)(1)(B).

(c) A person convicted of an offense described by Subsection (b) who is receiving supplemental nutrition assistance program benefits and who is convicted of a subsequent felony offense, regardless of the elements of the offense, is ineligible for the supplemental nutrition assistance program.

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 2.29, eff. September 1, 2015.

Sec. 33.022. APPLICATION ASSISTANCE. (a) On request of an applicant for supplemental nutrition assistance program benefits, the commission shall assist the applicant in filling out forms and completing the application process.

(b) The commission shall inform each applicant of the availability of assistance.

Added by Acts 1985, 69th Leg., ch. 150, Sec. 6, eff. Aug. 26, 1985.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.163, eff. April 2, 2015.

Sec. 33.023. INFORMATION VERIFICATION. (a) The commission shall develop and implement for expedited issuance a uniform procedure for verifying information required of an applicant for supplemental nutrition assistance program benefits.

(b) In developing the uniform procedure, the commission shall

attempt to minimize the cost and complexity of the procedure to the applicant.

(c) The commission shall not require an applicant for expedited service to verify more eligibility items than the minimum necessary to conform to the federal regulations and shall assist the applicant in obtaining materials needed to verify an application. The commission shall not deny or delay determination of eligibility due to lack of verification of items that may be postponed if they cannot be verified within the timeframes prescribed by the federal regulations.

(d) The commission shall post a notice in each of its offices indicating to whom an applicant for or client of the supplemental nutrition assistance program can talk to resolve problems or complaints. This notice should indicate persons available to handle problems in local, regional, and state offices. Notification of the existence of each office and complaint procedures shall be posted in each supplemental nutrition assistance program benefits office and in materials made available to applicants regarding the application process.

Added by Acts 1985, 69th Leg., ch. 150, Sec. 7, eff. Aug. 26, 1985.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.163, eff. April 2, 2015.

Sec. 33.0231. VERIFICATION OF IDENTITY AND PREVENTION OF DUPLICATE PARTICIPATION IN SNAP. The commission shall use appropriate technology to:

(1) confirm the identity of applicants for benefits under the supplemental nutrition assistance program; and

(2) prevent duplicate participation in the program by a person.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.04(b), eff. September 28, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.163, eff. April 2, 2015.

Sec. 33.025. NUTRITION EDUCATION AND OUTREACH FOR THOSE ELIGIBLE FOR SNAP BENEFITS. (a) The commission shall develop and implement a plan of operation to provide nutrition education and outreach to persons eligible for supplemental nutrition assistance program benefits.

(b) The plan of operation for education and outreach shall:

(1) ensure that low-income consumers are provided with informational materials that include but are not limited to information on:

(A) food budgeting for low-income consumers;

(B) purchasing and preparing low-cost nutritional meals;

(C) basic nutrition and healthy foods;

(D) the availability of supplemental nutrition assistance program benefits;

(E) the eligibility requirements for supplemental nutrition assistance program benefits; and

(F) the application procedures for receiving supplemental nutrition assistance program benefits;

(2) identify a target population for the informational activities, which may include:

(A) recipients of the Special Supplemental Nutrition Program for Women, Infants and Children;

(B) families which have children who are eligible for the free or reduced-priced meals programs;

(C) recipients of commodity surplus foods;

(D) senior citizens attending nutrition sites and participating in nutritional activities;

(E) clients of emergency food pantries;

(F) farm workers or migrants; and

(G) others who may benefit from the information including but not limited to senior citizens, persons with disabilities, and working poor families;

(3) identify geographical areas, if any, which specifically will be targeted; and

(4) ensure that all informational activities are multilingual and available in accessible alternative formats.

(c) The commission shall submit the plan of operation to the Food and Nutrition Service of the United States Department of Agriculture for approval, making the commission eligible for

reimbursement for 50 percent of the cost of the informational activities.

(d) The commission shall cooperate with other state agencies that currently operate nutrition education programs.

(e) The commission shall enlist the assistance of pro bono public relations firms where available.

Added by Acts 1993, 73rd Leg., ch. 328, Sec. 3, eff. Aug. 30, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.163, eff. April 2, 2015.

Sec. 33.026. CHILD AND ADULT CARE FOOD PROGRAM: REQUIRED NOTICES AND ADVISORY COMMITTEE AUTHORITY. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(48), eff. April 2, 2015.

(b) The department shall provide written notice to each sponsoring organization of any modification or clarification of department rules or policies relating to the federal Child and Adult Care Food Program. Notice provided through electronic mail is considered to be written notice for purposes of this subsection.

(c) The department may, with respect to the federal Child and Adult Care Food Program:

(1) conduct public hearings in accordance with department procedures;

(2) refer issues relating to the program to the commissioner for discussion; and

(3) recommend modifications to the department's training programs for sponsoring organizations and other persons participating in the program.

(d) For purposes of this section and Sections 33.027 and 33.0271, "sponsoring organization" has the meaning assigned by 7 C.F.R. Section 226.2.

Added by Acts 1999, 76th Leg., ch. 719, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 870 (S.B. 77), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.164, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(48),

eff. April 2, 2015.

Sec. 33.027. CHILD AND ADULT CARE FOOD PROGRAM: ELECTRONIC FILING. (a) In administering the federal Child and Adult Care Food Program, the department shall, unless prohibited by federal law, permit a sponsoring organization or other person participating in the program to submit applications and other required information to the department in an electronic format or through the use of electronically produced forms.

(b) The department may implement Subsection (a) by developing necessary computer systems or by using computer systems developed or made available for that purpose by a sponsoring organization or other appropriate person.

Added by Acts 1999, 76th Leg., ch. 719, Sec. 3, eff. Jan. 1, 2001.

Sec. 33.0271. CHILD AND ADULT CARE FOOD PROGRAM: PROGRAM PARTICIPANT REQUIREMENTS. (a) In this section, "institution" and "principal" have the meanings assigned by 7 C.F.R. Section 226.2.

(b) To the extent permitted under federal law, a sponsoring organization shall maintain a performance bond in an amount specified by department rule from a company holding a certificate of authority as an acceptable surety on federal bonds from the United States secretary of the treasury. To determine whether a company holds a certificate of authority as an acceptable surety on federal bonds, the department and a sponsoring organization may rely on the list published by the United States Department of the Treasury in accordance with 31 C.F.R. Section 223.16.

(c) To the extent permitted under federal law, on application for or renewal of participation in the Child and Adult Care Food Program, a nongovernmental entity applying to participate or to renew participation in the program as a sponsoring organization or other institution must submit to the department the following with respect to each of the entity's principals for use in conducting a background and criminal history check:

(1) a copy of a government-issued form of identification of the principal, which may include a copy of:

(A) a driver's license issued by this state or another

state;

(B) an identification card issued by this state, another state, or the federal government;

(C) a passport; or

(D) another form of identification approved by the department; and

(2) proof of the principal's residential mailing address, which may include:

(A) official mail sent to the principal's address from a utility provider, governmental agency, or financial institution;

(B) a residential lease executed by the principal; or

(C) any other form of proof approved by the department.

(d) If there is a change in a principal or the residential mailing address of a principal of a nongovernmental entity participating in the Child and Adult Care Food Program as a sponsoring organization or other institution, the entity must submit to the department the same information required under Subsection (c) with respect to the principal for use in conducting a background and criminal history check.

(e) The department may conduct a background and criminal history check on each principal of an entity subject to this section using:

(1) the information provided under Subsection (c) or (d), as applicable; and

(2) the information made available by the Department of Public Safety under Section 411.1146, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code.

(f) If the background and criminal history check authorized under Subsection (e) using information provided under Subsection (c) reveals that an entity knowingly falsified statements contained in the application, the department may refer that matter to an appropriate prosecuting attorney for criminal prosecution.

(g) If a background and criminal history check authorized under Subsection (e) reveals that the principal of an entity that is an applicant for or participant in the Child and Adult Care Food Program has been convicted of fraud, violating an antitrust law, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstructing justice, or any other criminal

offense that indicates a lack of business integrity as determined by the department, the department:

(1) shall deny the entity's application for participation in the program; or

(2) may, at the department's discretion, revoke the entity's authority to participate in the program.

(h) The department by rule may establish procedures that would allow an entity that had the entity's application to participate in the Child and Adult Care Food Program denied or authority to participate in the program revoked under Subsection (g) to appeal the department's determination under that subsection.

Added by Acts 2011, 82nd Leg., R.S., Ch. 870 (S.B. 77), Sec. 3, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.165, eff. April 2, 2015.

Sec. 33.028. GRANT PROGRAMS FOR NUTRITION EDUCATION. (a) The department shall develop a program under which the department awards grants to:

(1) participants in the Child and Adult Care Food Program, the Head Start program, or other early childhood education programs to operate nutrition education programs for children who are at least three years of age but younger than five years of age; and

(2) community and faith-based initiatives that provide recreational, social, volunteer, leadership, mentoring, or developmental programs to incorporate nutrition education into programs provided for children younger than 19 years of age.

(b) The department may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this section.

(c) The department may adopt rules as necessary to administer the grant programs established under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 728 (S.B. 282), Sec. 3, eff. June 19, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.166, eff. April 2, 2015.

Sec. 33.029. CERTAIN ELIGIBILITY RESTRICTIONS. Notwithstanding any other provision of this chapter, an applicant for or recipient of benefits under the supplemental nutrition assistance program is not entitled to and may not receive or continue to receive any benefit under the program if the applicant or recipient is not legally present in the United States.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.21, eff. September 28, 2011.

Sec. 33.0291. EXCLUSION OF SCHOOL-BASED ACCOUNTS AND CERTAIN BONDS. (a) For purposes of determining whether a person meets family income and resource requirements for eligibility for the supplemental nutrition assistance program, the commission may not consider as income or resources a right to assets held in or a right to receive payments or benefits under a school-based account or bond described by Section 28.0024(b)(2), Education Code.

(b) The amount of exclusion under Subsection (a) of assets held in or the right to receive payments or benefits under a school-based account or bond described by Section 28.0024(b)(2)(C), (D), or (E), Education Code, is limited to the amount of the cost of undergraduate resident tuition and required fees for one academic year consisting of 30 semester credit hours charged by the general academic teaching institution with the highest such tuition and fee costs for the most recent academic year, as determined by the Texas Higher Education Coordinating Board under Section 54.753, Education Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1265 (H.B. 3987), Sec. 5, eff. June 20, 2015.

Sec. 33.032. PEACE OFFICERS. The commission's office of inspector general may employ and commission peace officers for the purpose of assisting the office in the investigation of fraud, waste, or abuse in the supplemental nutrition assistance program. A peace officer employed and commissioned by the office is a peace officer for purposes of Article 2.12, Code of Criminal Procedure.

Added by Acts 2017, 85th Leg., R.S., Ch. 856 (H.B. 2523), Sec. 3, eff. June 15, 2017.

Sec. 33.035. PILOT PROGRAM TO INCENTIVIZE PURCHASE OF TEXAS-GROWN FRUITS OR VEGETABLES UNDER SNAP. (a) In this section:

(1) "Eligible fruits or vegetables" means any variety of fresh, canned, dried, or frozen whole or cut fruits or vegetables:

(A) with no added sugars, fats, oils, or salt; and

(B) that are produced or harvested in this state.

(2) "Incentive" means a financial benefit provided to a recipient of supplemental nutrition assistance program benefits that encourages the recipient to purchase eligible fruits or vegetables.

(3) "Pilot program" means the pilot program described by Subsection (b).

(4) "Retailer" has the meaning assigned by Section 33.0023.

(b) The commission, in consultation with the work group established under Subsection (c), may establish a pilot program in one or more geographic areas of this state through which:

(1) a recipient of supplemental nutrition assistance program benefits is able to receive an incentive when purchasing eligible fruits or vegetables from a retailer that may be used toward a subsequent purchase of eligible fruits or vegetables; and

(2) a retailer is authorized to publicize the incentive to recipients of supplemental nutrition assistance program benefits.

(c) The commission shall establish a work group to assist the commission with the study described by Section 33.036 and, as applicable, provide input for the establishment of the pilot program. The work group must be composed of relevant stakeholders from rural and urban areas throughout this state who have expertise in providing incentives under the supplemental nutrition assistance program. At least one member of the work group must have direct marketing representative experience in operating a comparable program.

(d) The executive commissioner shall appoint one member of the work group to serve as presiding officer.

(e) The work group is not subject to Chapter 2110, Government Code.

(f) A member of the work group may not receive compensation for serving on the work group and may not be reimbursed for travel or other expenses incurred while conducting the business of the work

group.

(g) If the commission establishes the pilot program under this section, the commission may contract with an entity that has appropriate experience and expertise in administering comparable programs to administer the pilot program.

(h) The commission may solicit and accept gifts, grants, and donations from any source to establish and administer the pilot program or to perform any other duty under this section.

(i) If the commission establishes the pilot program under this section, the commission, with assistance from the work group, shall:

(1) develop and the executive commissioner shall submit any necessary applications to obtain a federal waiver to operate the pilot program; and

(2) apply for any available federal money to operate the program, including federal nutrition incentives available under Section 4205, Agriculture Improvement Act of 2018 (7 U.S.C. Section 7517).

(j) The commission may delay the operation of the pilot program, as applicable, until the commission receives federal money to operate the program or until money is appropriated or donated to the commission to operate the program.

Added by Acts 2019, 86th Leg., R.S., Ch. 655 (S.B. 1834), Sec. 1, eff. September 1, 2019.

For expiration of this section, see Subsection (e).

Sec. 33.036. STUDY ON EXISTING PROGRAMS THAT INCENTIVIZE PURCHASE OF TEXAS-GROWN FRUITS OR VEGETABLES UNDER SNAP. (a) In this section, "eligible fruits or vegetables" and "incentive" have the meanings assigned by Section 33.035.

(b) The commission, in consultation with the work group established under Section 33.035, shall conduct a study on programs in this state that provide incentives for the purchase of eligible fruits or vegetables under the supplemental nutrition assistance program. The study must include:

(1) an inventory of existing programs that provide incentives for the purchase of eligible fruits or vegetables under the supplemental nutrition assistance program, including details on how the programs are funded;

(2) recommendations on increasing the number and availability of programs in this state that provide incentives for the purchase of eligible fruits or vegetables under the supplemental nutrition assistance program; and

(3) an analysis of:

(A) strategies to encourage the purchase of eligible fruits or vegetables using supplemental nutrition assistance program benefits;

(B) the potential impact of programs in this state that provide incentives for the purchase of eligible fruits or vegetables on the specialty crop industry in this state; and

(C) federal programs and money available to encourage the purchase of eligible fruits or vegetables using supplemental nutrition assistance program benefits, including the Food Insecurity Nutrition Incentive (FINI) Grant Program operated by the United States Department of Agriculture.

(c) The commission may solicit and accept gifts, grants, and donations from any source to conduct the study.

(d) Not later than December 1, 2020, the commission shall prepare and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature having primary jurisdiction over health and human services a written report that summarizes the commission's findings under Subsection (b) and recommendations for legislative or other action.

(e) This section expires September 1, 2021.

Added by Acts 2019, 86th Leg., R.S., Ch. 655 (S.B. 1834), Sec. 1, eff. September 1, 2019.

SUBCHAPTER B. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: ELIGIBILITY DETERMINATION PROCESS EFFICIENCY

Sec. 33.052. APPLICATION ASSISTANCE. (a) The commission shall develop procedures to ensure that:

(1) clear guidance on program eligibility requirements is provided to supplemental nutrition assistance applicants and prospective applicants and mechanisms are established, including Internet and e-mail mechanisms, as appropriate, by which applicants can obtain answers to basic program-related questions; and

(2) information is provided to each applicant in person, by e-mail, by telephone, or through the mail, as appropriate, about information the applicant is required to submit for purposes of the eligibility determination process.

(b) The commission shall consider the feasibility and cost-effectiveness of using office personnel or an automated system or systems to support the eligibility determination process by contacting an applicant in advance of an applicant's scheduled interview to remind the applicant of the interview and the documentation that must be presented at the interview.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1165 (H.B. 2819), Sec. 2, eff. September 1, 2011.

Sec. 33.053. USE OF TECHNOLOGY TO PROMOTE EFFICIENCY AND FRAUD DETECTION. (a) The commission shall consider the feasibility and cost-effectiveness of using readily available document scanning technology to reduce storage and maintenance costs and potential loss of data by creating electronic case files for supplemental nutrition assistance cases instead of maintaining physical files for those cases. The commission shall use that technology if determined feasible and cost-effective.

(b) The commission shall implement, if feasible and cost-effective, a risk scoring program for supplemental nutrition assistance applications to streamline the eligibility determination process, reduce errors, and strengthen fraud detection. A risk scoring program implemented by the commission must be capable of ranking applications based on complexity so that:

(1) more experienced eligibility determination staff members can be used to process more difficult cases and cases with fraud characteristics; and

(2) applications ranked as low-risk on fraud characteristics can be processed more expeditiously.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1165 (H.B. 2819), Sec. 2, eff. September 1, 2011.

Sec. 33.054. WORKFORCE MANAGEMENT. The commission shall improve its management of supplemental nutrition assistance

eligibility determination staff by:

(1) establishing clear performance expectations that can serve as the basis for performance assessments;

(2) planning for anticipated staffing needs;

(3) revising policies regarding overtime and accrual of compensatory time to ensure that eligibility determination staff members have access to supervisors as necessary;

(4) assessing the effectiveness of training provided to new eligibility determination staff members; and

(5) evaluating the compensation of eligibility determination staff members to determine if the compensation is sufficient to recruit qualified staff members and retain experienced staff members.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1165 (H.B. 2819), Sec. 2, eff. September 1, 2011.

Sec. 33.055. PROGRAM MANAGEMENT INFORMATION. (a) The commission, in conjunction with state, regional, and local eligibility determination offices, shall identify eligibility determination program performance indicators with respect to which data should periodically be collected. The commission shall implement a process for collecting data on the identified performance indicators.

(b) The commission shall provide periodic management reports generated by the automated eligibility system to eligibility determination offices. The reports must include information regarding the number of pending supplemental nutrition assistance applications and the number of those applications that have not been processed within applicable timeliness standards.

(c) The commission shall use data collected under Subsection (a) and the reports described by Subsection (b) to develop and assess strategies for:

(1) streamlining the supplemental nutrition assistance eligibility determination process;

(2) improving timeliness of eligibility determinations; and

(3) accommodating increases in applications received.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1165 (H.B. 2819), Sec. 2,

eff. September 1, 2011.

CHAPTER 34. STATE TEMPORARY ASSISTANCE AND SUPPORT SERVICES PROGRAM

Sec. 34.001. DEFINITIONS. In this chapter:

(1) "Related support services" means services considered under federal law to be a component of money payments for purposes of the financial assistance program authorized by Chapter 31.

(2) "Temporary assistance" means money payments for needy persons authorized by this chapter.

Added by Acts 2001, 77th Leg., ch. 1440, Sec. 1, eff. Sept. 1, 2001.

Sec. 34.002. DEVELOPMENT AND IMPLEMENTATION OF STATE PROGRAM; FUNDING. (a) The Health and Human Services Commission and the Texas Workforce Commission, with the participation of local workforce development boards, shall jointly develop and implement a state program of temporary assistance and related support services that is distinct from the financial assistance program authorized by Chapter 31.

(b) Temporary assistance and related support services may be provided under the state program only to:

(1) two-parent families; or

(2) persons residing in minimum service counties, as defined by the Texas Workforce Commission.

(c) Temporary assistance and related support services provided under the state program may not be funded with federal money provided to the state for the financial assistance program authorized by Chapter 31.

(d) If federal law is enacted that imposes work participation rate requirements on two-parent families for purposes of the financial assistance program under Chapter 31 that are substantively identical to those that federal law imposes on one-parent families for purposes of that program, the Health and Human Services Commission may, on the effective date of the federal law relating to the work participation rate requirements for two-parent families, provide for establishment of that recipient's eligibility for financial assistance under Chapter 31 instead of under this chapter in a manner that avoids disruption of benefits for which the

recipient is eligible.

Added by Acts 2001, 77th Leg., ch. 1440, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1134, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.167, eff. April 2, 2015.

Sec. 34.003. RULES. (a) The executive commissioner and the Texas Workforce Commission shall adopt all rules necessary for implementation of the state program, including rules regarding eligibility, work requirements, work exemptions, time limits, and related support services.

(b) The rules must be designed to result in a state program that is substantively identical to the financial assistance program authorized by Chapter 31, except to the extent that programmatic differences are appropriate because of the populations served by those programs and the sources of funding for those programs.

(c) The Health and Human Services Commission and the Texas Workforce Commission shall form an interagency work group to develop the rules required under this section. The interagency work group shall provide for participation in development of the rules by representatives of local workforce development boards.

Added by Acts 2001, 77th Leg., ch. 1440, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.168, eff. April 2, 2015.

Sec. 34.004. PROCEDURES APPLICABLE TO PERSONS RESIDING IN MINIMUM SERVICE COUNTIES. The Health and Human Services Commission and the Texas Workforce Commission shall develop and implement procedures to:

(1) determine the date on which a person's eligibility for temporary assistance and related support services based on residency in a minimum service county, as defined by the Texas Workforce Commission, will cease as a result of the county's reclassification; and

(2) provide for establishment of that person's eligibility for financial assistance and related support services under Chapter 31 in a manner that avoids disruption of benefits for which the person is eligible.

Added by Acts 2001, 77th Leg., ch. 1440, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.169, eff. April 2, 2015.

Sec. 34.005. ELIGIBILITY FOR MEDICAL ASSISTANCE. A recipient of temporary assistance and related support services under the state program is eligible for medical assistance under Chapter 32 in the same manner as a person receiving financial assistance under Chapter 31.

Added by Acts 2001, 77th Leg., ch. 1440, Sec. 1, eff. Sept. 1, 2001.

Sec. 34.006. STUDY. The Texas Workforce Commission, in collaboration with local workforce development boards and the appropriate standing committees of the senate and house of representatives, shall:

(1) study methods to improve the delivery of workforce services to persons residing in minimum service counties, as defined by the Texas Workforce Commission; and

(2) develop recommendations to improve the delivery of services described by Subdivision (1).

Added by Acts 2001, 77th Leg., ch. 1440, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 16, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 18, eff. June 17, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.170, eff. April 2, 2015.

CHAPTER 35. SUPPORT SERVICES FOR PERSONS WITH DISABILITIES

Sec. 35.001. DEFINITIONS. In this chapter:

(1) "Assistance" or "support services" means a subsidy granted by the department to provide support to a client.

(2) "Client" means a person with a disability who lives independently or a family who receives assistance under this chapter.

(3) "Department" means the Department of Aging and Disability Services.

(4) "Family" means a group that consists of a person with a disability and that person's parent, legal guardian, spouse, or sibling and may include others.

(5) "Legal guardian" means a person appointed by a court of competent jurisdiction to exercise powers over a person with a disability.

(6) "Other support programs" means:

(A) all forms of local, state, or federal support services other than those established by this chapter;

(B) contract programs; or

(C) support provided by public or private funds for persons with disabilities or their families.

(7) "Parent" includes only a natural, foster, surrogate, or adoptive parent.

(8) "Person with a disability" includes a person who has a physical or mental impairment that substantially limits one or more major life activities or has a record of such an impairment. This term does not include an individual whose impairment is a communicable disease.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.171, eff. April 2, 2015.

Sec. 35.002. ADOPTION OF RULES AND IMPLEMENTATION OF PROGRAM. The executive commissioner shall adopt rules to implement and administer this chapter, including:

(1) procedures and guidelines for determining eligibility standards relating to financial qualifications and the need for services and for determining eligibility criteria for selecting clients to receive assistance;

(2) standards and procedures for approving qualified programs and support services;

(3) procedures for conducting a periodic review of clients;

(4) procedures and guidelines for determining when assistance duplicates other support programs or results in excessive support to a client;

(5) reasonable payment rates for qualified programs and support services under this chapter; and

(6) a copayment system in accordance with Section 35.007.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.172, eff. April 2, 2015.

Sec. 35.003. ELIGIBILITY. (a) The department's rules must provide that an applicant for assistance is eligible to receive assistance if the applicant resides in this state and meets the department's eligibility criteria for income and need. A family or a person with a disability living independently may apply for assistance.

(b) The department shall determine in accordance with department rules eligibility for support services from the results of current evaluations, program plans, and medical reports. Those documents shall be provided to the department on request. The department, if it considers necessary, shall provide any additional evaluations.

(c) The department shall determine the applicant's needs and the support services for which the applicant is eligible in accordance with department rules and after consulting with the applicant.

(d) In determining eligibility for support services under this chapter, the department shall determine if the applicant is eligible to receive the services from other support programs. If the department determines that the applicant may receive the services from another support program and those services are available to the applicant, the department may deny the application. If the department denies the application, the department shall provide to the applicant information on and referral to the appropriate support

program.

(e) A local or state agency may not consider assistance received under this chapter in determining eligibility for another support program unless that consideration is required by federal regulations.

(f) If requested by the applicant, the commission's appeals division shall hold a hearing on the denial of an application.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 76, Sec. 17, eff. Sept. 1, 1991.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.173, eff. April 2, 2015.

Sec. 35.004. PROVISION OF ASSISTANCE AND SUPPORT SERVICES. (a) The department shall provide assistance to compensate a client for present and future expenses, including:

(1) the purchase or lease of special equipment or architectural modifications of a home to improve or facilitate the care, treatment, therapy, general living conditions, or access of a person with a disability;

(2) medical, surgical, therapeutic, diagnostic, and other health services related to a person's disability or disabilities;

(3) counseling or training programs that assist a family in providing proper care for a family member with a disability or assist a person with a disability in an independent living situation and that provide for the special needs of the family or person with a disability;

(4) attendant care, home health aide services, homemaker services, and chore services that provide support with training, routine body functions, dressing, preparation and consumption of food, and ambulation;

(5) respite support for a family, if the family is the client;

(6) transportation services for the person with a disability; and

(7) transportation, room, and board costs incurred by a family or a person with a disability during evaluation or treatment of a person with a disability that have been preapproved by the

department.

(b) The executive commissioner by rule may add services and programs for which the department may provide assistance.

(c) The department's duty to provide assistance under this chapter is determined and limited by the funds specifically appropriated to administer this chapter.

(d) The department may seek, accept, and expend funds from other sources to provide assistance under this chapter.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.174, eff. April 2, 2015.

Sec. 35.005. PAYMENT OF ASSISTANCE. (a) The department may grant assistance of not more than $3,600 a year to a client and make periodic distributions or a lump-sum distribution according to the client's needs. The commissioner of aging and disability services or the commissioner's designee may grant additional amounts on consideration of an individual client's needs.

(b) In addition to the assistance authorized by Subsection (a), the department may award to a client a one-time grant of assistance of not more than $3,600 for architectural renovation or other capital expenditure to improve or facilitate the care, treatment, therapy, general living conditions, or access of a person with a disability. The commissioner of aging and disability services or the commissioner's designee may grant additional amounts on consideration of an individual client's needs.

(c) The department shall consult with the client to determine the manner of distribution of the assistance. On agreement of the person with a disability or the head of the family, as appropriate, the department may distribute the assistance directly to the client or to a qualified program or provider of services serving the client.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.175, eff. April 2, 2015.

Sec. 35.006. SELECTION OF PROGRAMS OR PROVIDERS. (a) Each client may select the client's program or provider of services, except that the client may select only a program or provider that complies with department standards.

(b) The department shall require each program or provider to comply with department standards relating to the provision of support services and may disapprove payments for a program or provider that does not comply with the rules.

(c) The department shall assist each client in locating and selecting qualified programs and services.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Sec. 35.007. COPAYMENT SYSTEM. In accordance with department rules, the department shall establish a copayment system with each client using a scale for payments determined according to the client's need for financial assistance to acquire the necessary support services and the client's ability to pay for those services.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.176, eff. April 2, 2015.

Sec. 35.008. PAYMENT RATE. (a) The executive commissioner by rule shall establish a reasonable charge for each authorized support service.

(b) The department's liability for the cost of a support service is limited to the amount of the charge for the service less the amount of any copayment required from the client.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.177, eff. April 2, 2015.

Sec. 35.009. CLIENT RESPONSIBILITY FOR PAYMENT. Each client shall pay:

(1) the client's copayment;

(2) the amount of charges in excess of the amount determined by the executive commissioner to be reasonable; and

(3) the amount of charges incurred in excess of the maximum amount of assistance authorized by this chapter to be provided by the department.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.178, eff. April 2, 2015.

Sec. 35.010. REVIEW OF CLIENT'S NEEDS. (a) The department shall regularly review each client's needs as established by the department.

(b) The department shall review each client's needs when there is a change in the circumstances that were considered in determining eligibility or the amount of the required copayment.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Sec. 35.011. NOTIFICATION OF CHANGE IN CIRCUMSTANCES. The department shall require each client to notify the department of a change in circumstances that were considered in determining eligibility or the amount of the required copayment.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Sec. 35.012. CRIMINAL PENALTY. (a) A person commits an offense if the person, in obtaining or attempting to obtain assistance under this chapter for himself or another person:

(1) makes or causes to be made a statement or representation the person knows to be false; or

(2) solicits or accepts any assistance for which the person knows that the person for whom the solicitation is made is not eligible.

(b) An offense under this section is a felony of the third degree.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

CHAPTER 36. MEDICAID FRAUD PREVENTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 36.001. DEFINITIONS. In this chapter:

(1) "Claim" means a written or electronically submitted request or demand that:

(A) is signed by a provider or a fiscal agent and that identifies a product or service provided or purported to have been provided to a Medicaid recipient as reimbursable under the Medicaid program, without regard to whether the money that is requested or demanded is paid; or

(B) states the income earned or expense incurred by a provider in providing a product or a service and that is used to determine a rate of payment under the Medicaid program.

(2) "Documentary material" means a record, document, or other tangible item of any form, including:

(A) a medical document or X ray prepared by a person in relation to the provision or purported provision of a product or service to a Medicaid recipient;

(B) a medical, professional, or business record relating to:

(i) the provision of a product or service to a Medicaid recipient; or

(ii) a rate or amount paid or claimed for a product or service, including a record relating to a product or service provided to a person other than a Medicaid recipient as needed to verify the rate or amount;

(C) a record required to be kept by an agency that regulates health care providers; or

(D) a record necessary to disclose the extent of services a provider furnishes to Medicaid recipients.

(3) "Fiscal agent" means:

(A) a person who, through a contractual relationship with a state agency, receives, processes, and pays a claim under the Medicaid program; or

(B) the designated agent of a person described by Paragraph (A).

(4) "Health care practitioner" means a dentist, podiatrist,

psychologist, physical therapist, chiropractor, registered nurse, or other provider licensed to provide health care services in this state.

(5) "Managed care organization" has the meaning assigned by Section 32.039(a).

(5-a) "Material" means having a natural tendency to influence or to be capable of influencing.

(6) "Medicaid program" means the state Medicaid program.

(7) "Medicaid recipient" means an individual on whose behalf a person claims or receives a payment from the Medicaid program or a fiscal agent, without regard to whether the individual was eligible for benefits under the Medicaid program.

(7-a) "Obligation" means a duty, whether or not fixed, that arises from:

(A) an express or implied contractual, grantor-grantee, or licensor-licensee relationship;

(B) a fee-based or similar relationship;

(C) a statute or regulation; or

(D) the retention of any overpayment.

(8) "Physician" means a physician licensed to practice medicine in this state.

(9) "Provider" means a person who participates in or who has applied to participate in the Medicaid program as a supplier of a product or service and includes:

(A) a management company that manages, operates, or controls another provider;

(B) a person, including a medical vendor, that provides a product or service to a provider or to a fiscal agent;

(C) an employee of a provider;

(D) a managed care organization; and

(E) a manufacturer or distributor of a product for which the Medicaid program provides reimbursement.

(10) "Service" includes care or treatment of a Medicaid recipient.

(11) "Signed" means to have affixed a signature directly or indirectly by means of handwriting, typewriting, signature stamp, computer impulse, or other means recognized by law.

(12) "Unlawful act" means an act declared to be unlawful under Section 36.002.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1153, Sec. 4.02, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 398 (S.B. 544), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.179, eff. April 2, 2015.

Sec. 36.0011. CULPABLE MENTAL STATE. (a) For purposes of this chapter, a person acts "knowingly" with respect to information if the person:

(1) has knowledge of the information;

(2) acts with conscious indifference to the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or falsity of the information.

(b) Proof of the person's specific intent to commit an unlawful act under Section 36.002 is not required in a civil or administrative proceeding to show that a person acted "knowingly" with respect to information under this chapter.

Added by Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 2, eff. September 1, 2005.

Sec. 36.002. UNLAWFUL ACTS. A person commits an unlawful act if the person:

(1) knowingly makes or causes to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

(2) knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

(3) knowingly applies for and receives a benefit or payment on behalf of another person under the Medicaid program and converts any part of the benefit or payment to a use other than for the benefit of the person on whose behalf it was received;

(4) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning:

(A) the conditions or operation of a facility in order that the facility may qualify for certification or recertification required by the Medicaid program, including certification or recertification as:

(i) a hospital;

(ii) a nursing facility or skilled nursing facility;

(iii) a hospice;

(iv) an ICF-IID;

(v) an assisted living facility; or

(vi) a home health agency; or

(B) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to the Medicaid program;

(5) except as authorized under the Medicaid program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the Medicaid program, a gift, money, a donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under the Medicaid program;

(6) knowingly presents or causes to be presented a claim for payment under the Medicaid program for a product provided or a service rendered by a person who:

(A) is not licensed to provide the product or render the service, if a license is required; or

(B) is not licensed in the manner claimed;

(7) knowingly makes or causes to be made a claim under the Medicaid program for:

(A) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner;

(B) a service or product that is substantially inadequate or inappropriate when compared to generally recognized

standards within the particular discipline or within the health care industry; or

(C) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate;

(8) makes a claim under the Medicaid program and knowingly fails to indicate the type of license and the identification number of the licensed health care provider who actually provided the service;

(9) conspires to commit a violation of Subdivision (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (12), or (13);

(10) is a managed care organization that contracts with the commission or other state agency to provide or arrange to provide health care benefits or services to individuals eligible under the Medicaid program and knowingly:

(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract;

(B) fails to provide to the commission or appropriate state agency information required to be provided by law, commission or agency rule, or contractual provision; or

(C) engages in a fraudulent activity in connection with the enrollment of an individual eligible under the Medicaid program in the organization's managed care plan or in connection with marketing the organization's services to an individual eligible under the Medicaid program;

(11) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section;

(12) knowingly makes, uses, or causes the making or use of a false record or statement material to an obligation to pay or transmit money or property to this state under the Medicaid program, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to this state under the Medicaid program; or

(13) knowingly engages in conduct that constitutes a violation under Section 32.039(b).

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1153, Sec. 4.03, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 233, Sec. 4, eff. Sept. 1, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 78 (H.B. 889), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 398 (S.B. 544), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 572 (S.B. 746), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.180, eff. April 2, 2015.

Sec. 36.003. DOCUMENTARY MATERIAL IN POSSESSION OF STATE AGENCY. (a) A state agency, including the commission, the Department of State Health Services, the Department of Aging and Disability Services, and the Department of Family and Protective Services, shall provide the attorney general access to all documentary materials of persons and Medicaid recipients under the Medicaid program to which that agency has access. Documentary material provided under this subsection is provided to permit investigation of an alleged unlawful act or for use or potential use in an administrative or judicial proceeding.

(b) Except as ordered by a court for good cause shown, the office of the attorney general may not produce for inspection or copying or otherwise disclose the contents of documentary material obtained under this section to a person other than:

(1) an employee of the attorney general;

(2) an agency of this state, the United States, or another state;

(3) a criminal district attorney, district attorney, or county attorney of this state;

(4) the United States attorney general;

(5) a state or federal grand jury;

(6) a political subdivision of this state; or

(7) a person authorized by the attorney general to receive the information.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 36.007 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 4, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.181, eff. April 2, 2015.

Sec. 36.004. IMMUNITY. Notwithstanding any other law, a person is not civilly or criminally liable for providing access to documentary material under this chapter to:

(1) an employee of the attorney general;

(2) an agency of this state, the United States, or another state;

(3) a criminal district attorney, district attorney, or county attorney of this state;

(4) the United States attorney general;

(5) a state or federal grand jury;

(6) a political subdivision of this state; or

(7) a person authorized by the attorney general to receive the information.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 36.008 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 5, eff. September 1, 2005.

Sec. 36.005. SUSPENSION OR REVOCATION OF AGREEMENT; PROFESSIONAL DISCIPLINE. (a) A health and human services agency, as defined by Section 531.001, Government Code:

(1) shall suspend or revoke:

(A) a provider agreement between the agency and a person, other than a person who operates a nursing facility or an ICF-IID, found liable under Section 36.052; and

(B) a permit, license, or certification granted by the agency to a person, other than a person who operates a nursing facility or an ICF-IID, found liable under Section 36.052; and

(2) may suspend or revoke:

(A) a provider agreement between the agency and a person who operates a nursing facility or an ICF-IID and who is found liable under Section 36.052; or

(B) a permit, license, or certification granted by the agency to a person who operates a nursing facility or an ICF-IID and who is found liable under Section 36.052.

(b) A provider found liable under Section 36.052 for an unlawful act may not, for a period of 10 years, provide or arrange to provide health care services under the Medicaid program or supply or sell, directly or indirectly, a product to or under the Medicaid program. The executive commissioner may by rule:

(1) provide for a period of ineligibility longer than 10 years; or

(2) grant a provider a full or partial exemption from the period of ineligibility required by this subsection if the executive commissioner finds that enforcement of the full period of ineligibility is harmful to the Medicaid program or a beneficiary of the program.

(b-1) The period of ineligibility begins on the date on which the judgment finding the provider liable under Section 36.052 is entered by the trial court.

(b-2) Subsections (b) and (b-1) do not apply to a provider who operates a nursing facility or an ICF-IID.

(c) A person licensed by a state regulatory agency who commits an unlawful act is subject to professional discipline under the applicable licensing law or rules adopted under that law.

(d) For purposes of this section, a person is considered to have been found liable under Section 36.052 if the person is found liable in an action brought under Subchapter C.

(e) Notwithstanding Subsection (b-1), the period of ineligibility for an individual licensed by a health care regulatory agency or a physician begins on the date on which the determination that the individual or physician is liable becomes final.

(f) For purposes of Subsection (e), a "physician" includes a physician, a professional association composed solely of physicians, a single legal entity authorized to practice medicine owned by two or more physicians, a nonprofit health corporation certified by the Texas Medical Board under Chapter 162, Occupations Code, or a partnership composed solely of physicians.

(g) For purposes of Subsection (e), "health care regulatory

agency" has the meaning assigned by Section 774.001, Government Code.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 36.009 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(a), eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 1153, Sec. 4.06, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 6, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 1311 (S.B. 8), Sec. 12, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.182, eff. April 2, 2015.

Sec. 36.006. APPLICATION OF OTHER LAW. The application of a civil remedy under this chapter does not preclude the application of another common law, statutory, or regulatory remedy, except that a person may not be liable for a civil remedy under this chapter and civil damages or a penalty under Section 32.039 if the civil remedy and civil damages or penalty are assessed for the same act.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 36.010 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(a), eff. Sept. 1, 1997.

Sec. 36.007. RECOVERY OF COSTS, FEES, AND EXPENSES. The attorney general may recover fees, expenses, and costs reasonably incurred in obtaining injunctive relief or civil remedies or in conducting investigations under this chapter, including court costs, reasonable attorney's fees, witness fees, and deposition fees.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 36.011 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(a), eff. Sept. 1, 1997.

Sec. 36.008. USE OF MONEY RECOVERED. The legislature, in appropriating money recovered under this chapter, shall consider the requirements of the attorney general and other affected state

agencies in investigating Medicaid fraud and enforcing this chapter.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 36.012 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(a), eff. Sept. 1, 1997.

SUBCHAPTER B. ACTION BY ATTORNEY GENERAL

Sec. 36.051. INJUNCTIVE RELIEF. (a) If the attorney general has reason to believe that a person is committing, has committed, or is about to commit an unlawful act, the attorney general may institute an action for an appropriate order to restrain the person from committing or continuing to commit the act.

(b) An action under this section shall be brought in a district court of Travis County or of a county in which any part of the unlawful act occurred, is occurring, or is about to occur.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 36.003 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(b), eff. Sept. 1, 1997.

Sec. 36.052. CIVIL REMEDIES. (a) Except as provided by Subsection (c), a person who commits an unlawful act is liable to the state for:

(1) the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the unlawful act, including any payment made to a third party;

(2) interest on the amount of the payment or the value of the benefit described by Subdivision (1) at the prejudgment interest rate in effect on the day the payment or benefit was received or paid, for the period from the date the benefit was received or paid to the date that the state recovers the amount of the payment or value of the benefit;

(3) a civil penalty of:

(A) not less than $5,500 or the minimum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds $5,500, and not more than $15,000 or the maximum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds $15,000, for each unlawful act committed by the person that results

in injury to an elderly person, as defined by Section 48.002(a)(1), a person with a disability, as defined by Section 48.002(a)(8)(A), or a person younger than 18 years of age; or

(B) not less than $5,500 or the minimum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds $5,500, and not more than $11,000 or the maximum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds $11,000, for each unlawful act committed by the person that does not result in injury to a person described by Paragraph (A); and

(4) two times the amount of the payment or the value of the benefit described by Subdivision (1).

(b) In determining the amount of the civil penalty described by Subsection (a)(3), the trier of fact shall consider:

(1) whether the person has previously violated the provisions of this chapter;

(2) the seriousness of the unlawful act committed by the person, including the nature, circumstances, extent, and gravity of the unlawful act;

(3) whether the health and safety of the public or an individual was threatened by the unlawful act;

(4) whether the person acted in bad faith when the person engaged in the conduct that formed the basis of the unlawful act; and

(5) the amount necessary to deter future unlawful acts.

(c) The trier of fact may assess a total of not more than two times the amount of a payment or the value of a benefit described by Subsection (a)(1) if the trier of fact finds that:

(1) the person furnished the attorney general with all information known to the person about the unlawful act not later than the 30th day after the date on which the person first obtained the information; and

(2) at the time the person furnished all the information to the attorney general, the attorney general had not yet begun an investigation under this chapter.

(d) An action under this section shall be brought in Travis County or in a county in which any part of the unlawful act occurred.

(e) The attorney general may:

(1) bring an action for civil remedies under this section together with a suit for injunctive relief under Section 36.051; or

(2) institute an action for civil remedies independently of

an action for injunctive relief.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 36.004 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(b), eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 1153, Sec. 4.04, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 7, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 29 (S.B. 362), Sec. 1, eff. May 4, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 398 (S.B. 544), Sec. 3, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.183, eff. April 2, 2015.

Sec. 36.053. INVESTIGATION. (a) The attorney general may take action under Subsection (b) if the attorney general has reason to believe that:

(1) a person has information or custody or control of documentary material relevant to the subject matter of an investigation of an alleged unlawful act;

(2) a person is committing, has committed, or is about to commit an unlawful act; or

(3) it is in the public interest to conduct an investigation to ascertain whether a person is committing, has committed, or is about to commit an unlawful act.

(b) In investigating an unlawful act, the attorney general may:

(1) require the person to file on a prescribed form a statement in writing, under oath or affirmation, as to all the facts and circumstances concerning the alleged unlawful act and other information considered necessary by the attorney general;

(2) examine under oath a person in connection with the alleged unlawful act; and

(3) execute in writing and serve on the person a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying of the material under Section 36.054.

(c) The office of the attorney general may not release or

disclose information that is obtained under Subsection (b)(1) or (2) or any documentary material or other record derived from the information except:

(1) by court order for good cause shown;

(2) with the consent of the person who provided the information;

(3) to an employee of the attorney general;

(4) to an agency of this state, the United States, or another state;

(5) to any attorney representing the state under Section 36.055 or in a civil action brought under Subchapter C;

(6) to a political subdivision of this state; or

(7) to a person authorized by the attorney general to receive the information.

(d) The attorney general may use documentary material derived from information obtained under Subsection (b)(1) or (2), or copies of that material, as the attorney general determines necessary in the enforcement of this chapter, including presentation before a court.

(e) If a person fails to file a statement as required by Subsection (b)(1) or fails to submit to an examination as required by Subsection (b)(2), the attorney general may file in a district court of Travis County a petition for an order to compel the person to file the statement or submit to the examination within a period stated by court order. Failure to comply with an order entered under this subsection is punishable as contempt.

(f) An order issued by a district court under this section is subject to appeal to the supreme court.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995. Renumbered from Human Resources Code Sec. 36.005 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(b), eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 1153, Sec. 4.05, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 8, eff. September 1, 2005.

Sec. 36.054. CIVIL INVESTIGATIVE DEMAND. (a) An investigative demand must:

(1) state the rule or statute under which the alleged

unlawful act is being investigated and the general subject matter of the investigation;

(2) describe the class or classes of documentary material to be produced with reasonable specificity to fairly indicate the documentary material demanded;

(3) prescribe a return date within which the documentary material is to be produced; and

(4) identify an authorized employee of the attorney general to whom the documentary material is to be made available for inspection and copying.

(b) A civil investigative demand may require disclosure of any documentary material that is discoverable under the Texas Rules of Civil Procedure.

(c) Service of an investigative demand may be made by:

(1) delivering an executed copy of the demand to the person to be served or to a partner, an officer, or an agent authorized by appointment or by law to receive service of process on behalf of that person;

(2) delivering an executed copy of the demand to the principal place of business in this state of the person to be served; or

(3) mailing by registered or certified mail an executed copy of the demand addressed to the person to be served at the person's principal place of business in this state or, if the person has no place of business in this state, to a person's principal office or place of business.

(d) Documentary material demanded under this section shall be produced for inspection and copying during normal business hours at the office of the attorney general or as agreed by the person served and the attorney general.

(e) The office of the attorney general may not produce for inspection or copying or otherwise disclose the contents of documentary material obtained under this section except:

(1) by court order for good cause shown;

(2) with the consent of the person who produced the information;

(3) to an employee of the attorney general;

(4) to an agency of this state, the United States, or another state;

(5) to any attorney representing the state under Section

36.055 or in a civil action brought under Subchapter C;

(6) to a political subdivision of this state; or

(7) to a person authorized by the attorney general to receive the information.

(e-1) The attorney general shall prescribe reasonable terms and conditions allowing the documentary material to be available for inspection and copying by the person who produced the material or by an authorized representative of that person. The attorney general may use the documentary material or copies of it as the attorney general determines necessary in the enforcement of this chapter, including presentation before a court.

(f) A person may file a petition, stating good cause, to extend the return date for the demand or to modify or set aside the demand. A petition under this section shall be filed in a district court of Travis County and must be filed before the earlier of:

(1) the return date specified in the demand; or

(2) the 20th day after the date the demand is served.

(g) Except as provided by court order, a person on whom a demand has been served under this section shall comply with the terms of an investigative demand.

(h) A person who has committed an unlawful act in relation to the Medicaid program in this state has submitted to the jurisdiction of this state and personal service of an investigative demand under this section may be made on the person outside of this state.

(i) This section does not limit the authority of the attorney general to conduct investigations or to access a person's documentary materials or other information under another state or federal law, the Texas Rules of Civil Procedure, or the Federal Rules of Civil Procedure.

(j) If a person fails to comply with an investigative demand, or if copying and reproduction of the documentary material demanded cannot be satisfactorily accomplished and the person refuses to surrender the documentary material, the attorney general may file in a district court of Travis County a petition for an order to enforce the investigative demand.

(k) If a petition is filed under Subsection (j), the court may determine the matter presented and may enter an order to implement this section.

(l) Failure to comply with a final order entered under Subsection (k) is punishable by contempt.

(m) A final order issued by a district court under Subsection (k) is subject to appeal to the supreme court.

Added by Acts 1995, 74th Leg., ch. 824, Sec. 1, eff. Sept. 1, 1995.
Renumbered from Human Resources Code Sec. 36.006 by Acts 1997, 75th Leg., ch. 1153, Sec. 4.01(b), eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 9, eff. September 1, 2005.

Sec. 36.055. ATTORNEY GENERAL AS RELATOR IN FEDERAL ACTION. To the extent permitted by 31 U.S.C. Sections 3729-3733, the attorney general may bring an action as relator under 31 U.S.C. Section 3730 with respect to an act in connection with the Medicaid program for which a person may be held liable under 31 U.S.C. Section 3729. The attorney general may contract with a private attorney to represent the state under this section.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.07(a), eff. Sept. 1, 1997.

SUBCHAPTER C. ACTION BY PRIVATE PERSONS

Sec. 36.101. ACTION BY PRIVATE PERSON AUTHORIZED. (a) A person may bring a civil action for a violation of Section 36.002 for the person and for the state. The action shall be brought in the name of the person and of the state.

(b) In an action brought under this subchapter, a person who violates Section 36.002 is liable as provided by Section 36.052.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.102. INITIATION OF ACTION; CONSENT REQUIRED FOR DISMISSAL. (a) A person bringing an action under this subchapter shall serve a copy of the petition and a written disclosure of substantially all material evidence and information the person possesses on the attorney general in compliance with the Texas Rules of Civil Procedure.

(b) The petition shall be filed in camera and, except as provided by Subsection (c-1) or (d), shall remain under seal until at least the 180th day after the date the petition is filed or the date on which the state elects to intervene, whichever is earlier. The petition may not be served on the defendant until the court orders service on the defendant.

(c) The state may elect to intervene and proceed with the action not later than the 180th day after the date the attorney general receives the petition and the material evidence and information.

(c-1) At the time the state intervenes, the attorney general may file a motion with the court requesting that the petition remain under seal for an extended period.

(d) The state may, for good cause shown, move the court to extend the 180-day deadline under Subsection (b) or (c). A motion under this subsection may be supported by affidavits or other submissions in camera.

(e) An action under this subchapter may be dismissed only if the court and the attorney general consent in writing to the dismissal and state their reasons for consenting.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 10, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 97 (H.B. 2004), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 97 (H.B. 2004), Sec. 2, eff. September 1, 2019.

Sec. 36.1021. STANDARD OF PROOF. In an action under this subchapter, the state or person bringing the action must establish each element of the action, including damages, by a preponderance of the evidence.

Added by Acts 2007, 80th Leg., R.S., Ch. 29 (S.B. 362), Sec. 2, eff. May 4, 2007.

Sec. 36.103. ANSWER BY DEFENDANT. A defendant is not required to file in accordance with the Texas Rules of Civil Procedure an answer to a petition filed under this subchapter until the petition is unsealed and served on the defendant.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 11, eff. September 1, 2005.

Sec. 36.104. STATE DECISION; CONTINUATION OF ACTION. (a) Not later than the last day of the period prescribed by Section 36.102(c) or an extension of that period as provided by Section 36.102(d), the state shall:

(1) proceed with the action; or

(2) notify the court that the state declines to take over the action.

(b) If the state declines to take over the action, the person bringing the action may proceed without the state's participation. A person proceeding under this subsection may recover for an unlawful act for a period of up to six years before the date the lawsuit was filed, or for a period beginning when the unlawful act occurred until up to three years from the date the state knows or reasonably should have known facts material to the unlawful act, whichever of these two periods is longer, regardless of whether the unlawful act occurred more than six years before the date the lawsuit was filed. Notwithstanding the preceding sentence, in no event shall a person proceeding under this subsection recover for an unlawful act that occurred more than 10 years before the date the lawsuit was filed.

(b-1) On request by the state, the state is entitled to be served with copies of all pleadings filed in the action and be provided at the state's expense with copies of all deposition transcripts. If the person bringing the action proceeds without the state's participation, the court, without limiting the status and right of that person, may permit the state to intervene at a later date on a showing of good cause.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 12, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 29 (S.B. 362), Sec. 3, eff. May 4, 2007.

Acts 2007, 80th Leg., R.S., Ch. 29 (S.B. 362), Sec. 4, eff. May 4, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 572 (S.B. 746), Sec. 2, eff. September 1, 2013.

Sec. 36.105. REPRESENTATION OF STATE BY PRIVATE ATTORNEY. The attorney general may contract with a private attorney to represent the state in an action under this subchapter with which the state elects to proceed.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.106. INTERVENTION BY OTHER PARTIES PROHIBITED. A person other than the state may not intervene or bring a related action based on the facts underlying a pending action brought under this subchapter.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.107. RIGHTS OF PARTIES IF STATE CONTINUES ACTION. (a) If the state proceeds with the action, the state has the primary responsibility for prosecuting the action and is not bound by an act of the person bringing the action. The person bringing the action has the right to continue as a party to the action, subject to the limitations set forth by this section.

(b) The state may dismiss the action notwithstanding the objections of the person bringing the action if:

(1) the attorney general notifies the person that the state has filed a motion to dismiss; and

(2) the court provides the person with an opportunity for a hearing on the motion.

(c) The state may settle the action with the defendant notwithstanding the objections of the person bringing the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. On a showing of good cause, the hearing may be held in camera.

(d) On a showing by the state that unrestricted participation during the course of the litigation by the person bringing the action would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may impose limitations on the person's participation, including:

(1) limiting the number of witnesses the person may call;

(2) limiting the length of the testimony of witnesses called by the person;

(3) limiting the person's cross-examination of witnesses; or

(4) otherwise limiting the participation by the person in the litigation.

(e) On a showing by the defendant that unrestricted participation during the course of the litigation by the person bringing the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.108. STAY OF CERTAIN DISCOVERY. (a) On a showing by the state that certain actions of discovery by the person bringing the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period not to exceed 60 days.

(b) The court shall hear a motion to stay discovery under this section in camera.

(c) The court may extend the period prescribed by Subsection (a) on a further showing in camera that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and that any proposed discovery in the civil action will

interfere with the ongoing criminal or civil investigation or proceedings.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.109. PURSUIT OF ALTERNATE REMEDY BY STATE. (a) Notwithstanding Section 36.101, the state may elect to pursue the state's claim through any alternate remedy available to the state, including any administrative proceeding to determine an administrative penalty. If an alternate remedy is pursued in another proceeding, the person bringing the action has the same rights in the other proceeding as the person would have had if the action had continued under this subchapter.

(b) A finding of fact or conclusion of law made in the other proceeding that has become final is conclusive on all parties to an action under this subchapter. For purposes of this subsection, a finding or conclusion is final if:

(1) the finding or conclusion has been finally determined on appeal to the appropriate court;

(2) no appeal has been filed with respect to the finding or conclusion and all time for filing an appeal has expired; or

(3) the finding or conclusion is not subject to judicial review.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.110. AWARD TO PRIVATE PLAINTIFF. (a) If the state proceeds with an action under this subchapter, the person bringing the action is entitled, except as provided by Subsection (b), to receive at least 15 percent but not more than 25 percent of the proceeds of the action, depending on the extent to which the person substantially contributed to the prosecution of the action.

(a-1) If the state does not proceed with an action under this subchapter, the person bringing the action is entitled, except as provided by Subsection (b), to receive at least 25 percent but not more than 30 percent of the proceeds of the action. The entitlement of a person under this subsection is not affected by any subsequent

intervention in the action by the state in accordance with Section 36.104(b-1).

(b) If the court finds that the action is based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a Texas or federal criminal or civil hearing, in a Texas or federal legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award the amount the court considers appropriate but not more than 10 percent of the proceeds of the action. The court shall consider the significance of the information and the role of the person bringing the action in advancing the case to litigation.

(c) A payment to a person under this section shall be made from the proceeds of the action. A person receiving a payment under this section is also entitled to receive from the defendant an amount for reasonable expenses, reasonable attorney's fees, and costs that the court finds to have been necessarily incurred. The court's determination of expenses, fees, and costs to be awarded under this subsection shall be made only after the defendant has been found liable in the action or the claim is settled.

(d) In this section, "proceeds of the action" includes proceeds of a settlement of the action.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 13, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 29 (S.B. 362), Sec. 5, eff. May 4, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 398 (S.B. 544), Sec. 4, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 572 (S.B. 746), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.184, eff. April 2, 2015.

Sec. 36.111. REDUCTION OF AWARD. (a) If the court finds that the action was brought by a person who planned and initiated the

violation of Section 36.002 on which the action was brought, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action the person would otherwise receive under Section 36.110, taking into account the person's role in advancing the case to litigation and any relevant circumstances pertaining to the violation.

(b) If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of Section 36.002, the court shall dismiss the person from the civil action and the person may not receive any share of the proceeds of the action. A dismissal under this subsection does not prejudice the right of the state to continue the action.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.112. AWARD TO DEFENDANT FOR FRIVOLOUS ACTION. Chapter 105, Civil Practice and Remedies Code, applies in an action under this subchapter with which the state proceeds.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.113. CERTAIN ACTIONS BARRED. (a) A person may not bring an action under this subchapter that is based on allegations or transactions that are the subject of a civil suit or an administrative penalty proceeding in which the state is already a party.

(b) The court shall dismiss an action or claim under this subchapter, unless opposed by the attorney general, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed in a Texas or federal criminal or civil hearing in which the state or an agent of the state is a party, in a Texas legislative or administrative report, or other Texas hearing, audit, or investigation, or from the news media, unless the person bringing the action is an original source of the information. In this subsection, "original source" means an individual who:

(1) prior to a public disclosure under this subsection, has voluntarily disclosed to the state the information on which

allegations or transactions in a claim are based; or

(2) has knowledge that is independent of and materially adds to the publicly disclosed allegation or transactions and who has voluntarily provided the information to the state before filing an action under this subchapter.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 572, Sec. 6, eff. September 1, 2013.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 398 (S.B. 544), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 572 (S.B. 746), Sec. 4, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 572 (S.B. 746), Sec. 6, eff. September 1, 2013.

Sec. 36.114. STATE NOT LIABLE FOR CERTAIN EXPENSES. The state is not liable for expenses that a person incurs in bringing an action under this subchapter.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.115. RETALIATION AGAINST PERSON PROHIBITED. (a) A person, including an employee, contractor, or agent, who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of a lawful act taken by the person or associated others in furtherance of an action under this subchapter, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this subchapter, or other efforts taken by the person to stop one or more violations of Section 36.002 is entitled to:

(1) reinstatement with the same seniority status the person would have had but for the discrimination; and

(2) not less than two times the amount of back pay, interest on the back pay, and compensation for any special damages

sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

(b) A person may bring an action in the appropriate district court for the relief provided in this section.

(c) A person must bring suit on an action under this section not later than the third anniversary of the date on which the cause of action accrues. For purposes of this section, the cause of action accrues on the date the retaliation occurs.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 398 (S.B. 544), Sec. 6, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 398 (S.B. 544), Sec. 7, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 572 (S.B. 746), Sec. 5, eff. September 1, 2013.

Sec. 36.116. SOVEREIGN IMMUNITY NOT WAIVED. Except as provided by Section 36.112, this subchapter does not waive sovereign immunity.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

Sec. 36.117. ATTORNEY GENERAL COMPENSATION. The office of the attorney general may retain a reasonable portion of recoveries under this subchapter, not to exceed amounts specified in the General Appropriations Act, for the administration of this subchapter.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.08, eff. Sept. 1, 1997.

SUBCHAPTER D. REVOCATION OF CERTAIN OCCUPATIONAL LICENSES

Sec. 36.132. REVOCATION OF LICENSES. (a) In this section:

(1) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a licensing authority;

(B) is subject before expiration to suspension, revocation, forfeiture, or termination by an issuing licensing authority; and

(C) must be obtained before a person may practice or engage in a particular business, occupation, or profession.

(2) "Licensing authority" means:

(A) the Texas Medical Board;

(B) the State Board of Dental Examiners;

(C) the Texas Behavioral Health Executive Council;

(D) the Texas Board of Nursing;

(E) the Texas Board of Physical Therapy Examiners;

(F) the Texas Board of Occupational Therapy Examiners; or

(G) another state agency authorized to regulate a provider who receives or is eligible to receive payment for a health care service under the Medicaid program.

(b) A licensing authority shall revoke a license issued by the authority to a person if the person is convicted of a felony under Section 35A.02, Penal Code. In revoking the license, the licensing authority shall comply with all procedures generally applicable to the licensing authority in revoking licenses.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 4.09, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 2.012, eff. Feb. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 806 (S.B. 563), Sec. 15, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 70, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 768 (H.B. 1501), Sec. 3.005, eff. September 1, 2019.

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

CHAPTER 40. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 40.001. DEFINITIONS. In this subtitle:

(1) Repealed by Acts 2005, 79th Leg., Ch. 268, Sec.

1.129(1), eff. September 1, 2005.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(50), eff. April 2, 2015.

(2-a) "Council" means the Family and Protective Services Council.

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

(4) "Commissioner" means the commissioner of the Department of Family and Protective Services.

(4-a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(50), eff. April 2, 2015.

(5) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944 , Sec. 86(42), eff. September 1, 2015.

(6) "State supported living center" has the meaning assigned by Section 531.002, Health and Safety Code.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 198, Sec. 1.10, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.75, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.129(1), eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 23, eff. June 11, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(50), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 86(42), eff. September 1, 2015.

Sec. 40.002. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES; GENERAL DUTIES OF DEPARTMENT. (a) The Department of Family and Protective Services is composed of the council, the commissioner, an administrative staff, and other employees necessary to efficiently carry out the purposes of this chapter.

(b) Except as provided by Section 40.0025, the department shall:

(1) provide protective services for children and elderly

persons and persons with disabilities, including investigations of alleged abuse, neglect, or exploitation in facilities of the Department of State Health Services and the Department of Aging and Disability Services or the successor agency for either of those agencies;

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

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

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

(c) The department is the state agency designated to cooperate with the federal government in the administration of programs under:

(1) Parts B and E, Title IV, federal Social Security Act (42 U.S.C. Sections 620 et seq. and 670 et seq.);

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. Section 5101 et seq.); and

(3) other federal law for which the department has administrative responsibility.

(d) The department shall cooperate with the United States Department of Health and Human Services and other federal and state agencies in a reasonable manner and in conformity with the provisions of federal law and this subtitle to the extent necessary to qualify for federal assistance in the delivery of services.

(e) If the department determines that a provision of state law governing the department conflicts with a provision of federal law, the executive commissioner may adopt policies and rules necessary to allow the state to receive and spend federal matching funds to the fullest extent possible in accordance with the federal statutes, this subtitle, and the state constitution and within the limits of appropriated funds.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 268, Sec. 32(f), eff. September 1, 2008.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 489, Sec. 1, eff. Sept. 1, 1999;

Acts 2003, 78th Leg., ch. 198, Sec. 1.11, 2.128, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 13.07, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.76, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 4.05, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 32(f), eff. September 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.185, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.18, eff. September 1, 2017.

Sec. 40.0025. AGENCY FUNCTIONS. (a) In this section, "function" includes a power, duty, program, or activity and an administrative support services function associated with the power, duty, program, or activity, unless consolidated under Section 531.02012, Government Code.

(b) In accordance with Subchapter A-1, Chapter 531, Government Code, and notwithstanding any other law, the department performs only functions, including the statewide intake of reports and other information, related to the following services:

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

(2) adult protective services, other than investigations of the alleged abuse, neglect, or exploitation of an elderly person or person with a disability:

(A) in a facility operated, or in a facility or by a person licensed, certified, or registered, by a state agency; or

(B) by a provider that has contracted to provide home and community-based services; and

(3) prevention and early intervention services functions, including:

(A) prevention and early intervention services as defined under Section 265.001, Family Code; and

(B) programs that:

(i) provide parent education;

(ii) promote healthier parent-child relationships; or

(iii) prevent family violence.

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.19, eff. September 1, 2017.

Sec. 40.0026. REFERENCES IN LAW MEANING DEPARTMENT. In this code or any other law, a reference to the department or the commission in relation to a function described by Section 40.0025(b) means the department.

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.19, eff. September 1, 2017.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 28, eff. September 1, 2017.

Sec. 40.0027. REFERENCES IN LAW MEANING COMMISSIONER OR DESIGNEE. In this code or in any other law, a reference to the commissioner or the executive commissioner in relation to a function described by Section 40.0025(b) means the commissioner.

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.19, eff. September 1, 2017.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 28, eff. September 1, 2017.

Sec. 40.003. SUNSET PROVISION. The Department of Family and Protective Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2027.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.77, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.04, eff. June 15, 2007.

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 2.10, eff. July 10, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 2.13, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 4.04, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 4.09, eff. June 10, 2019.

Sec. 40.004. PUBLIC INTEREST INFORMATION AND PUBLIC ACCESS. (a) The commissioner shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commissioner and to speak on any issue under the jurisdiction of the department.

(b) The commissioner, with the advice of the council, shall prepare information of public interest describing the functions of the department. The commission shall make the information available to the public and appropriate state agencies.

(c) The commissioner shall grant an opportunity for a public hearing before the council makes recommendations to the commissioner regarding a substantive rule if a public hearing is requested by:

(1) at least 25 persons;

(2) a governmental entity; or

(3) an association with at least 25 members.

(d) The executive commissioner shall consider fully all written and oral submissions about a proposed rule.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 198, Sec. 1.12, eff. Sept. 1, 2003.

Sec. 40.0041. COMPLAINT PROCESS. (a) The executive commissioner by rule shall develop and implement a uniform process

for receiving and resolving complaints against the department throughout the state. The process shall include:

(1) statewide procedures through which the public, consumers, and service recipients are informed:

(A) of the right to make a complaint against the department, including the mailing addresses and telephone numbers of appropriate department personnel responsible for receiving complaints and providing related assistance; and

(B) of the department's procedures for resolving a complaint, including the right to appeal a decision made at the local level;

(2) development and statewide distribution of a form or telephone system that may be used to make a complaint;

(3) a requirement that the department provide information by mail or telephone regarding the department's procedures for investigating and resolving a complaint to each person who makes a complaint; and

(4) a requirement that the department provide status information at least quarterly to a person with a pending complaint against the department, unless the information would jeopardize an undercover investigation.

(b) In addition to other appropriate methods, the department may provide the information specified by Subsection (a)(1):

(1) on each registration form, application, or written contract for services of a person regulated by the department;

(2) on a sign prominently displayed in the place of business of each person regulated by the department; or

(3) in a bill for service provided by a person regulated by the department.

(c) The department shall keep an information file about each complaint made against the department that the department has authority to resolve.

(d) The executive commissioner shall develop a consistent, statewide process for addressing an appeal by a person dissatisfied with the resolution of a complaint at the regional level. The process shall include an opportunity for appeal of a complaint without the participation of the department's ombudsman office.

(e) The department shall develop and maintain a centralized tracking system to gather information concerning all complaints made against the department throughout the state. The department shall

require its personnel to provide information regarding each complaint for inclusion in records maintained under the tracking system at the department's state headquarters, regardless of the location or level at which the complaint is initiated or resolved. The department shall require at least the following information to be maintained for each complaint:

(1) the date the complaint is received;

(2) the name of the person making the complaint;

(3) the subject matter of the complaint;

(4) a record of all persons contacted by the department in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) for each complaint determined by the department to require no corrective action, an explanation of the reason that the complaint was closed without action.

(f) The department shall periodically prepare and deliver reports to the executive commissioner and the commissioner regarding the number, type, and resolution of complaints made in the state against the department.

(g) The department shall cooperate with the ombudsman for children and youth in foster care to create consequences, based on the circumstances of the complaint and the severity of the retaliation, for any person who is found to have retaliated against a child or youth in the conservatorship of the department because of a complaint made to the ombudsman.

(h) The executive commissioner shall adopt rules requiring all residential child-care facilities in which children and youth in the conservatorship of the department are placed to display information about the ombudsman for children and youth in foster care and the process for filing a complaint with the ombudsman in a location that is easily accessible and offers maximum privacy to the children and youth residing at the facility.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 4, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.186, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1168 (S.B. 830), Sec. 2, eff. September 1, 2015.

Sec. 40.005. CONFIDENTIALITY OF INFORMATION. (a) The executive commissioner shall establish and the department shall enforce rules governing the custody, use, and preservation of the department's records, papers, files, and communications.

(b) The executive commissioner shall prescribe safeguards to govern the use or disclosure of information relating to a recipient of a department service or to an investigation the department conducts in performing its duties and responsibilities. The safeguards must be consistent with the purposes of the department's programs and must comply with applicable state and federal law and department rules.

(c) Notwithstanding any other provision of law, the executive commissioner by rule may prescribe a process by which an administrative law judge may disclose requested confidential information that the department possesses. The rules must provide that the information may be disclosed by the administrative law judge only if the administrative law judge:

(1) provides notice to the department and any interested party; and

(2) determines after an in camera review of the information that disclosure is essential to the administration of justice and will not endanger the life or safety of any individual.

(d) Except as otherwise provided, a person who is authorized to receive confidential information shall maintain its confidentiality and shall prevent disclosure of the information to a person who is not authorized to receive the information.

(e) A person commits an offense if the person discloses without authorization confidential information contained in the department's records, papers, files, or communications. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.187, eff. April 2, 2015.

Sec. 40.006. APPLICATION OF OTHER LAWS. (a) The department is

subject to Chapters 551, 2001, and 2002, Government Code.

(b) The department is not required to comply with Chapter 53, Occupations Code, in issuing a license or conducting a background check under Chapter 42 or 43.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 1, eff. September 1, 2009.

Sec. 40.007. REPORTING REQUIREMENT; PROFESSIONAL FEES. (a) The department shall include in any report required by law concerning the department's expenditures information relating to fees for professional or consultative services provided for the general administration of the department.

(b) The report required under Subsection (a) may not include:

(1) professional fees paid for routine or special examinations to determine an individual's eligibility for a program administered by the department;

(2) professional fees for treatment, services, or care for individual recipients; or

(3) fees for providing for the special needs of individual recipients, including the provision of appliances.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 21.01(a), eff. Sept. 1, 1997.

Sec. 40.008. PROGRAM ACCESSIBILITY. The department shall comply with federal and state laws related to program and facility accessibility. The department shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the department's programs and services.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 5, eff. Sept. 1, 1997.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 40.021. FAMILY AND PROTECTIVE SERVICES COUNCIL. (a) The

Family and Protective Services Council is created to assist the commissioner in developing rules and policies for the department.

(b) The council is composed of nine members of the public appointed by the governor. In making appointments to the council, the governor shall consider persons who have a demonstrated knowledge of the department and the health and human services system in general, including former department employees, court-appointed special advocates, foster care providers, and employees of child advocacy centers.

(c) The council shall study and make recommendations to the commissioner regarding the management and operation of the department, including policies and rules governing the delivery of services to persons who are served by the department, the rights and duties of persons who are served or regulated by the department, and the consolidation of the provision of administrative support services as provided by Section 531.00553, Government Code. The council may not develop policies or rules relating to administrative support services provided by the commission for the department.

(d) Chapter 551, Government Code, applies to the council.

(e) Chapter 2110, Government Code, does not apply to the council.

(f) A majority of the members of the council constitute a quorum for the transaction of business.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 29, eff. September 1, 2017.

Sec. 40.022. APPOINTMENTS. (a) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Appointments to the council shall be made so that each geographic area of the state is represented on the council. Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 29, eff. September 1, 2017.

Sec. 40.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A

person who is appointed as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide information to the member regarding:

(1) the legislation that created the department and the council;

(2) the programs operated by the department;

(3) the role and functions of the department and the council, including detailed information regarding the advisory responsibilities of the council;

(4) the role of the commission and the responsibilities of the commission in relation to the department;

(5) the rules of the department, with an emphasis on rules that relate to disciplinary and investigatory authority;

(6) the current budget for the department;

(7) the results of the most recent formal audit of the department;

(8) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) public information law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government Code;

(9) the requirements of the conflict-of-interest laws and other laws relating to public officials; and

(10) any applicable ethics policies adopted by the commissioner or the Texas Ethics Commission.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 29, eff. September 1, 2017.

Sec. 40.024. TERMS; VACANCY. (a) Members of the council serve for staggered six-year terms, with the terms of three members expiring February 1 of each odd-numbered year.

(b) A member of the council may not serve more than two consecutive full terms as a council member.

(c) A vacancy on the council shall be filled in the same manner

as the original appointment.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 29, eff. September 1, 2017.

Sec. 40.025. REIMBURSEMENT FOR EXPENSES. A council member may not receive compensation for service as a member of the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 29, eff. September 1, 2017.

Sec. 40.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) The governor shall designate a member of the council as the presiding officer to serve in that capacity at the pleasure of the governor.

(b) The members of the council shall elect any other necessary officers.

(c) The council shall meet quarterly and at other times at the call of the presiding officer. The council may hold meetings in different areas of the state.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 29, eff. September 1, 2017.

Sec. 40.027. COMMISSIONER. (a) The governor, with the advice and consent of the senate, shall appoint a commissioner. The commissioner is to be selected according to education, training, experience, and demonstrated ability.

(b) The commissioner serves a term of two years.

(c) The commissioner shall:

(1) act as the department's chief administrative officer;

(2) oversee the development and implementation of policies and guidelines needed for the administration of the department's functions;

(3) oversee the development of rules relating to the matters within the department's jurisdiction, including the delivery

of services to persons and the rights and duties of persons who are served or regulated by the department; and

(4) serve as a liaison between the department and commission.

(d) The commissioner shall administer this chapter and other laws relating to the department.

(e) Notwithstanding any other law, the commissioner shall adopt rules and policies for the operation of and the provision of services by the department.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1460, Sec. 2.04, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 1.12, eff. Sept. 1, 2003. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.188, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 30, eff. September 1, 2017.

Sec. 40.030. ADVISORY COMMITTEES. (a) The commissioner or the commissioner's designee may appoint advisory committees in accordance with Chapter 2110, Government Code.

(b) The commissioner shall adopt rules, in compliance with Chapter 2110, Government Code, regarding the purpose, structure, and use of advisory committees by the department. The rules may include provisions governing:

(1) an advisory committee's size and quorum requirements;

(2) qualifications for membership of an advisory committee, including:

(A) requirements relating to experience and geographic representation; and

(B) requirements for the department to include as members of advisory committees youth who have aged out of foster care and parents who have successfully completed family service plans and whose children were returned to the parents, as applicable;

(3) appointment procedures for an advisory committee;

(4) terms for advisory committee members; and

(5) compliance with Chapter 551, Government Code.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.78, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 70, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 1.13, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 31, eff. September 1, 2017.

Sec. 40.0315. INVESTIGATION UNIT FOR ADULT PROTECTIVE SERVICES. (a) The adult protective services division of the department shall maintain an investigation unit to investigate allegations of abuse, neglect, and exploitation of elderly persons and persons with disabilities reported to the division.

(b) An investigator in the unit shall determine whether an elderly person or person with a disability who is the subject of a report made under Section 48.051(a) may have suffered from abuse, neglect, or exploitation as a result of the criminal conduct of another person. If the investigator determines that criminal conduct may have occurred, the investigator shall immediately notify:

(1) the commission's office of inspector general if the person with a disability who is the subject of the report resides in a state supported living center or the ICF-IID component of the Rio Grande State Center; and

(2) the appropriate law enforcement agency, unless the law enforcement agency reported the alleged abuse, neglect, or exploitation to the department.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.01, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 24, eff. June 11, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 4, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.189, eff. April 2, 2015.

Sec. 40.032. PERSONNEL. (a) The department may employ personnel necessary to administer the department's duties.

(b) The department shall develop an intradepartmental career ladder program that addresses opportunities for mobility and advancement for employees within the department. The program shall require the intradepartmental posting of all positions concurrently with any public posting.

(c) The department shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for department employees must be based on the system established under this subsection.

(d) The department shall provide to the department's employees, as often as is necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(e) The department shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that comply with Chapter 21, Labor Code;

(2) a comprehensive analysis of the department's workforce that meets federal and state laws, rules, and regulations and instructions adopted under those laws, rules, and regulations;

(3) procedures by which a determination can be made about the extent of underuse in the department's workforce of all persons for whom federal or state laws, rules, and regulations and instructions adopted under those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(f) The policy statement required under Subsection (e) shall:

(1) be filed with the governor's office;

(2) cover an annual period;

(3) be updated at least annually; and

(4) be reviewed by the Texas Workforce Commission civil rights division for compliance with Subsection (e)(1).

(g) The governor's office shall develop and deliver a biennial report to the legislature based on the information submitted under Subsection (f). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 13, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.190, eff. April 2, 2015.

Sec. 40.0321. SALARY SUPPLEMENTATION BY COUNTY OR MUNICIPALITY. (a) A county or municipality may supplement, from its own funds, the salary of a department employee whose duties include providing services as part of, or relating to, the provision of child protective services and adult protective services by the department.

(b) A department employee who has worked in the same position for the department in a different region is not eligible for a salary supplement under Subsection (a) for a minimum of six months after assuming the position in the new region.

(c) Section 659.020, Government Code, does not apply to the supplement authorized by this section.

(d) The department may not require a salary supplement as a condition for creating or maintaining a position in the region.

Added by Acts 2001, 77th Leg., ch. 606, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.191, eff. April 2, 2015.

Sec. 40.0322. QUALIFICATIONS FOR ADULT PROTECTIVE SERVICES PERSONNEL; RECRUITMENT. (a) In hiring department employees whose duties include providing services as part of, or relating to, the provision of adult protective services directly to an elderly person or person with a disability, the commissioner shall ensure that the department hires, as often as possible, persons with professional credentials related to adult protective services, including persons who are licensed master social workers, as defined by Section

505.002, Occupations Code, or licensed professional counselors.

(b) Subject to the availability of funds, the executive commissioner by rule shall develop and the department shall implement a recruiting program designed to attract and retain for employment in the adult protective services division persons with professional credentials described by Subsection (a).

(c) Subject to the availability of funds, the executive commissioner by rule shall develop and the department shall implement an incentive program to encourage each department employee whose duties include the duties described by Subsection (a) to obtain professional credentials described by that subsection if the employee does not have those credentials.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.02, eff. September 1, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.192, eff. April 2, 2015.

Sec. 40.0323. COORDINATION REGARDING RECRUITMENT FOR AND CURRICULUM OF CERTAIN CERTIFICATE OR DEGREE PROGRAMS. Subject to the availability of funds, the department and the Texas Higher Education Coordinating Board jointly shall develop strategies to:

(1) promote certificate or degree programs in the fields of social work and psychology to individuals enrolled in or admitted to institutions of higher education in this state; and

(2) ensure that persons receiving a certificate or degree, including a graduate degree, in social work or psychology from an institution of higher education in this state have the knowledge and skills regarding protective services that are provided directly to elderly persons or persons with disabilities and necessary for successful employment by the adult protective services division of the department.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.02, eff. September 1, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.193, eff. April 2, 2015.

Sec. 40.0325. STUDY OF CASEWORKER EDUCATION REIMBURSEMENT. (a) The department shall study the effect that providing reimbursement for certain educational expenses would have on recruiting and retaining qualified child protective services caseworkers. The study must include a comparative analysis of the cost of training new caseworkers and the benefits of having an experienced caseworker staff with the cost of providing reimbursement for educational expenses.

(b) In determining the cost of reimbursing caseworkers for educational expenses, the department shall consider reimbursing caseworkers for tuition, academic fees, and other academic expenses the caseworker paid to an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code, while the caseworker was enrolled in a bachelor's degree or advanced degree program in an academic program that the department determines provides necessary training for child protective services caseworkers.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(113), eff. June 17, 2011.

Added by Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 24, eff. September 1, 2007.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(113), eff. June 17, 2011.

Sec. 40.0326. RECRUITMENT OF CASEWORKERS. When recruiting child protective services caseworkers, the department shall target its recruitment efforts toward individuals who hold a bachelor's degree or advanced degree in at least one of the following academic areas:

(1) social work;
(2) counseling;
(3) early childhood education;
(4) psychology;
(5) criminal justice;
(6) elementary or secondary education;
(7) sociology; or

(8) human services.

Added by Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 24, eff. September 1, 2007.

Sec. 40.033. MERIT SYSTEM. (a) Subject to rules adopted by the executive commissioner, the department may establish a merit system for its employees.

(b) The merit system may be maintained in conjunction with other state agencies that are required by federal law to operate under a merit system.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.194, eff. April 2, 2015.

Sec. 40.034. PROHIBITED ACTIVITIES BY FORMER OFFICERS OR EMPLOYEES. (a) For one year after the date on which a former officer or employee of the department terminates service or employment with the department, the individual may not, directly or indirectly, attempt or aid in the attempt to procure a contract with the department that relates to a program or service in which the individual was directly concerned or for which the individual had administrative responsibility.

(b) This section does not apply to:

(1) a former employee who is compensated on the last date of service or employment below the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule, including a state employee who is exempt from the state's position classification plan; or

(2) a former officer or employee who is employed by another state agency or a community center.

(c) A former officer or employee of the department commits an offense if the former officer or employee violates this section. An offense under this section is a Class A misdemeanor.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.

Sec. 40.035. TRAINING PROGRAM FOR ADULT PROTECTIVE SERVICES; CONTINUING EDUCATION. (a) The department shall develop and implement a training program that each newly hired or assigned department employee must complete before:

(1) initiating an investigation of a report of alleged abuse, neglect, or exploitation of an elderly person or person with a disability under Chapter 48; or

(2) providing protective services to elderly persons or persons with disabilities under that chapter.

(b) The training program must:

(1) provide the person with appropriate comprehensive information regarding:

(A) the incidence and types of reports of abuse, neglect, and exploitation of elderly persons or persons with disabilities that are received by the department, including information concerning false reports; and

(B) the use and proper implementation of:

(i) the risk assessment criteria developed under Section 48.004;

(ii) the criteria used by caseworkers to determine whether elderly persons or persons with disabilities lack capacity to consent to receive protective services; and

(iii) the legal procedures available under Chapter 48 for the protection of elderly persons or persons with disabilities, including the procedures for obtaining a court order for emergency protective services under Section 48.208;

(2) include best practices for management of a case from the intake process to the provision of protective services, including criteria that specify the circumstances under which an employee should:

(A) consult a supervisor regarding a case; or

(B) refer an elderly person or person with a disability to an appropriate public agency or community service provider for guardianship or other long-term services after the delivery of protective services to that person has been completed;

(3) provide appropriate specialized training in any necessary topics, including:

(A) investigation of suspected identity theft and other forms of financial exploitation and suspected self-neglect; and

(B) establishment and maintenance of working

relationships with community organizations and other local providers who provide services to elderly persons and persons with disabilities;

(4) include on-the-job training, which must require another department caseworker with more experience to accompany and train the caseworker in the field;

(5) provide for the development of individualized training plans;

(6) include training in working with law enforcement agencies and the court system when legal intervention is sought for investigations or emergency orders;

(7) to the maximum extent possible, include nationally recognized best practices in addition to the best practices required under Subdivision (2); and

(8) include testing, progress reports, or other evaluations to assess the performance of trainees.

(c) The department at least annually shall provide comprehensive case management training to supervisors of department employees who conduct investigations under Chapter 48. The training must be designed to enable the supervisors to provide guidance on investigations of reports of alleged abuse, neglect, or exploitation that are complex or present unique problems.

(d) The department shall develop and implement appropriate continuing education programs for employees of the adult protective services division who have completed initial training under this section. The continuing education programs must include nationally recognized best practices to the maximum extent possible and must be designed to provide an annual update regarding changes in:

(1) adult protective services division policies and procedures; and

(2) applicable law, including statutory changes affecting the adult protective services division or elderly persons or persons with disabilities served by the division.

(e) A department employee required to participate in a continuing education program under this section must complete the program at least once each calendar year.

(f) The department shall:

(1) make curriculum developed for a training or continuing education program under this section readily available to department employees in written form; and

(2) periodically revise a training and continuing education program established under this section as necessary to satisfy training needs identified by the department or department employees.

(g) The circumstances specified under Subsection (b)(2) under which an employee should consult a supervisor regarding a case must be consistent with the risk assessment criteria developed under Section 48.004 that require consultation with a supervisor.

(h) The executive commissioner by rule shall provide policies and procedures by which the department incorporates examples of actual cases investigated by the department in the training programs under this section for use as training tools.

(i) In implementing the training program and continuing education programs under this section, the department, to the maximum extent possible, shall contract with persons who are not department employees to conduct the programs.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.03, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.195, eff. April 2, 2015.

Sec. 40.036. ALZHEIMER'S DISEASE AND DEMENTIA TRAINING. (a) In this section:

(1) "Adult protective services employee" means a division employee who performs a function described by Section 40.035(a).

(2) "Division" means the department's adult protective services division.

(b) Except as provided by Subsections (c) and (d), the department shall develop a training program for adult protective services employees on identifying and interacting with individuals who have Alzheimer's disease or dementia. The program must include an initial four-hour training requirement and an annual two-hour continuing education requirement. The requirements are in addition to the training required by Section 40.035, but may be provided in conjunction with that training. The training program must cover, at a minimum, information about:

(1) dementia, including behavioral and psychiatric symptoms;

(2) interaction with an individual who has impaired communication skills, including effective and respectful communication techniques;

(3) techniques for understanding and approaching an individual's behavioral symptoms;

(4) specific aspects of safety, including wandering by an individual;

(5) abuse, neglect, and exploitation, as defined by Section 48.002, of an individual with Alzheimer's disease or dementia, including:

(A) identifying the most common types of abuse;

(B) recognizing signs of abuse, neglect, and exploitation; and

(C) identifying when it is necessary to contact a law enforcement agency about potential criminal behavior toward an individual with Alzheimer's disease or dementia that is committed by a family member or caretaker of the individual or that occurs in an institution;

(6) identification of self-neglect by an individual with Alzheimer's disease or dementia; and

(7) protocols for connecting an individual with Alzheimer's disease or dementia to local care resources or professionals who are skilled in dementia care to encourage cross-referring the individual for services and increase reporting of incidents of abuse, neglect, or exploitation.

(c) The division may use a training program developed or adopted by the Health and Human Services Commission or the Department of State Health Services if the program is equivalent to or more extensive than the program requirements under Subsection (b).

(d) If another state law or a federal law or regulation requires training on Alzheimer's disease or dementia that is more rigorous or extensive than the training required by Subsection (b), the division shall provide training to adult protective services employees that complies with that law or regulation.

(e) An area agency on aging must ensure that the agency's employees or volunteers who provide services directly to an elderly individual or the individual's family members or caregivers receive training on Alzheimer's disease and dementia. The training must:

(1) be evidence-based or evidence-informed; and

(2) focus on:

(A) recognizing the signs and symptoms of cognitive impairments caused by Alzheimer's disease or dementia; and

(B) understanding how the cognitive impairments may affect the screening of and service planning for an elderly individual.

(f) An area agency on aging may provide the training described by Subsection (b) through:

(1) a course developed by the agency; or

(2) a course that is available from the department, the Health and Human Services Commission, the Department of State Health Services, or an entity that is involved in education or services relating to Alzheimer's disease or dementia, including the Alzheimer's Association and caregiver organizations.

Added by Acts 2019, 86th Leg., R.S., Ch. 1177 (H.B. 3428), Sec. 1, eff. September 1, 2019.

Sec. 40.037. TRAINING PROGRAM FOR CHILD PROTECTIVE SERVICES MANAGERS. (a) The department shall develop and implement a training program that each employee who is newly hired or promoted to a management position in the child protective services division must complete as soon as is practicable, but not later than the 60th day after the date the employee is hired or promoted to the management position.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944 , Sec. 86(48), eff. September 1, 2015.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944 , Sec. 86(48), eff. September 1, 2015.

Added by Acts 2013, 83rd Leg., R.S., Ch. 445 (S.B. 771), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 71, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 86(48), eff. September 1, 2015.

Sec. 40.038. SECONDARY TRAUMA SUPPORT FOR CASEWORKERS. (a) In this section, "secondary trauma" means trauma incurred as a

consequence of a person's exposure to acute or chronic trauma.

(b) The department shall develop and make available a program to provide ongoing support to caseworkers who experience secondary trauma resulting from exposure to trauma in the course of the caseworker's employment. The program must include critical incident stress debriefing. The department may not require that a caseworker participate in the program.

Added by Acts 2017, 85th Leg., R.S., Ch. 822 (H.B. 1549), Sec. 15, eff. September 1, 2017.

Sec. 40.039. REVIEW OF RECORDS RETENTION POLICY. The department shall periodically review the department's records retention policy with respect to case and intake records relating to department functions. The department shall make changes to the policy consistent with the records retention schedule submitted under Section 441.185, Government Code, that are necessary to improve case prioritization and the routing of cases to the appropriate division of the department. The department may adopt rules necessary to implement this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 26(a), eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 8(a), eff. September 1, 2017.

Sec. 40.040. CASE MANAGEMENT VENDOR QUALITY OVERSIGHT AND ASSURANCE DIVISION; MONITORING OF CONTRACT ADHERENCE. (a) In this section, "case management," "catchment area," and "community-based care" have the meanings assigned by Section 264.152, Family Code.

(b) The department shall create within the department the case management services vendor quality oversight and assurance division. The division shall:

(1) oversee quality and ensure accountability of any vendor that provides community-based care and full case management services for the department under community-based care;

(2) conduct assessments on the fiscal and qualitative performance of any vendor that provides foster care services for the department under community-based care;

(3) create and administer a dispute resolution process to resolve conflicts between vendors that contract with the department to provide foster care services under community-based care and any subcontractor of a vendor; and

(4) monitor the transfer from the department to a vendor of full case management services for children and families receiving services from the vendor, including any transfer occurring under a pilot program.

(c) The commission shall contract with an outside vendor with expertise in quality assurance to develop, in coordination with the department, a contract monitoring system and standards for the continuous monitoring of the adherence of a vendor providing foster care services under community-based care to the terms of the contract entered into by the vendor and the commission. The standards must include performance benchmarks relating to the provision of case management services in the catchment area where the vendor operates.

(d) The division shall collect and analyze data comparing outcomes on performance measures between catchment areas where community-based care has been implemented and regions where community-based care has not been implemented.

Added by Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 26(a), eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 8(a), eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 10.001, eff. September 1, 2019.

Sec. 40.041. OFFICE OF DATA ANALYTICS. The department shall create an office of data analytics. The office shall report to the deputy commissioner and may perform any of the following functions, as determined by the department:

(1) monitor management trends;

(2) analyze employee exit surveys and interviews;

(3) evaluate the effectiveness of employee retention efforts, including merit pay;

(4) create and manage a system for handling employee complaints submitted by the employee outside of an employee's direct

chain of command, including anonymous complaints;

(5) monitor and provide reports to department management personnel on:

(A) employee complaint data and trends in employee complaints;

(B) compliance with annual department performance evaluation requirements; and

(C) the department's use of positive performance levels for employees;

(6) track employee tenure and internal employee transfers within both the child protective services division and the department;

(7) use data analytics to predict workforce shortages and identify areas of the department with high rates of employee turnover, and develop a process to inform the deputy commissioner and other appropriate staff regarding the office's findings;

(8) create and monitor reports on key metrics of agency performance;

(9) analyze available data, including data on employee training, for historical and predictive department trends; and

(10) conduct any other data analysis the department determines to be appropriate for improving performance, meeting the department's current business needs, or fulfilling the powers and duties of the department.

Added by Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 26(a), eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 552 (S.B. 497), Sec. 1, eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 8(a), eff. September 1, 2017.

Sec. 40.042. INVESTIGATIONS OF CHILD ABUSE, NEGLECT, AND EXPLOITATION. (a) In this section, "child-care facility" includes a facility, licensed or unlicensed child-care facility, family home, residential child-care facility, employer-based day-care facility, or shelter day-care facility, as those terms are defined in Chapter 42.

(b) For all investigations of child abuse, neglect, or exploitation conducted by the child protective services division of

the department, the department shall adopt the definitions of abuse, neglect, and exploitation provided in Section 261.001, Family Code.

(c) The department shall establish standardized policies to be used during investigations.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 8

(d) The commissioner shall establish units within the child protective services division of the department to specialize in investigating allegations of child abuse, neglect, or exploitation occurring at a child-care facility.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 26

(d) The commissioner shall establish units within the child protective services division of the department to specialize in investigating allegations of child abuse, neglect, and exploitation occurring at a child-care facility.

(e) The department may require that investigators who specialize in allegations of child abuse, neglect, and exploitation occurring at child-care facilities receive ongoing training on the minimum licensing standards for any facilities that are applicable to the investigator's specialization.

(f) After an investigation of abuse, neglect, or exploitation occurring at a child-care facility, the department shall provide the state agency responsible for regulating the facility with access to any information relating to the department's investigation. Providing access to confidential information under this subsection does not constitute a waiver of confidentiality.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 8

(g) The executive commissioner or the commissioner of the department, as appropriate, may adopt rules to implement this section.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 26

(g) The department may adopt rules to implement this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 26(a), eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 8(a),

eff. September 1, 2017.

Sec. 40.043. CHILD SAFETY AND RUNAWAY PREVENTION PROCEDURES. The commissioner by rule shall establish the department's strategy to:

(1) develop trauma-informed protocols for reducing the number of incidents in which a child in the conservatorship of the department runs away from a residential treatment center; and

(2) balance measures aimed at protecting child safety with federal and state requirements related to normalcy and decision making under the reasonable and prudent parent standard prescribed by 42 U.S.C. Section 675 and Sections 264.001 and 264.125, Family Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 1, eff. September 1, 2019.

SUBCHAPTER C. GENERAL FUNCTIONS OF DEPARTMENT

Sec. 40.0505. DIVISIONS OF DEPARTMENT. (a) The commissioner shall establish the following divisions and offices within the department:

(1) an investigations division;

(2) a consolidated data division;

(3) a legal division that oversees the following:

(A) legal matters relating to human resources, as necessary to manage the department's workforce and establish the department's hiring and termination policies;

(B) open records;

(C) privacy and confidentiality;

(D) litigation; and

(E) contract compliance;

(4) an operations division that oversees department operations and human resources functions of the department; and

(5) a financial management and accounting services division.

(b) The commissioner may establish additional divisions within the department as the commissioner determines appropriate.

(c) The commissioner may assign department functions among the department's divisions.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.05, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.196, eff. April 2, 2015.
Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 32, eff. September 1, 2017.

Sec. 40.051. STRATEGIC PLAN FOR DEPARTMENT. The department shall develop a departmental strategic plan based on the goals and priorities stated in the commission's coordinated strategic plan for health and human services. The department shall also develop its plan based on:

(1) furthering the policy of family preservation;

(2) the goal of ending the abuse and neglect of children in the conservatorship of the department; and

(3) the goal of increasing the capacity and availability of foster, relative, and kinship placements in this state.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 14, eff. Sept. 1, 1997.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 9, eff. September 1, 2017.

Sec. 40.0512. CONTINUITY OF SERVICES; INFORMATION SHARING. The department shall make a good faith effort to share relevant and appropriate information with health and human services agencies regarding persons receiving services from the department to ensure continuity of care and the best possible coordination of state-funded resources among health and human services agencies.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 33, eff. September 1, 2017.

Sec. 40.0515. QUALITY ASSURANCE PROGRAM FOR ADULT PROTECTIVE SERVICES; QUARTERLY REPORTS. (a) The department shall develop and

implement a quality assurance program for adult protective services provided by or on behalf of the department.

(b) In developing the program, the department shall establish:

(1) client-centered outcome measures for each of the following functions of the adult protective services program:

(A) intake process;

(B) investigations;

(C) risk assessment determinations; and

(D) delivery of protective services;

(2) minimum job performance standards for personnel and each work department of the adult protective services division of the department; and

(3) procedures for conducting periodic performance reviews to monitor compliance with the standards established under Subdivision (2), which must include requirements that, for each caseworker in the adult protective services division of the department, a supervisor shall conduct:

(A) at least two performance reviews each year, if the employee has less than two years of adult protective services casework experience; and

(B) at least one performance review each year, if the employee has at least two years of adult protective services casework experience.

(c) The department shall promptly address a person's or work department's failure to meet minimum job performance standards established under Subsection (b)(2):

(1) by issuing to the person or work department, as appropriate, a corrective action plan detailing the actions required to comply with the standards; or

(2) if necessary, through disciplinary action, including a person's demotion or discharge, for repeated failure to meet the standards.

(d) A performance review conducted under Subsection (b)(3) is considered a performance evaluation for purposes of Section 40.032(c) of this code or Section 531.009(c), Government Code, as applicable. The department shall ensure that disciplinary or other corrective action is taken against a supervisor or other managerial employee who is required to conduct a performance evaluation for adult protective services personnel under Section 40.032(c) of this code or Section 531.009(c), Government Code, as applicable, or a performance review

under Subsection (b)(3) and who fails to complete that evaluation or review in a timely manner.

(e) The annual performance evaluation required under Section 40.032(c) of this code or Section 531.009(c), Government Code, as applicable, of the performance of a supervisor in the adult protective services division must:

(1) be performed by an appropriate program administrator; and

(2) include:

(A) an evaluation of the supervisor with respect to the job performance standards applicable to the supervisor's assigned duties; and

(B) an evaluation of the supervisor with respect to the compliance of employees supervised by the supervisor with the job performance standards applicable to those employees' assigned duties.

(f) A summary of the findings of outcome measures established and performance reviews conducted under this section must be reported to regional directors and other senior management employees of the adult protective services division.

(g) Each fiscal quarter the department shall file with the governor and the presiding officer of each house of the legislature a report that includes:

(1) a comprehensive review of the adult protective services division's overall performance during the preceding quarter; and

(2) a summary of the adult protective services division's performance during the preceding quarter on each of the outcome measures established under Subsection (b)(1).

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.04(a), eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.20, eff. September 1, 2015.

Sec. 40.0516. COLLECTION OF DATA; ANNUAL REPORT. (a) The department shall collect and compile the following data on the state and county level:

(1) the following information for reports of abuse and neglect in residential child-care facilities, as defined by Section

42.002:

(A) the number of reports of abuse and neglect made to the department hotline;

(B) the types of abuse and neglect reported;

(C) the investigation priority level assigned to each report;

(D) the investigation response times, sorted by investigation priority;

(E) the disposition of each investigation;

(F) the number of reports of abuse and neglect to which the department assigned a disposition of call screened out or alternative or differential response provided; and

(G) the overall safety and risk finding for each investigation;

(2) the number of families referred to family preservation services, organized by the risk level assigned to each family through structured decision-making;

(3) the number of children removed from the child's home as the result of an investigation of a report of abuse or neglect and the primary circumstances that contributed to the removal;

(4) the number of children placed in substitute care, organized by type of placement;

(5) the number of children placed out of the child's home county or region;

(6) the number of children in the conservatorship of the department at each service level;

(7) the number of children in the conservatorship of the department who are pregnant or who are a parent;

(8) the number of children in the managing conservatorship of the department who are the parent of a child who is also in the managing conservatorship of the department;

(9) the recurrence of child abuse or neglect in a household in which the department investigated a report of abuse or neglect within six months and one year of the date the case was closed separated by the following type of case:

(A) cases that were administratively closed without further action;

(B) cases in which the child was removed and placed in the managing conservatorship of the department; and

(C) cases in which the department provided family

preservation services;

(10) the recurrence of child abuse and neglect in a household within five years of the date the case was closed for cases described by Subdivisions (9)(B) and (C); and

(11) workforce turnover data for child protective services employees, including the average tenure of caseworkers and supervisors and the average salary of caseworkers and supervisors.

(b) Not later than February 1 of each year, the department shall publish a report containing data collected under this section. The report must include the statewide data and the data reported by county.

Added by Acts 2017, 85th Leg., R.S., Ch. 822 (H.B. 1549), Sec. 16, eff. September 1, 2017.

Sec. 40.0521. RULES REGARDING DOMESTIC VIOLENCE. (a) The executive commissioner shall adopt and the department shall implement rules that require an investigating employee to document indications of domestic violence, including elder, spousal, and child abuse. The department may develop forms to facilitate the documentation process.

(b) The executive commissioner by rule shall require that written information, printed in English and Spanish, concerning community services that are available to victims of domestic violence be distributed to those victims. The department may coordinate its efforts under this subsection with local law enforcement agencies already providing that information.

(c) The department shall include in its annual report statistical compilations of information regarding domestic abuse documented under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 21.02(a), eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.198, eff. April 2, 2015.

Sec. 40.0522. COMMUNITY EDUCATION AND TRAINING RELATING TO CHILD ABUSE OR NEGLECT. (a) The department shall assure the availability of community education programs designed to improve

participation of the general public in preventing, identifying, and treating cases of child abuse or neglect, including parent education programs.

(b) The department shall assure that training concerning child abuse or neglect is available to professionals who are required by law to report, investigate, or litigate those cases.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 16, eff. Sept. 1, 1997.

Sec. 40.0524. MULTIDISCIPLINARY TEAMS. (a) In a jurisdiction for which a children's advocacy center has not been established under Section 264.402, Family Code, the department shall, to the extent possible, establish multidisciplinary teams to provide services relating to a report of child abuse or neglect. A multidisciplinary team shall include professionals in parent education and in each professional discipline necessary to provide comprehensive medical and psychological services to a child who is the subject of a report and to members of the child's household.

(b) Members of a multidisciplinary team may exchange information relating to a report of child abuse or neglect as necessary to facilitate a thorough investigation of the report. The executive commissioner may adopt rules governing the exchange of information between team members.

(c) A multidisciplinary team established under this section shall coordinate services provided by the department to a child and to members of the child's household with services available from other sources, including public and private agencies in the community. The goal of the multidisciplinary team is to provide the greatest range of services possible without duplication of effort.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944 , Sec. 86(51), eff. September 1, 2015.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 16, eff. Sept. 1, 1997.
Renumbered from Human Resources Code Sec. 40.0523 by Acts 2001, 77th Leg., ch. 157, Sec. 1.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.200, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 72, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 86(51), eff. September 1, 2015.

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

(b) The strategy must include plans to:

(1) move staff from centralized office sites into community-based settings to the greatest extent feasible; and

(2) enter into agreements for the establishment or development of joint offices or workplaces with local officials and organizations, including:

(A) children's advocacy centers;

(B) law enforcement officials;

(C) prosecutors;

(D) health care providers; and

(E) domestic violence shelters.

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.86, eff. September 1, 2005.

Sec. 40.0527. PUBLIC AWARENESS. (a) Subject to the availability of funds, the executive commissioner by rule shall develop and the department shall implement a statewide public

awareness campaign designed to educate the public regarding the abuse, neglect, and exploitation of elderly persons and persons with disabilities.

(b) The department may use mass communications media, the Internet, publications, or other means of public education in conducting the campaign.

(c) A public awareness strategy implemented for the program must include:

(1) the provision of information on the incidence and types of reports of abuse, neglect, and exploitation of elderly persons or persons with disabilities; and

(2) practices that can reduce the incidences of abuse, neglect, and exploitation of elderly persons or persons with disabilities in this state.

(d) The department shall enlist the support and assistance of civic, philanthropic, and public service organizations in the performance of the duties imposed under this section.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.05, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.201, eff. April 2, 2015.

Sec. 40.05275. BUSINESS PLAN FOR CHILD PROTECTIVE SERVICES. (a) The department shall develop and implement a business plan for the child protective services program to prioritize the department's activities and resources to improve the program.

(b) The department shall coordinate with the department's regional staff in developing the business plan under this section.

(c) The business plan developed under this section must include:

(1) long-term and short-term performance goals;

(2) identification of priority projects and ongoing initiatives that are clearly linked to established goals; and

(3) a statement of staff expectations that includes identification of:

(A) the person or team responsible for each project;

(B) the specific tasks and deliverables expected;

(C) the resources needed to accomplish each project;

(D) a time frame for the completion of each deliverable and project; and

(E) the expected outcome for each project and the method and procedure for measuring the outcome to ensure effective evaluation for each project.

(d) Not later than October 1 of each even-numbered year, the department shall submit the business plan developed under this section to the governor, lieutenant governor, speaker of the house of representatives, and chairs of the standing committees of the senate and house of representatives having primary jurisdiction over child protection issues.

Added by Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 73, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.36, eff. September 1, 2019.

Sec. 40.0528. GOALS FOR BUSINESS PLAN FOR CHILD PROTECTIVE SERVICES; REPORTING CASELOAD INFORMATION. (a) The department shall consider the following goals in developing the business plan required under Section 40.05275 for the child protective services program:

(1) reducing caseloads;

(2) enhancing accountability;

(3) improving the quality of investigations;

(4) eliminating delays; and

(5) ensuring the most efficient and effective use of child protective services staff and resources.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944 , Sec. 86(53), eff. September 1, 2015.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944 , Sec. 86(53), eff. September 1, 2015.

(d) In reporting information relating to caseloads of child protective services caseworkers, in addition to reporting caseload by each individual affected by the case, the department shall report the number of cases for each caseworker on the basis of family unit.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.87, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 25, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 75, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 86(53), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.37, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.38, eff. September 1, 2019.

Sec. 40.0529. CASELOAD MANAGEMENT. (a) Subject to a specific appropriation for that purpose, the department shall develop and implement a caseload management system for child protective services caseworkers and managers that:

(1) ensures equity in the distribution of workload, based on the complexity of each case;

(2) calculates caseloads based on the number of individual caseworkers who are available to handle cases;

(3) includes geographic case assignment in areas with concentrated high risk populations, to ensure that an adequate number of caseworkers and managers with expertise and specialized training are available;

(4) includes a plan to deploy master investigators in anticipation of emergency shortages of personnel; and

(5) anticipates vacancies in caseworker positions in areas of the state with high caseworker turnover to ensure the timely hiring of new caseworkers in those areas.

(b) In calculating the caseworker caseload under Subsection (a)(2), the department shall consider at least the following:

(1) caseworkers who are on extended leave;

(2) caseworkers who worked hours beyond a normal work week; and

(3) caseworkers who are on a reduced workload.

Added by Acts 2017, 85th Leg., R.S., Ch. 822 (H.B. 1549), Sec. 17, eff. September 1, 2017.

Sec. 40.053. DUTY TO PERFORM OTHER FUNCTIONS. The department shall perform other functions as required by law.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.

Sec. 40.054. ACCESS TO CRIMINAL HISTORY. Subject to the availability of funds appropriated by the legislature, the department is entitled to obtain any criminal history information from records maintained by:

(1) the Department of Public Safety, as prescribed by Section 411.114, Government Code;

(2) another law enforcement agency in this state, subject to the same procedures and limitations prescribed by Section 411.114, Government Code, as applicable; or

(3) federal agencies, as provided by federal law.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.

Sec. 40.055. LEGISLATIVE APPROPRIATION REQUEST. The department shall submit any legislative appropriation request to the commission for comment and for incorporation into the commission's consolidated health and human services budget recommendation. The legislative appropriation request must comply with state priorities and federal requirements.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.

Sec. 40.056. USE OF FUNDS. (a) Notwithstanding any other provision of law, the department may extend the scope of its programs to the extent necessary to ensure that federal matching funds are available, if the department determines that the extension of scope is feasible and within the limits of appropriated funds.

(b) The department may accept, spend, and transfer federal and state funds appropriated for programs authorized by federal law. The department may accept, spend, and transfer funds received from any source, including a county, municipality, or public or private agency.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.

Sec. 40.0564. DEPARTMENT FUNDS. All money paid to the department under this chapter is subject to Subchapter F, Chapter 404, Government Code.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 18, eff. Sept. 1, 1997.

Sec. 40.057. GIFTS AND GRANTS. The department may accept a gift or grant from a public or private source to perform any of the department's powers or duties.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.

Sec. 40.058. CONTRACTS AND AGREEMENTS. (a) The department may enter into contracts or agreements with any person, including a federal, state, or other public or private agency, as necessary to perform any of the department's powers or duties.

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

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

(2) clearly defined sanctions or penalties for noncompliance with contract terms; and

(3) clearly specified accounting, reporting, and auditing requirements applicable to money received under the contract.

(b-1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(53), eff. April 2, 2015.

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

(1) use a risk-assessment methodology to ensure compliance with financial and performance requirements under the contract; and

(2) obtain and evaluate program cost information to ensure that all costs, including administrative costs, are reasonable and necessary to achieve program objectives.

(d) An agreement made under this section is not subject to

Chapter 771 or 791, Government Code.

(e) This section does not prohibit the department from entering into a contract or agreement subject to Chapter 771 or 791, Government Code, for a purpose authorized in the applicable chapter.

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

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

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

(3) authorize the department or commission 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;

(4) authorize the department or commission, an agent of the department or commission, and the state auditor to inspect all books, records, and files maintained by a contractor relating to the contract; and

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

(g) A contract with a private agency for the provision of substitute care or case management services for a child must include provisions that require the agency to provide access to the agency's information and records relating to the child to the child's attorney ad litem and guardian ad litem.

(h) In contracting with licensed child-placing agencies for residential child-care services, the department shall:

(1) determine and evaluate, using best practice standards, the home screening, assessment, and preservice training requirements used by substitute care providers before the verification and approval of caregivers, including:

(A) risk assessment evaluations used; and

(B) the curriculum and models used and topics covered in caregiver training; and

(2) publish on the department's Internet website the information collected by the department regarding the curriculum and training models used and topics covered during caregiver training by

substitute care providers.

(i) The department and the commission shall enter into contracts for the provision of shared administrative services, including payroll, procurement, information resources, rate setting, purchasing, and contracting.

(j) The department shall collaborate with the commission to ensure the efficient provision of administrative support services by the commission.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 19, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.88, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(53), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1008 (H.B. 781), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 34, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 27(a), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 10(a), eff. September 1, 2017.

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

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

(c) The commissioner shall compile a summary of all reports prepared and submitted to the department by family-based safety services providers as required by Subsection (b) and distribute the summary to appropriate family-based safety services caseworkers and child protective services region management once each calendar quarter.

(d) The commissioner shall compile a summary of all reports prepared and submitted to the department by post-adoption support services providers as required by Subsection (b) and distribute the summary to appropriate conservatorship and adoption caseworkers and child protective services region management.

(e) The department shall make the summaries prepared under Subsections (c) and (d) available to families that are receiving family-based safety services and to adoptive families.

(f) This section does not apply to a provider that has entered into a contract with the commission to provide family-based safety services under Section 264.169, Family Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 28(a), eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 11(a), eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 10.002, eff. September 1, 2019.

Sec. 40.0582. QUALITY CONTRACTING FRAMEWORK. (a) The department shall monitor and coordinate with general residential operations providing treatment services to children or young adults with emotional disorders to maintain and improve the quality of residential child-care services purchased by the department.

(b) In implementing the requirements of Subsection (a), the department shall consider any information the department determines relevant to assess the ability of a contractor or potential contractor to provide quality residential child-care services, including:

(1) the strength of the operational plan and all required components of the operational plan described by Section 42.252;

(2) the regulatory history of the contractor; and

(3) the history of the contractor on satisfying the performance measures developed under Section 40.058.

Added by Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 2, eff. September 1, 2019.

Sec. 40.059. FEES. The executive commissioner by rule may set and the department may collect appropriate fees in the administration and delivery of services.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.202, eff. April 2, 2015.

Sec. 40.060. INDEMNIFICATION FOR LEGAL EXPENSES. If a present or former employee of the department who is or was involved in activities relating to the protection of children or elderly persons or persons with disabilities is criminally prosecuted for conduct involving the person's misfeasance or nonfeasance in the course and scope of the person's employment and is found not guilty after a trial or appeal or if the complaint or indictment is dismissed without a plea of guilty or nolo contendere being entered, the department may indemnify the person or the person's estate for the reasonable attorney's fees incurred in defense of the prosecution up to a maximum of $10,000.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.203, eff. April 2, 2015.

Sec. 40.061. IMMUNITY. (a) A department employee, a member of a multidisciplinary team established under Section 40.0524, or an authorized department volunteer who performs a departmental duty or responsibility is immune from civil or criminal liability for any act or omission that relates to the duty or responsibility if the person acted in good faith and within the scope of the person's authority.

(b) In this section, "volunteer" means a person who:

(1) renders services for or on behalf of the department under the supervision of a department employee; and

(2) does not receive compensation that exceeds the authorized expenses the person incurs in rendering those services.

(c) This section does not provide immunity to a department employee who, in a suit affecting the parent-child relationship in which child abuse is alleged or that arises out of a child abuse investigation, in a criminal prosecution for an offense in which child abuse is an element, or in the preparation of the suit or prosecution:

(1) commits or attempts to commit perjury;

(2) fabricates or attempts to fabricate evidence;

(3) knowingly conceals or intentionally withholds information that would establish that a person alleged to have committed child abuse did not commit child abuse; or

(4) violates state or federal law in the investigation or prosecution of the suit.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 20, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 157, Sec. 2, eff. Sept. 1, 2001.

Sec. 40.062. EXEMPTION FROM CERTAIN COSTS AND FEES. The department is not required to pay any cost or fee otherwise imposed for court proceedings or other services, including a:

(1) filing fee or fee for issuance or service of process imposed by Section 110.002, Family Code, or by Section 51.317, 51.318(b)(2), or 51.319, Government Code;

(2) transfer fee imposed by Section 110.002 or 110.005, Family Code;

(3) court reporter fee imposed by Section 51.601, Government Code;

(4) judicial fund fee imposed by Section 51.702, Government Code;

(5) judge's fee imposed by Section 25.0008 or 25.0029, Government Code;

(6) cost or security fee imposed by Section 53.051, 53.052, 1053.051, or 1053.052, Estates Code; or

(7) fee imposed by a county officer under Section 118.011 or 118.052, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 21, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 426, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 9.001(g), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 733, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.204, eff. April 2, 2015.

Sec. 40.063. EXCEPTIONS FROM CERTAIN PROVISIONS OF ADMINISTRATIVE PROCEDURE ACT. Section 2001.038 and Subchapters C through H, Chapter 2001, Government Code, do not apply to the granting, payment, denial, or withdrawal of financial or medical assistance or benefits under a service program of the department.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.

Sec. 40.064. INTERAGENCY COOPERATION AND EXCHANGE OF INFORMATION. (a) The department may execute a memorandum of understanding with another state agency to facilitate the implementation of a program or the delivery of a service that the department is required by law to implement or deliver.

(b) The department may establish procedures to exchange with another state agency or governmental entity information that is necessary for the department or the agency or entity to properly execute its respective duties and responsibilities. An exchange of information does not affect whether the information is subject to disclosure under Chapter 552, Government Code.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.

Sec. 40.065. COMMUNICATIONS OFFICER; PLAN. (a) The department shall designate one or more department employees to be primarily responsible for communicating with the public regarding the department's powers and duties. Through the use of designated

employees, the department shall ensure:

(1) effective communications between the department and persons seeking to report abuse or neglect or inquiring about the status of a case; and

(2) effective and timely response to questions from the public within the department's confidentiality guidelines.

(b) The department shall develop and implement a communication plan to ensure statewide public and government awareness of child abuse or neglect investigated by the department. The plan shall include information detailing the procedure followed by the department during the investigation and the responsibilities of the department in child abuse cases. In implementing the plan, the department shall establish a process for expediting the reporting of child abuse or neglect to the department. The executive commissioner shall adopt rules to implement this subsection.

Added by Acts 1995, 74th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.205, eff. April 2, 2015.

Sec. 40.066. COOPERATION WITH STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) Except as provided by Subsection (e), the department and the chief administrative law judge of the State Office of Administrative Hearings shall adopt a memorandum of understanding under which the State Office of Administrative Hearings, on behalf of the department, conducts all contested case hearings authorized or required by law to be conducted by the department under the administrative procedure law, Chapter 2001, Government Code.

(b) The memorandum of understanding shall require the chief administrative law judge, the department, and the commissioner to cooperate in connection with a contested case hearing and may authorize the State Office of Administrative Hearings to perform any administrative act, including the giving of notice, that is required to be performed by the department or commissioner.

(c) The administrative law judge who conducts a contested case hearing for the State Office of Administrative Hearings on behalf of the department shall enter the final decision in the case after completion of the hearing.

(d) The department by interagency contract shall reimburse the State Office of Administrative Hearings for the costs incurred in conducting contested case hearings for the department. The department may pay an hourly fee for the costs of conducting those hearings or a fixed annual fee negotiated biennially by the department and the State Office of Administrative Hearings to coincide with the department's legislative appropriations request.

(e) This section does not apply to a personnel grievance hearing involving a department employee.

(f) Unless otherwise agreed by all parties to a contested case, a hearing conducted by the State Office of Administrative Hearings on behalf of the department under this section must be held in the department's administrative region in which the conduct at issue in the case occurred.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 22, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1128, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.206, eff. April 2, 2015.

Sec. 40.067. DELIVERY OF SERVICES IN AREAS BORDERING UNITED MEXICAN STATES. The department shall:

(1) study issues related to providing child and adult protective services in areas bordering the United Mexican States;

(2) develop a plan for providing those services in the most efficient manner; and

(3) pursue and enter into agreements for coordinated services, to the extent permissible under federal law, with the United Mexican States or any of its political subdivisions.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 22, eff. Sept. 1, 1997.

Sec. 40.068. LOCAL ACCOUNTS. (a) The department may establish and maintain local bank or savings accounts for a client of the department as necessary to administer funds belonging to the client or received in trust for or on behalf of the client.

(b) Funds maintained in an account for the benefit of a child

who is under the managing conservatorship of the department may be used by the department for the support of the child, including the payment of foster care expenses, or may be paid to a person providing care for the child.

(c) The department shall spend funds in a guardianship of a client's estate in compliance with Title 3, Estates Code.

(d) Except as provided by Subsection (c), funds maintained in an account for the benefit of a client of the department may be used to provide care, including medical care, for the client.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 22, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.207, eff. April 2, 2015.

Sec. 40.070. SUPPORT SERVICES FOR CERTAIN FAMILIES. (a) If the department places a child who is in the conservatorship of the state in the home of a grandparent of the child, the department shall:

(1) refer the grandparent to support services offered by the department; and

(2) inform the grandparent of the availability of financial assistance under Chapter 31, including supplemental financial assistance, if the eligibility requirements of that chapter are satisfied.

(b) The department shall maintain complete records and compile statistics regarding the number of children who are placed by the department in the home of a grandparent of the child.

Added by Acts 1999, 76th Leg., ch. 471, Sec. 2, eff. Sept. 1, 1999.

Sec. 40.071. DRUG-ENDANGERED CHILD INITIATIVE. The department shall establish a drug-endangered child initiative aimed at protecting children who are exposed to heroin, cocaine or any of its forms, or methamphetamine or to chemicals and other hazardous materials used in the illicit manufacture of methamphetamine.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.89, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 26, eff. September 1, 2007.

Sec. 40.072. DUTY TO REPORT; DEPARTMENT RECORDS. (a) To the extent that reporting does not interfere with an ongoing criminal investigation, the Department of Public Safety and each local law enforcement agency shall report to the department on discovering the presence of a child in a location where methamphetamine is manufactured.

(b) The department shall maintain a record of reports received under this section and shall include in the record information regarding actions taken by the department to ensure the child's safety and well-being.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.89, eff. September 1, 2005.

Sec. 40.075. PROTECTIVE ORDERS. (a) The executive commissioner shall adopt rules to provide procedures for the filing of protective orders by the department for the protection of a member of a family or household as provided by Title 4, Family Code.

(b) The department shall provide prior notice to a nonabusive parent or adult member of a household of the department's intent to file an application for a protective order for a child or older person and shall request the assistance of the person receiving the notice in developing a safety plan for household members and the child or older person for whom the order is sought. The department shall exercise reasonable safety precautions to protect a nonabusive parent or other member of a household while providing notice and requesting assistance under this section.

Transferred, redesignated and amended from Human Resources Code, Chapter 54 by Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 76, eff. September 1, 2015.

For expiration of this section, see Subsection (f).

Sec. 40.079. STRATEGIC STATE PLAN TO IMPLEMENT COMMUNITY-BASED CARE AND FOSTER CARE PREVENTION SERVICES. (a) The department shall develop a strategic plan for the coordinated implementation of:

(1) community-based care as defined by Section 264.152, Family Code; and

(2) foster care prevention services that meet the requirements of Title VII, Div. E, Pub. L. No. 115-123.

(b) The strategic plan required under this section must:

(1) identify a network of services providers to provide mental health, substance use, and in-home parenting support services for:

(A) children at risk of entering foster care;

(B) the parents and caregivers of children identified under Paragraph (A); and

(C) pregnant or parenting youth in foster care;

(2) identify methods for the statewide implementation of foster care prevention services, including implementation in department regions that are transitioning to community-based care;

(3) identify resources necessary for the department to implement community-based care and to coordinate that implementation with the implementation of foster care prevention services, including:

(A) enhanced training related to procurement, contract monitoring and enforcement services, information technology services, and financial and legal services;

(B) a financial methodology for funding the implementation of community-based care and foster care prevention services; and

(C) resources to address the placement of children in settings eligible for federal financial participation under the requirements of Title VII, Div. E, Pub. L. No. 115-123;

(4) identify methods to:

(A) maximize resources from the federal government under Title VII, Div. E, Pub. L. No. 115-123;

(B) apply for other available federal and private funds;

(C) streamline and reduce duplication of effort by each state agency involved in providing services described by Subdivision (1);

(D) streamline the procedures for determining

eligibility for services described by Subdivision (1);

(E) prescribe and terminate services described by Subdivision (1); and

(F) reduce recidivism in foster care prevention services;

(5) include a method to:

(A) notify the Senate Health and Human Services Committee, the Senate Finance Committee, the House Committee on Human Services, the House Committee on Public Health, and the House Appropriations Committee of federal and private funding opportunities; and

(B) respond to the opportunities described by Paragraph (A); and

(6) identify opportunities to coordinate with independent researchers to assist community programs in evaluating and developing trauma-informed services and promising, supported, or well-supported services and strategies under Title VII, Div. E, Pub. L. No. 115-123.

(c) In identifying the network of providers described by Subsection (b)(1), the department shall consult with the Health and Human Services Commission, the Department of State Health Services, and community stakeholders.

(d) This section does not supersede or limit the department's duty to develop and maintain the plan under Section 264.153, Family Code.

(e) The department shall submit the plan developed under this section to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the standing committees of the senate and house of representatives having primary jurisdiction over child welfare issues not later than September 1, 2020.

(f) This section expires September 1, 2021.

Added by Acts 2019, 86th Leg., R.S., Ch. 1270 (S.B. 355), Sec. 1, eff. June 14, 2019.

Sec. 40.080. STRATEGIC PLAN TO IMPLEMENT FEDERAL LAW REGARDING SPECIFIED SETTINGS FOR PLACEMENT OF FOSTER CHILDREN. (a) The department shall develop a strategic plan regarding the placement of children in settings eligible for federal financial participation

under the requirements of the federal Family First Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123).

(b) The strategic plan required under this section must:

(1) assess any available evidence regarding the impact of accreditation on qualitative performance of accredited providers;

(2) assess a potential structure and any funding requirements necessary to incentivize providers to become accredited;

(3) study any available evidence regarding the qualitative outcomes in qualified residential treatment providers, as defined in the federal Family First Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123);

(4) assess the fiscal implications to this state of developing settings that meet the federal definition of qualified residential treatment providers and all associated requirements; and

(5) make any appropriate recommendations related to implementation of the requirements for qualified residential treatment providers.

Added by Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 3, eff. September 1, 2019.

CHAPTER 42. REGULATION OF CERTAIN FACILITIES, HOMES, AND AGENCIES THAT PROVIDE CHILD-CARE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. PURPOSE. The purpose of this chapter is to protect the health, safety, and well-being of the children of the state who reside in child-care facilities by establishing statewide minimum standards for their safety and protection and by regulating the facilities through a licensing program. It is the policy of the state to ensure the protection of all children under care in child-care facilities and to encourage and assist in the improvement of child-care programs. It is also the intent of the legislature that freedom of religion of all citizens is inviolate. With respect to a school or child-care facility sponsored by a religious organization, nothing in this chapter gives a governmental agency authority to regulate, control, supervise, or in any way be involved in the:

(1) form, manner, or content of religious instruction, ministry, teaching, or the curriculum offered by the school or facility;

(2) ability of the school or facility to select and supervise qualified personnel, and otherwise control the terms of employment, including the right to employ individuals who share the religious views of the school or facility;

(3) internal self-governance and autonomy of the school or facility; or

(4) religious environment of the school or facility, such as symbols, art, icons, and scripture.

Acts 1979, 66th Leg., p. 2358, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 664, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 27, eff. September 1, 2007.

Sec. 42.002. DEFINITIONS. In this chapter:

(1) "Child" means a person under 18 years of age.

(2) "Division" means the division designated by the department to carry out the provisions of this chapter.

(3) "Child-care facility" means a facility licensed, certified, or registered by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

(4) "General residential operation" means a child-care facility that provides care for seven or more children for 24 hours a day, including facilities known as residential treatment centers and emergency shelters.

(5) "Continuum-of-care residential operation" means a group of residential child-care facilities that operate under the same license or certification to provide a continuum of services to children.

(6) "Cottage home operation" means cottage family homes that:

(A) are identified on the operation's license;

(B) share a child-care administrator who is responsible for oversight for all homes within the operation; and

(C) are all in or near the same location as defined by department rule.

(7) "Day-care center" means a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.

(8) "Group day-care home" means a child-care facility that provides care at the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.

(9) "Family home" means a home that provides regular care in the caretaker's own residence for not more than six children under 14 years of age, excluding children who are related to the caretaker, and that provides care after school hours for not more than six additional elementary school children, but the total number of children, including children who are related to the caretaker, does not exceed 12 at any given time. The term does not include a home that provides care exclusively for any number of children who are related to the caretaker.

(10) "Cottage family home" means a family residential setting with one or more homes operating under the license of a cottage home operation and in which:

(A) each home has at least one houseparent who lives at the home while children are in care; and

(B) based on the size of the home and the children's needs, each home cares for not more than six children.

(11) "Agency foster home" means a facility that provides care for not more than six children for 24 hours a day, is used only by a licensed child-placing agency or continuum-of-care residential operation, and meets department standards.

(12) "Child-placing agency" means a person, including an organization, other than the natural parents or guardian of a child who plans for the placement of or places a child in a child-care facility, agency foster home, or adoptive home.

(13) "Facilities" includes child-care facilities, child-placing agencies, and continuum-of-care residential operations.

(14) "State of Texas" or "state" does not include political subdivisions of the state.

(15) "Religious organization" means a church, synagogue, or other religious institution whose purpose is to support and serve the propagation of truly held religious beliefs.

(16) "Children who are related to the caretaker" means children who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caretaker, whether by affinity or consanguinity or as the result of a relationship created by court decree.

(17) "Regular care" means care that is provided at least:

(A) four hours a day, three or more days a week, for three or more consecutive weeks; or

(B) four hours a day for 40 or more days in a period of 12 months.

(18) "Controlling person" means a person who, either alone or in connection with others, has the ability to directly or indirectly influence or direct the management, expenditures, or policies of a facility or family home.

(19) "Residential child-care facility" means a facility licensed or certified by the department that operates for all of the 24-hour day. The term includes general residential operations, child-placing agencies, specialized child-care homes, cottage home operations, continuum-of-care residential operations, and agency foster homes.

(20) "Before-school or after-school program" means a child-care facility that provides care before or after, or before and after, the customary school day and during school holidays, for at least two hours a day, three days a week, to children who attend prekindergarten through grade six.

(21) "School-age program" means a child-care facility that provides supervision, along with recreation or skills instruction or training, and may provide transportation, before or after the customary school day, for at least two hours a day, three days a week, to children attending prekindergarten through grade six. A school-age program may also operate during school holidays, the summer period, or any other time when school is not in session.

(22) "Children's product" means a product that is designed or intended to be used by a child under 13 years of age or used by a caregiver during the care of a child under 13 years of age. The term

does not include:

(A) an item that is not designed or intended to be used solely or primarily by a child under 13 years of age or in the care of a child under 13 years of age;

(B) a medication, a drug, food, or another item that is intended to be ingested; or

(C) clothing.

(23) "Other maltreatment" means:

(A) abuse, as defined by Section 261.001, Family Code; or

(B) neglect, as defined by Section 261.001, Family Code.

(24) "Specialized child-care home" means a child-care facility that:

(A) based on the size of the home and the children's needs, provides care for not more than six children for 24 hours a day; and

(B) has a director and has at least one houseparent who lives at the home while children are in care.

Acts 1979, 66th Leg., p. 2359, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2812, ch. 759, Sec. 1, eff. Aug. 31, 1981; Acts 1987, 70th Leg., ch. 1052, Sec. 4.01, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 984, Sec. 1, eff. June 15, 1989; Acts 1997, 75th Leg., ch. 1022, Sec. 23, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.90, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 46 (S.B. 95), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(34), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1323 (S.B. 471), Sec. 3, eff.

June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 44, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 29, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 12, eff. September 1, 2017.

Sec. 42.003. REFERENCE TO CHILD-CARE INSTITUTION. A reference in law to a "child-care institution" means a general residential operation.

Added by Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 3, eff. September 1, 2009.

Sec. 42.0031. REFERENCE TO PART OF CONTINUUM-OF-CARE OPERATION. With respect to a continuum-of-care operation, a reference in this code or in any other law to a type of residential child-care facility that is a part of a continuum-of-care operation shall be construed as a reference to that portion of the continuum-of-care operation, and the department may take all regulatory action with respect to the continuum-of-care operation that the department could take with respect to the type of residential child-care facility, as further specified in department rule.

Added by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 45, eff. September 1, 2017.

Sec. 42.004. CONFIDENTIALITY OF INVESTIGATION INFORMATION. A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by the department in the course of an inspection or investigation authorized by this chapter or Section 261.401, Family Code, is confidential, is not subject to release under Chapter 552, Government Code, and may be released only as required by state or federal law or rules adopted by the executive commissioner.

Added by Acts 2013, 83rd Leg., R.S., Ch. 313 (H.B. 1648), Sec. 1, eff.

September 1, 2013.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 42.021. DIVISION DESIGNATED. (a) The department may designate a division within the department to carry out responsibilities the department may delegate or assign under this chapter. The department shall ensure the independence of the division from the child protective services division.

(b) The commissioner shall appoint as director of a division designated under Subsection (a) a person who meets the qualifications set by the executive commissioner. The commissioner shall ensure the director's independence from the child protective services division and may not terminate the director without the approval of the executive commissioner.

(c) The department shall employ sufficient personnel and provide training for the personnel to carry out the provisions of this chapter.

(d) The commissioner may divide the state into regions for the purpose of administering this chapter.

Acts 1979, 66th Leg., p. 2360, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.020, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1063, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.91, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 28, eff. September 1, 2007.

Sec. 42.0211. SAFETY SPECIALISTS, RISK ANALYSTS, AND PERFORMANCE MANAGEMENT. (a) The division shall employ at least one specially trained investigation safety specialist, whose duties include the duty to:

(1) review and evaluate the intake of reports that include allegations associated with a higher risk of harm to the child; and

(2) consult with the assigned investigator to provide specialized guidance and resources to assist the investigation.

(b) The division shall employ at least one risk analyst, whose duties include the duty to:

(1) identify facilities, including child-placing agencies, whose compliance histories indicate the potential for a higher risk of harm to children in the care of the facility;

(2) review the monitoring and inspection reports for any facilities described by Subdivision (1) to assess the quality of the investigation or monitoring; and

(3) identify any additional monitoring or enforcement action that may be appropriate to ensure the safety of a child in the care of the facility.

(c) The division must include a performance management unit with duties that include:

(1) conducting quality assurance reviews of randomly selected monitoring and investigative reports to ensure compliance with all relevant laws, rules, and agency policies; and

(2) making recommendations to improve the quality and consistency of monitoring and investigations.

Added by Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 29(a), eff. September 1, 2007.

Sec. 42.023. ANNUAL REPORT. (a) The department shall prepare an annual written report regarding the department's activities under this chapter.

(b) The annual report shall include:

(1) a report by regions of applications for licensure or certification, of initial licenses issued, denied, or revoked, of licenses issued, denied, suspended or revoked, of emergency closures and injunctions, and of the compliance of state-operated agencies, if such agencies exist, with certification requirements;

(2) a summary of the training programs required by the department and their effectiveness;

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

(4) a report of new administrative procedures, of the number of staff and staff changes, and of plans for the coming year; and

(5) a report of trends in licensing violations on a

statewide and regional basis and the department's plans to address those trends through the provision of technical assistance.

(c) Copies of the annual report shall be available to any state citizen on request.

Acts 1979, 66th Leg., p. 2360, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 18, Sec. 2, eff. April 3, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 8.022, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1063, Sec. 6, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.92, eff. September 1, 2005.

Sec. 42.024. ADMINISTRATIVE PROCEDURE. Chapter 2001, Government Code applies to all procedures under this chapter except where it is contrary to or inconsistent with the provisions of this chapter.

Acts 1979, 66th Leg., p. 2361, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Sec. 42.025. SEARCHABLE DATABASE. (a) The department shall maintain on the department's Internet website a searchable database that includes the name, the address, and any identification number, as applicable, of each family home registered or listed under this chapter that previously had a registration or listing involuntarily suspended or revoked under this chapter with a permanent notation indicating the involuntary suspension or revocation and the year in which the suspension or revocation took effect or was final under this chapter.

(b) The executive commissioner may adopt rules as necessary to implement this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 158 (H.B. 1180), Sec. 1, eff. September 1, 2015.

SUBCHAPTER C. REGULATION OF CERTAIN FACILITIES, HOMES, AND AGENCIES

Sec. 42.041. REQUIRED LICENSE. (a) No person may operate a child-care facility or child-placing agency without a license issued by the department.

(b) This section does not apply to:

(1) a state-operated facility;

(2) an agency foster home;

(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities, including retreats or classes for religious instruction, on or near the premises, that does not advertise as a child-care facility or day-care center, and that informs parents that it is not licensed by the state;

(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) a youth camp licensed by the Department of State Health Services;

(6) a facility licensed, operated, certified, or registered by another state agency;

(7) an educational facility that is accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes for prekindergarten and above, a before-school or after-school program operated directly by an accredited educational facility, or a before-school or after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency, the Southern Association of Colleges and Schools, or the other accreditation body, as applicable, has approved the curriculum content of the before-school or after-school program operated under the contract;

(8) an educational facility that operates solely for educational purposes for prekindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal

to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

(10) a family home, whether registered or listed;

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers an educational program in one or more of the following: prekindergarten through at least grade three, elementary grades, or secondary grades;

(12) an emergency shelter facility, other than a facility that would otherwise require a license as a child-care facility under this section, that provides shelter or care to a minor and the minor's child or children, if any, under Section 32.201, Family Code, if the facility:

(A) is currently under a contract with a state or federal agency; or

(B) meets the requirements listed under Section 51.005(b)(3);

(13) a juvenile detention facility certified under Section 51.12, Family Code, a juvenile correctional facility certified under Section 51.125, Family Code, a juvenile facility providing services solely for the Texas Juvenile Justice Department, or any other correctional facility for children operated or regulated by another state agency or by a political subdivision of the state;

(14) an elementary-age (ages 5-13) recreation program operated by a municipality provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff qualifications, minimum facility, health, and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the program is not licensed by the state and the program may not be advertised as a child-care facility;

(15) an annual youth camp held in a municipality with a

population of more than 1.5 million that operates for not more than three months and that has been operated for at least 10 years by a nonprofit organization that provides care for the homeless;

(16) a food distribution program that:

(A) serves an evening meal to children two years of age or older; and

(B) is operated by a nonprofit food bank in a nonprofit, religious, or educational facility for not more than two hours a day on regular business days;

(17) a child-care facility that operates for less than three consecutive weeks and less than 40 days in a period of 12 months;

(18) a program:

(A) in which a child receives direct instruction in a single skill, talent, ability, expertise, or proficiency;

(B) that does not provide services or offerings that are not directly related to the single talent, ability, expertise, or proficiency;

(C) that does not advertise or otherwise represent that the program is a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services;

(D) that informs the parent or guardian:

(i) that the program is not licensed by the state; and

(ii) about the physical risks a child may face while participating in the program; and

(E) that conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety;

(19) an elementary-age (ages 5-13) recreation program that:

(A) adopts standards of care, including standards relating to staff ratios, staff training, health, and safety;

(B) provides a mechanism for monitoring and enforcing the standards and receiving complaints from parents of enrolled children;

(C) does not advertise as or otherwise represent the program as a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services;

(D) informs parents that the program is not licensed by the state;

(E) is organized as a nonprofit organization or is located on the premises of a participant's residence;

(F) does not accept any remuneration other than a nominal annual membership fee;

(G) does not solicit donations as compensation or payment for any good or service provided as part of the program; and

(H) conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety;

(20) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the caretaker:

(A) had a prior relationship with the child or sibling group or other family members of the child or sibling group;

(B) does not care for more than one unrelated child or sibling group;

(C) does not receive compensation or solicit donations for the care of the child or sibling group; and

(D) has a written agreement with the parent to care for the child or sibling group;

(21) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which:

(A) the department is the managing conservator of the child or sibling group;

(B) the department placed the child or sibling group in the caretaker's home; and

(C) the caretaker had a long-standing and significant relationship with the child or sibling group, or the family of the child or sibling group, before the child or sibling group was placed with the caretaker;

(22) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the child is in the United States on a time-limited visa under the sponsorship of the caretaker or of a sponsoring organization;

(23) a facility operated by a nonprofit organization that:

(A) does not otherwise operate as a child-care facility

that is required to be licensed under this section;

(B) provides emergency shelter and care for not more than 15 days to children 13 years of age or older but younger than 18 years of age who are victims of human trafficking alleged under Section 20A.02, Penal Code;

(C) is located in a municipality with a population of at least 600,000 that is in a county on an international border; and

(D) meets one of the following criteria:

(i) is licensed by, or operates under an agreement with, a state or federal agency to provide shelter and care to children; or

(ii) meets the eligibility requirements for a contract under Section 51.005(b)(3);

(24) a facility that provides respite care exclusively for a local mental health authority under a contract with the local mental health authority; or

(25) a living arrangement in a caretaker's home involving one or more children or a sibling group in which the caretaker:

(A) has a written authorization agreement under Chapter 34, Family Code, with the parent of each child or sibling group to care for each child or sibling group;

(B) does not care for more than six children, excluding children who are related to the caretaker; and

(C) does not receive compensation for caring for any child or sibling group.

(b-1) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(1), eff. September 1, 2009.

(c) A single license that lists addresses and the appropriate facilities may be issued to a general residential operation that operates noncontiguous facilities that are across the street from, in the same city block as, or on the same property as one another and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(d) A facility exempt from the provisions of Subsection (a) that desires to receive or participate in federal or state funding shall be required to comply with all other provisions of this chapter and with all regulations promulgated under this chapter.

(e) The exemptions provided by Subsection (b) do not affect the authority of local, regional, or state health department officials, the state fire marshal, or local fire prevention officials to inspect

child-care facilities.

(f) Notwithstanding the requirements of Subsection (b)(14), a municipality that operates an elementary-age (ages 5-13) recreation program may, in lieu of an annual public hearing, accept public comment through the municipality's Internet website for at least 30 days before the municipality adopts standards of care by ordinance if the municipality:

(1) has a population of 300,000 or more; and

(2) has held at least two annual public hearings on the standards of care and adopted standards of care by ordinance after those public hearings.

(g) A child-care facility that is exempt under Subsection (b)(3) from the licensing requirement of Subsection (a) may provide care for each child at the child-care facility for not more than 15 hours a week if the child-care facility:

(1) provides the child care so that a person may attend an educational class provided by a nonprofit entity; and

(2) is located in a county with a population of 800,000 or more that is adjacent to an international border.

Acts 1979, 66th Leg., p. 2361, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2812, ch. 759, Sec. 2, 3, eff. Aug. 31, 1981; Acts 1987, 70th Leg., ch. 1052, Sec. 4.03, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 1115, Sec. 2, eff. June 19, 1987; Acts 1995, 74th Leg., ch. 262, Sec. 54, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 847, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 7.46, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 664, Sec. 3, 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.93(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 25, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1037 (H.B. 1786), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 19(1), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 343 (H.B. 3051), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(30), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 192 (S.B. 353), Sec. 1, eff. May 25, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.211, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 244 (H.B. 871), Sec. 12, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 46, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 10.003, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1294 (H.B. 3390), Sec. 13, eff. June 14, 2019.

Sec. 42.0412. COLLECTION OF LICENSED DAY-CARE CENTER DATA. (a) In this section, "group of children" and "specified age" are determined by the formula provided in the commission's minimum standards for child-care centers.

(b) The commission, in collaboration with the department and using existing resources, shall collect, compile, and publish on the commission's Internet website the following data aggregated by child age on reported incidents in licensed day-care centers that threaten or impair the basic health, safety, or welfare of a child:

(1) the number of incidents investigated by the commission or department and assigned the commission's highest priority;

(2) the number of incidents investigated by the commission

or department and assigned the commission's second-highest priority;

(3) the number of violations;

(4) the number of confirmed serious injuries to children; and

(5) the number of child fatalities.

(c) During each monitoring inspection of a licensed day-care center the commission conducts, the commission, using existing resources, shall collect the following data for each group of children four years of age and younger in the day-care center:

(1) the specified age of the children in the group;

(2) the number of children in the group; and

(3) the number of caregivers supervising the children in the group.

(c-1) The commission, using existing resources, shall collect and publish on the commission's Internet website data on the total number of employees who left employment with each licensed day-care center during the preceding calendar year.

(d) The commission shall make the data collected under this section available to persons researching the factors related to child injury, maltreatment, and death in licensed day-care centers on request.

(e) The commission, using existing resources, shall provide an annual report to the legislature that includes:

(1) the number of confirmed serious injuries and fatalities for children four years of age and younger, aggregated by the age of the injured or deceased child, including information collected by the department, that occurred:

(A) at each licensed day-care center; and

(B) at a location other than a licensed day-care center;

(2) the priority assigned to the investigation conducted by the commission or department in response to an incident that resulted in a serious injury or child fatality;

(3) the number of investigations conducted by the commission or department at each licensed day-care center involving a child four years of age or younger that were assigned the highest priority or second-highest priority, aggregated by the age of the youngest affected child;

(4) the number of violations the commission found at each licensed day-care center during investigations described by

Subdivision (3); and

(5) a comparison on whether children under the supervision of a licensed day-care center are more likely than children outside the supervision of a licensed day-care center to suffer a serious injury or death.

(f) The commission, in collaboration with the department and using existing resources, shall research, collect, compile, and publish on the commission's Internet website, in a way that allows meaningful comparison on a pro-rata basis of the relative frequency of each event included in the information required under Subsection (b)(4) and (5), the following data aggregated by child age regarding incidents at a location other than a licensed day-care center that threaten or impair the basic health, safety, or welfare of a child:

(1) the number of confirmed serious injuries to children; and

(2) the number of child fatalities.

(g) The commission may collaborate with one or more state agencies to perform a duty under Subsections (e) and (f).

Added by Acts 2019, 86th Leg., R.S., Ch. 969 (S.B. 708), Sec. 1, eff. June 14, 2019.

Sec. 42.042. RULES AND STANDARDS. (a) The executive commissioner shall adopt rules to carry out the provisions of this chapter.

(b) The department shall conduct a comprehensive review of all rules and standards at least every six years. For purposes of this subsection, the six-year period begins on the latest of the date of:

(1) the conclusion of the review of the rules and standards;

(2) a decision by the department not to revise the rules and standards;

(3) a decision by the executive commissioner not to revise the rules and standards; or

(4) executive commissioner action adopting new standards.

(b-1) Not later than the earlier of December 31, 2020, or the date the commission conducts the next review required by Subsection (b), the commission shall create and implement a process to simplify, streamline, and provide for greater flexibility in the application of

the minimum standards to licensed child-placing agencies, agency foster homes, and adoptive homes with the goal of increasing the number of foster and adoptive homes in this state. This subsection expires September 1, 2021.

(c) The department shall provide a standard procedure for receiving and recording complaints. The executive commissioner shall adopt rules regarding the receipt of anonymous complaints made regarding child-care facilities and family homes to limit the number of anonymous complaints investigated by the department.

(d) The department shall provide standard forms for applications and inspection reports.

(d-1) The executive commissioner by rule shall adopt minimum standards for listed family homes. The minimum standards must:

(1) promote the health, safety, and welfare of children attending a listed family home;

(2) promote safe, comfortable, and healthy listed family homes for children;

(3) ensure adequate supervision of children by capable, qualified, and healthy personnel; and

(4) ensure medication is administered in accordance with Section 42.065.

(e) The executive commissioner shall promulgate minimum standards that apply to licensed child-care facilities and to registered family homes covered by this chapter and that will:

(1) promote the health, safety, and welfare of children attending a facility or registered family home;

(2) promote safe, comfortable, and healthy physical facilities and registered family homes for children;

(3) ensure adequate supervision of children by capable, qualified, and healthy personnel;

(4) ensure adequate and healthy food service where food service is offered;

(5) prohibit racial discrimination by child-care facilities and registered family homes;

(6) require procedures for parental and guardian consultation in the formulation of children's educational and therapeutic programs;

(7) prevent the breakdown of foster care and adoptive placement; and

(8) ensure that a child-care facility or registered family

home:

(A) follows the directions of a child's physician or other health care provider in providing specialized medical assistance required by the child; and

(B) maintains for a reasonable time a copy of any directions from the physician or provider that the parent provides to the facility or home.

(e-1) The commission may not prohibit possession of lawfully permitted firearms and ammunition in an agency foster home. Minimum standards may be adopted under this section relating to safety and proper storage of firearms and ammunition. The minimum standards must allow firearms and ammunition to be stored separately or stored together in the same locked location if the firearms are stored with a trigger locking device attached to the firearms.

(e-2) The department may not prohibit the foster parent of a child who resides in the foster family's home from transporting the child in a vehicle where a handgun is present if the handgun is in the possession and control of the foster parent and the foster parent is licensed to carry the handgun under Subchapter H, Chapter 411, Government Code.

(e-3) The minimum standards for a day-care center or registered family home adopted under Subsection (e) must be consistent with:

(1) American Academy of Pediatrics standards for physical activity and screen time as published in Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, 4th Edition; and

(2) the nutrition standards in the Child and Adult Care Food Program administered by the Department of Agriculture.

(e-4) A day-care center or registered family home is not required to participate in or comply with the reporting requirements of the Child and Adult Care Food Program administered by the Department of Agriculture.

(e-5) If the commission determines that the economic impact of requiring a day-care center or registered family home to comply with a minimum standard adopted under Subsection (e-3) is sufficiently great to make compliance impractical, the commission may require the day-care center or registered family home to meet the guidelines of the minimum standard through an alternative method.

(f) In promulgating minimum standards for the provision of child-care services, the executive commissioner shall recognize the

various categories of services, including services for specialized care, the various categories of children and their particular needs, and the differences in the organization and operation of child-care facilities and general residential operations. Standards for general residential operations must require an intake study before a child is placed in an operation. The intake study may be conducted at a community mental health and intellectual disability center.

(g) In promulgating minimum standards the executive commissioner may recognize and treat differently the types of services provided by the following:

(1) listed family homes;

(2) registered family homes;

(3) child-care facilities, including general residential operations, cottage home operations, specialized child-care homes, group day-care homes, and day-care centers;

(4) child-placing agencies;

(5) agency foster homes;

(6) continuum-of-care residential operations;

(7) before-school or after-school programs; and

(8) school-age programs.

(g-1) The executive commissioner in adopting and the department in enforcing minimum standards for a school-age program shall consider commonly accepted training methods for the development of a skill, talent, ability, expertise, or proficiency that are implemented with the consent of the parent or guardian of the participant and that are fundamental to the core purpose of the program.

(g-2) The executive commissioner by rule shall adopt minimum standards that apply to general residential operations that provide comprehensive residential and nonresidential services to persons who are victims of trafficking under Section 20A.02, Penal Code. In adopting the minimum standards under this subsection, the executive commissioner shall consider:

(1) the special circumstances and needs of victims of trafficking of persons; and

(2) the role of the general residential operations in assisting and supporting victims of trafficking of persons.

(h) The executive commissioner shall promulgate minimum standards for child-placing agencies.

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

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

(2) the verification and monitoring of agency foster homes and adoptive homes by a child-placing agency; and

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

(i) Before the executive commissioner adopts minimum standards, the department shall:

(1) convene a temporary work group to advise the executive commissioner regarding the proposed standards, composed of at least six members who represent the diverse geographic regions of this state, including:

(A) a department official designated by the commissioner to facilitate the work group's activities;

(B) a person with demonstrated expertise or knowledge regarding the different types and classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards;

(C) a parent with experience related to one of the different types or classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards; and

(D) a representative of a nonprofit entity licensed under this chapter; and

(2) send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to the department.

(j) The department may waive compliance with a minimum standard in a specific instance if it determines that the economic impact of compliance is sufficiently great to make compliance impractical.

(k) The department may not regulate or attempt to regulate or control the content or method of any instruction or curriculum of a school sponsored by a religious organization.

(l) In promulgating minimum standards for the regulation of family homes that register with the department, the executive commissioner must address the minimum qualifications, education, and training required of a person who operates a family home registered with the department.

(m) In determining minimum standards relating to staff-to-child ratios, group sizes, or square footage requirements applicable to nonresidential child-care facilities that provide care for less than 24 hours a day, the department shall, within available appropriations, conduct a comprehensive cost-benefit analysis and economic impact study that includes families and licensed child-care providers.

(m-1) Not later than January 1, 2021, the executive commissioner shall review the data collected under Section 42.0412 and prepare and submit to the legislature a report that includes legislative and regulatory recommendations by age group to enhance child safety. This subsection expires September 1, 2023.

(n) Not later than the 60th day before the date the executive commissioner adopts a revision to the minimum standards for child-care facilities, the executive commissioner shall present the revision to the appropriate legislative oversight committees that have jurisdiction over child-care facilities for review and comment.

(p) The executive commissioner by rule shall prescribe minimum training standards for an employee of a regulated child-care facility, including the time required for completing the training. The executive commissioner may not require an employee to repeat required training if the employee has completed the training within the time prescribed by department rule. The department's local offices shall make available at the local office locations a copy of the rules regarding minimum training standards, information enabling the owner or operator of a regulated facility to apply for training funds from other agencies to lower facility costs, and any other materials the department may develop to assist the owner or operator or other entity in providing the training.

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

(r) A residential child-care facility that provides emergency services may temporarily exceed the facility's capacity for not more than 48 hours to provide temporary care for a child in an emergency. The facility shall notify the department within 24 hours of the placement that the facility temporarily exceeded the facility's capacity.

(s) A continuum-of-care residential operation shall ensure that each residential child-care facility operating under the operation's

license complies with this chapter and any standards and rules adopted under this chapter that apply to the facility. The executive commissioner by rule may prescribe the actions a continuum-of-care residential operation must take to comply with the minimum standards for each facility type.

(t) The commission by rule shall grant to each child-placing agency and each single source continuum contractor the authority to waive certain minimum standards related to preservice training, annual training, or other requirements that are not directly related to caring for the child for:

(1) the child's foster or prospective adoptive parent; or

(2) foster homes that have no citations or violations reported to the commission.

Acts 1979, 66th Leg., p. 2362, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.04, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 920, Sec. 10, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1121, Sec. 1, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1129, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 218, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.94(a), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 526 (H.B. 877), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 366 (S.B. 322), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 31, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 471 (H.B. 434), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 16(2), eff. September 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1300 (H.B. 2560), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 365 (H.B. 2725), Sec. 4, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.212, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 47, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 948 (S.B. 952), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 969 (S.B. 708), Sec. 2, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1120 (H.B. 2363), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1139 (H.B. 2764), Sec. 1, eff. September 1, 2019.

Sec. 42.0421. MINIMUM TRAINING STANDARDS. (a) The minimum training standards prescribed by the executive commissioner under Section 42.042(p) for an employee, director, or operator of a day-care center, group day-care home, or registered family home must include:

(1) 24 hours of initial training that must be completed not later than the 90th day after the employee's first day of employment for an employee of a day-care center who has no previous training or less than two years of employment experience in a regulated child-care facility, eight hours of which must be completed before the employee is given responsibility for a group of children;

(2) 24 hours of annual training for each employee of a day-care center or group day-care home, excluding the director, which must include at least six hours of training in one or more of the following areas:

(A) child growth and development;

(B) guidance and discipline;

(C) age-appropriate curriculum; and

(D) teacher-child interaction; and

(3) 30 hours of annual training for each director of a day-care center or group day-care home, or operator of a registered family home, which must include at least six hours of training in one

or more of the following areas:

(A) child growth and development;

(B) guidance and discipline;

(C) age-appropriate curriculum; and

(D) teacher-child interaction.

(b) The minimum training standards prescribed by the executive commissioner under Section 42.042(p) must require an employee of a licensed day-care center or group day-care home who provides care for children younger than 24 months of age to receive special training regarding the care of those children. The special training must be included as a component of the initial training required by Subsection (a)(1) and as a one-hour component of the annual training required by Subsections (a)(2) and (a)(3). The special training must include information on:

(1) recognizing and preventing shaken baby syndrome;

(2) preventing sudden infant death syndrome; and

(3) understanding early childhood brain development.

(c) The executive commissioner by rule shall require an operator of a registered family home who provides care for a child younger than 24 months of age to complete one hour of annual training on:

(1) recognizing and preventing shaken baby syndrome;

(2) preventing sudden infant death syndrome; and

(3) understanding early childhood brain development.

(d) Section 42.042(m) does not apply to the minimum training standards required by this section.

(e) In addition to other training required by this section, the executive commissioner by rule shall require an owner, operator, or employee of a day-care center, group day-care home, registered family home, general residential operation, cottage home operation, or specialized child-care home who transports a child under the care of the facility whose chronological or developmental age is younger than nine years of age to complete at least two hours of annual training on transportation safety.

(f) The training required by this section must be appropriately targeted and relevant to the age of the children who will receive care from the individual receiving training and must be provided by a person who:

(1) is a training provider registered with the Texas Early Childhood Professional Development System's Texas Trainer Registry

that is maintained by the Texas Head Start State Collaboration Office;

(2) is an instructor at a public or private secondary school, an institution of higher education, as defined by Section 61.003, Education Code, or a private college or university accredited by a recognized accrediting agency who teaches early childhood development or another relevant course, as determined by rules adopted by the commissioner of education and the commissioner of higher education;

(3) is an employee of a state agency with relevant expertise;

(4) is a physician, psychologist, licensed professional counselor, social worker, or registered nurse;

(5) holds a generally recognized credential or possesses documented knowledge relevant to the training the person will provide;

(6) is a registered family home care provider or director of a day-care center or group day-care home in good standing with the department, if applicable, and who:

(A) has demonstrated core knowledge in child development and caregiving; and

(B) is only providing training at the home or center in which the provider or director and the person receiving training are employed; or

(7) has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:

(A) has been awarded a Child Development Associate (CDA) credential; or

(B) holds at least an associate's degree in child development, early childhood education, or a related field.

(g) A person described by Subsection (f)(6) may provide training under this section only if the commission has not taken an action under Section 42.071, 42.072, or 42.078 against the license, listing, or registration of the person or the home or center for which the person is a provider or director during the two-year period preceding the date on which the person provides the training.

(h) In adopting the minimum training standards under Section 42.042(p), the executive commissioner may not require more training

hours than the number of hours prescribed by Subsection (a) for a day-care center, group day-care home, or registered family home.

(i) The executive commissioner by rule shall adopt minimum training standards for before-school or after-school and school-age programs as required by Section 42.042(p). In adopting minimum training standards for before-school or after-school and school-age programs under this subsection, the executive commissioner may not require more initial or annual training hours than the number of hours required by Subsection (a) immediately before September 1, 2011.

Added by Acts 1999, 76th Leg., ch. 1211, Sec. 1, eff. Jan. 1, 2000.
Amended by Acts 2001, 77th Leg., ch. 169, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 748 (S.B. 572), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 82 (S.B. 265), Sec. 1, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 882 (S.B. 260), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(31), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1155 (S.B. 215), Sec. 61, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.213, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 48, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 4, eff. September 1, 2019.

Sec. 42.04215. SAFETY TRAINING ACCOUNT. (a) The safety training account is a dedicated account in the general revenue fund. The account is composed of:

(1) money deposited into the account under Section 42.078;

(2) gifts, grants, and donations contributed to the account; and

(3) interest earned on the investment of money in the account.

(b) Section 403.0956, Government Code, does not apply to the account.

(c) Money in the account may be appropriated only to the commission to provide safety training materials at no cost to a facility licensed under this chapter or a family home registered or listed under this chapter. The commission may contract with a third party to create the training materials.

(d) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 588 (S.B. 568), Sec. 1, eff. September 1, 2019.

Sec. 42.0422. RESTRAINT AND SECLUSION. A person providing services to a resident of a general residential operation, including a state-operated facility that is a residential treatment center or a general residential operation serving children with intellectual disabilities, shall comply with Chapter 322, Health and Safety Code, and the rules adopted under that chapter.

Added by Acts 2005, 79th Leg., Ch. 698 (S.B. 325), Sec. 7, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 7, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.214, eff. April 2, 2015.

Sec. 42.0423. CHILDREN'S PRODUCT SAFETY FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES. (a) This section applies only to a licensed day-care center, licensed group day-care home, or registered family home.

(b) A children's product is presumed to be unsafe for purposes of this section if it has been recalled for any reason by the United States Consumer Product Safety Commission and the recall has not been rescinded.

(c) A children's product that has been recalled for any reason by the United States Consumer Product Safety Commission is not presumed to be unsafe if the product has been remanufactured or

retrofitted so that the product is safe.

(d) The department shall include on its public Internet website a link to the United States Consumer Product Safety Commission's Internet website.

(e) A child-care facility subject to this section may not use an unsafe children's product or have an unsafe children's product on the premises of the child-care facility unless:

(1) the product is an antique or collectible children's product and is not used by, or accessible to, any child in the child-care facility; or

(2) the unsafe children's product is being retrofitted to make it safe and the product is not used by, or accessible to, any child in the child-care facility.

(f) The department shall notify a child-care facility subject to this section of the provisions of this section in plain, nontechnical language that will enable the child-care facility to effectively inspect the children's products at the facility and identify unsafe children's products. The department shall provide the notice required by this subsection:

(1) during the department's pre-application interview for a license, registration, or certification; and

(2) during an inspection.

(g) At least annually, each child-care facility subject to this section shall certify in writing that the facility has reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe products in the facility except products described by Subsection (e). The facility shall retain the certification form completed by each facility in the facility's licensing file.

(h) The executive commissioner shall adopt rules and forms necessary to implement this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 46 (S.B. 95), Sec. 2, eff. September 1, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.215, eff. April 2, 2015.

Sec. 42.0424. CHILD SAFETY ALARMS IN VEHICLES. (a) In this section, "electronic child safety alarm" means an alarm system that prompts the driver of a vehicle to inspect the vehicle to determine whether children are in the vehicle before the driver exits the vehicle.

(b) A licensed day-care center shall equip each vehicle owned or leased by the facility with an electronic child safety alarm if the vehicle is:

(1) designed to seat eight or more persons; and

(2) used to transport children under the care of the facility.

(c) The licensed day-care center shall ensure that the electronic child safety alarm is properly maintained and used when transporting children.

(d) The executive commissioner shall adopt rules to implement this section.

(e) This section applies only to a vehicle purchased or leased on or after December 31, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1132 (H.B. 1741), Sec. 1, eff. December 31, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.216, eff. April 2, 2015.

Sec. 42.0425. ASSESSMENT SERVICES. (a) The executive commissioner by rule shall regulate assessment services provided by child-care facilities or child-placing agencies. A child-care facility or child-placing agency may not provide assessment services unless specifically authorized by department rule.

(b) The executive commissioner by rule shall establish minimum standards for assessment services. The standards must provide that consideration is given to the individual needs of a child, the appropriate place for provision of services, and the factors listed in Section 42.042(e).

(c) In this section, "assessment services" means the determination of the placement needs of a child who requires substitute care.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 25, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.217, eff. April 2, 2015.

Sec. 42.0426. TRAINING OF PERSONNEL. (a) A licensed facility shall provide training for staff members in:

(1) the recognition of symptoms of child abuse, neglect, and sexual molestation and the responsibility and procedure of reporting suspected occurrences of child abuse, neglect, and sexual molestation to the department or other appropriate entity;

(2) the application of first aid; and

(3) the prevention and spread of communicable diseases.

(a-1) A licensed facility shall require each employee of the facility who attends a training program required by Subsection (a)(1) to sign a statement verifying the employee's attendance at the training program. The licensed facility shall maintain the statement in the employee's personnel records.

(b) A residential child-care facility shall implement a behavior intervention program approved by the department for the benefit of a child served by the facility who needs assistance in managing the child's conduct. The program must include:

(1) behavior intervention instruction for staff members who work directly with children served by the facility; and

(2) training for all employees regarding the risks associated with the use of prone restraints.

(c) Not later than the seventh day after the date an employee begins employment at a day-care center, group day-care home, or registered family home, the employee must complete an orientation to the facility.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 25, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.95, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 882 (S.B. 260), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 592 (S.B. 939), Sec. 5, eff. September 1, 2013.

Sec. 42.04261. OTHER TRAINING OF PERSONNEL: CHILD-PLACING AGENCIES AND DAY-CARE CENTERS. (a) Notwithstanding Section 42.0426(a)(1), a child-placing agency or day-care center shall provide training for staff members in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment of children to the department or other appropriate entity.

(b) The type of training required under Subsection (a) shall be determined by department rule. The training must be provided for at least an hour annually and must include training concerning:

(1) factors indicating a child is at risk for sexual abuse or other maltreatment;

(2) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;

(3) internal procedures for reporting sexual abuse or other maltreatment; and

(4) community organizations that have existing training programs that are able to provide training or other education for child-placing agency or day-care center staff members, children, and parents.

(c) If a child-placing agency or day-care center determines that it does not have sufficient resources to provide the training required under this section, the agency or center may contact a department licensing employee to obtain information concerning community organizations that will provide such training at no cost to the agency or center.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1323 (S.B. 471), Sec. 4, eff. June 17, 2011.

Sec. 42.0427. PARENTAL VISITATION. All areas of a licensed facility must be accessible to a parent of a child who is receiving care at the facility if the parent visits the child during the facility's hours of operation.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 25, eff. Sept. 1, 1997.

Sec. 42.0428. POLICIES ADDRESSING SEXUAL ABUSE AND OTHER

MALTREATMENT OF CHILDREN. (a) Each child-placing agency or day-care center shall adopt and implement a policy addressing sexual abuse and other maltreatment of children.

(b) A policy required by this section must address:

(1) methods for increasing child-placing agency and day-care center staff and parent awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children, including knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment; and

(2) actions that, after contacting an agency or center, the parent of a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention.

(c) The methods under Subsection (b)(1) for increasing awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children must include:

(1) the training required under Section 42.04261; and

(2) strategies for coordination between the child-placing agency or day-care center and appropriate community organizations.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1323 (S.B. 471), Sec. 5, eff. June 17, 2011.

Sec. 42.0429. SAFE SLEEPING STANDARDS. (a) The executive commissioner by rule shall establish safe sleeping standards for licensed facilities and registered family homes. Each licensed facility and registered family home shall comply with the safe sleeping standards.

(b) If the commission determines that a licensed facility or registered family home has violated a safe sleeping standard established as required by Subsection (a), the facility or home shall provide written notice in the form and manner required by the executive commissioner to the parent or legal guardian of each child attending the facility or home.

(c) The executive commissioner shall prescribe the form for the notice required by Subsection (b) and post the form on the commission's Internet website.

Added by Acts 2019, 86th Leg., R.S., Ch. 588 (S.B. 568), Sec. 2, eff. September 1, 2019.

Sec. 42.043. RULES FOR IMMUNIZATIONS. (a) The executive commissioner shall adopt rules for the immunization of children in facilities regulated under this chapter.

(b) The department shall require that each child at an appropriate age have a test for tuberculosis and be immunized against diphtheria, tetanus, poliomyelitis, mumps, rubella, rubeola, invasive pneumococcal disease, and hepatitis A and against any other communicable disease as recommended by the Department of State Health Services. The immunization must be effective on the date of first entry into the facility. However, a child may be provisionally admitted if the required immunizations have begun and are completed as rapidly as medically feasible.

(c) The executive commissioner shall adopt rules for the provisional admission of children to facilities regulated under this chapter and may modify or delete any of the immunizations listed in Subsection (b) or require additional immunizations as a requirement for admission to a facility.

(d) No immunization may be required for admission to a facility regulated under this chapter if a person applying for a child's admission submits one of the following affidavits:

(1) an affidavit signed by a licensed physician stating that the immunization poses a significant risk to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief.

(d-1) An affidavit submitted under Section (d)(2) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted not later than the 90th day after the date the affidavit is notarized.

(e) Each regulated facility shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the department at all reasonable times.

(f) The Department of State Health Services shall provide the immunizations required by this section to children in areas where there is no local provision of these services.

Acts 1979, 66th Leg., p. 2362, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 43, Sec. 5, eff. Sept. 1,

1993; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 198, Sec. 2.164, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 563 (H.B. 1316), Sec. 1, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.218, eff. April 2, 2015.

Sec. 42.04305. VACCINE-PREVENTABLE DISEASE POLICY REQUIRED. (a) In this section:

(1) "Facility employee" means an employee of a child-care facility.

(2) "Vaccine-preventable diseases" means the diseases included in the most current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(b) Each child-care facility, other than a facility that provides care in the home of the director, owner, operator, or caretaker of the facility, shall develop and implement a policy to protect the children in its care from vaccine-preventable diseases.

(c) The policy must:

(1) require each facility employee to receive vaccines for the vaccine-preventable diseases specified by the child-care facility based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;

(2) specify the vaccines a facility employee is required to receive based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;

(3) include procedures for verifying whether a facility employee has complied with the policy;

(4) include procedures for a facility employee to be exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention;

(5) for a facility employee who is exempt from the required vaccines, include procedures the employee must follow to protect children in the facility's care from exposure to disease, such as the use of protective medical equipment, including gloves and masks, based on the level of risk the employee presents to children by the

employee's routine and direct exposure to children;

(6) prohibit discrimination or retaliatory action against a facility employee who is exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention, except that required use of protective medical equipment, including gloves and masks, may not be considered retaliatory action for purposes of this subdivision;

(7) require the child-care facility to maintain a written or electronic record of each facility employee's compliance with or exemption from the policy; and

(8) state the disciplinary actions the child-care facility is authorized to take against a facility employee who fails to comply with the policy.

(d) The policy shall include procedures for a facility employee to be exempt from the required vaccines based on reasons of conscience, including a religious belief.

(e) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1144 (S.B. 64), Sec. 1, eff. September 1, 2013.

Sec. 42.0431. ENFORCEMENT OF SCREENING REQUIREMENTS RELATING TO VISION, HEARING, AND OTHER SPECIAL SENSES AND COMMUNICATION DISORDERS. (a) The executive commissioner, after consultation with the Department of State Health Services, shall adopt rules necessary to ensure that children receiving care at a day-care center or group day-care home licensed under this chapter are screened for vision, hearing, and any other special senses or communication disorders in compliance with rules adopted under Section 36.004, Health and Safety Code.

(b) Each day-care center or group day-care home licensed under this chapter shall maintain individual screening records for children attending the facility who are required to be screened, and the department may inspect those records at any reasonable time. The department shall coordinate the monitoring inspections in compliance with protocol agreements adopted between the department and the Department of State Health Services pursuant to Section 42.0442.

Added by Acts 1999, 76th Leg., ch. 712, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 19(2), eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.219, eff. April 2, 2015.

Sec. 42.0432. HEALTH SCREENING REQUIREMENTS FOR CHILD PLACED WITH CHILD-PLACING AGENCY. (a) A child-placing agency or general residential operation that contracts with the department to provide services must ensure that the children that are in the managing conservatorship of the department and are placed with the child-placing agency or general residential operation receive a complete early and periodic screening, diagnosis, and treatment checkup in accordance with the requirements specified in the contract between the child-placing agency or general residential operation and the department.

(b) The commission shall include a provision in a contract with a child-placing agency or general residential operation specifying progressive monetary penalties for the child-placing agency's or general residential operation's failure to comply with Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 30(a), eff. September 1, 2017.

Sec. 42.044. INSPECTIONS. (a) An authorized representative of the commission may visit a facility regulated under this chapter or a registered or listed family home during operating hours to investigate, inspect, and evaluate.

(b) Except as provided by Subsection (b-3), the department shall inspect all licensed or certified facilities at least once a year and may inspect other facilities or registered family homes as necessary. At least one of the annual visits must be unannounced and all may be unannounced.

(b-1) At least one of the unannounced, annual inspections of a residential child-care facility must be conducted by a team of at least two residential child-care monitoring staff, and, if feasible,

members of the inspection team must be from different residential child-care monitoring units.

(b-2) Except as otherwise provided by this subsection, during an unannounced annual or biennial inspection of a day-care center, the department shall meet with the director designated by the day-care center as having daily, on-site responsibility for the operation of the day-care center to assess whether the director meets the qualifications of a director specified by this chapter and department rules. If the director is not present during the unannounced annual or biennial inspection, the department shall schedule a subsequent meeting with the director for that purpose and shall conduct that meeting at the day-care center.

(b-3) The department may, in accordance with rules adopted by the executive commissioner, designate a licensed day-care center or group day-care home for a biennial inspection if the department determines, based on previous inspections, that the facility has a history of substantial compliance with minimum licensing standards. The biennial inspection of a day-care center or group day-care home must be unannounced.

(c) The commission must investigate a facility regulated under this chapter or a registered or listed family home when a complaint is received by the commission. The representative of the commission must notify the operator of a registered or listed family home or the director or authorized representative of a regulated facility when a complaint is being investigated and report in writing the results of the investigation to the family home's operator or to the regulated facility's director or the director's authorized representative.

(c-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 11, eff. September 1, 2019.

(c-2) Repealed by Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 11, eff. September 1, 2019.

(d) The department may call on political subdivisions and governmental agencies for assistance within their authorized fields.

(e) In addition to the department's responsibility to investigate an agency foster home under Subsection (c), the department shall:

(1) periodically conduct inspections of a random sample of agency foster homes;

(2) investigate any report of a serious incident in an agency foster home that pertains to a child under the age of six;

(3) investigate any alleged violation of a minimum standard by an agency foster home that poses a high degree of risk to a child in the care of the home who is under the age of six; and

(4) conduct at least one annual enforcement team conference for each child-placing agency to thoroughly review the investigations or inspections of the child-placing agency and all of its agency foster homes to monitor and enforce compliance by a child-placing agency with rules and standards established under Section 42.042.

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

Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 27, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.96, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 32(a), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 49, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 31, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 13, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 11, eff. September 1, 2019.

Sec. 42.0441. INSPECTION RESULTS FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES. Immediately after completing a monitoring inspection of a licensed day-care center, licensed group day-care home, or registered family home under Section 42.044, the authorized representative of the department shall review the results of the monitoring inspection with a representative of the facility and give the facility an opportunity to respond to the inspection results.

Added by Acts 1997, 75th Leg., ch. 253, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 28, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.97, eff. September 1, 2005.

Sec. 42.04411. INSPECTION RESULTS AND EXIT CONFERENCE FOR RESIDENTIAL CHILD-CARE FACILITIES. (a) On completion of an inspection of a residential child-care facility under Section 42.044, the inspector shall hold an exit conference with a representative of the inspected facility. The inspector shall provide to the representative a copy of the inspection checklist used by the inspector.

(b) The inspector shall provide the representative an opportunity to communicate regarding potential violations.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.98, eff. September 1, 2005.

Sec. 42.04412. INTERFERENCE WITH INSPECTION; COURT ORDER. (a) A person may not interfere with an investigation or inspection of a facility or family home conducted by the department under this chapter.

(b) During an investigation or inspection of a facility or family home under this chapter, the facility or family home shall cooperate with the department and allow the department to:

(1) access the records of the facility or family home;

(2) access any part of the premises of the facility or family home; and

(3) interview any child, employee, or other person who is present at the facility or family home and who may have information

relevant to the investigation or inspection.

(c) If access to the records or premises of the facility or family home cannot be obtained, a district court in Travis County or in the county in which the facility or family home is located, for good cause shown and without prior notice or a hearing, shall issue an order granting the department access to the records or premises in order to conduct the inspection, investigation, or interview.

(d) To assist the department in investigating whether a person is operating a facility or family home without a required license, certification, registration, or listing, a district court in Travis County or in the county in which the suspected facility or family home is located may, for good cause shown and without prior notice or a hearing, issue an order allowing the department to enter the suspected facility or family home at a time when the department's evidence shows that the suspected facility or family home may be providing child care subject to regulation under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 9, eff. September 1, 2009.

Sec. 42.0442. COORDINATION OF INSPECTIONS; ELIMINATION OF DUPLICATIVE INSPECTIONS. (a) The department shall coordinate monitoring inspections of licensed day-care centers, licensed group day-care homes, and registered family homes performed by another state agency to eliminate redundant inspections.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 946 , Sec. 1.04(c), eff. September 1, 2015.

(c) Each state agency that inspects a facility listed in Subsection (a) shall use an inspection checklist established by the department in performing an inspection. A state agency shall make a copy of the completed inspection checklist available to the facility at the facility's request to assist the facility in maintaining records.

(d) The department shall provide to facilities listed in Subsection (a) information regarding inspections, including who may inspect a facility and the purpose of each type of inspection.

Added by Acts 1997, 75th Leg., ch. 253, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 28, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 169, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.220, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 1.04(b), eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 1.04(c), eff. September 1, 2015.

Sec. 42.04425. INSPECTION INFORMATION DATABASE. (a) If feasible using available information systems, the commission shall establish a computerized database containing relevant inspection information on all licensed facilities and registered family homes obtained from other state agencies and political subdivisions of the state.

(b) The commission shall make the data collected by the commission available to another state agency or political subdivision of the state for the purpose of administering programs or enforcing laws within the jurisdiction of that agency or subdivision. If feasible using available information systems, the commission shall make the data directly available to the Texas Workforce Commission through electronic information systems. The commission and the Texas Workforce Commission shall jointly plan the development of child-care inspection databases that, to the extent feasible, are similar in their design and architecture to promote the sharing of data.

(c) The commission shall provide at a minimum five years of inspection data for all facilities licensed or family homes registered under this chapter to enhance consumer choice with respect to those facilities and homes.

(d) The commission shall provide with the inspection data described by Subsection (c) a minimum of five years of investigative data for listed family homes regulated under this chapter to enhance consumer choice with respect to those homes.

Added by Acts 1997, 75th Leg., ch. 253, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 28, eff. Sept. 1, 1997.
Redesignated from Human Resources Code, Section 42.0443 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(32), eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.221, eff. April 2, 2015.

Acts 2019, 86th Leg., R.S., Ch. 588 (S.B. 568), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 3, eff. September 1, 2019.

Sec. 42.0443. COORDINATION OF FIRE SAFETY AND SANITATION INSPECTIONS. (a) The department may not inspect a licensed day-care center, licensed group day-care home, or registered family home for compliance with the department's fire safety or sanitation standards if the facility, at the time of the department's inspection, provides the department with documentation relating to a current fire safety or sanitation inspection, as applicable, performed by a political subdivision of this state that indicates that the facility is in compliance with the applicable standards of the political subdivision.

(b) If the documentation provided under Subsection (a) indicates that the facility was required to take corrective action or that the political subdivision imposed a restriction or condition on the facility, the department shall determine whether the facility took the required corrective action or complied with the restriction or condition.

(c) The department may inspect a facility subject to this section for compliance with the department's fire safety or sanitation standards if:

(1) the facility does not provide the documentation described by Subsection (a); or

(2) the department determines that the facility did not take a corrective action or comply with a restriction or condition described by Subsection (b).

(d) Notwithstanding any other provision of this section, the department shall report to the appropriate political subdivision any violation of fire safety or sanitation standards observed by the department at a facility subject to this section.

(e) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2003, 78th Leg., ch. 709, Sec. 1, eff. Sept. 1, 2003.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.222, eff. April 2, 2015.

Sec. 42.04431. ENFORCEMENT OF STATE LAW BY COUNTY OR MUNICIPALITY. (a) A municipality or a county may enforce state law and rules adopted under state law concerning fire safety standards at a licensed group day-care home or a registered family home.

(b) A municipality or county shall report to the department any violation of fire safety standards observed by the municipality or county at a licensed group day-care home or registered family home.

Added by Acts 2011, 82nd Leg., R.S., Ch. 354 (H.B. 3547), Sec. 1, eff. September 1, 2011.

Sec. 42.0445. REQUIRED BACKGROUND SEARCH OF CENTRAL REGISTRY OF REPORTED CASES OF CHILD ABUSE OR NEGLECT. (a) Before the department issues a license, listing, registration, or certification under this subchapter, the department shall search the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code, to determine whether the applicant or the owner or an employee of the facility or family home is listed in the registry as a person who abused or neglected a child.

(b) The executive commissioner may adopt rules to implement this section.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 29, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 33, eff. September 1, 2007.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.223, eff. April 2, 2015.

Sec. 42.0446. REMOVAL OF CERTAIN INVESTIGATION INFORMATION FROM INTERNET WEBSITE. The executive commissioner shall adopt rules providing a procedure by which the commission removes from the commission's Internet website information on a child-care facility or registered or listed family home that relates to an anonymous

complaint alleging the facility or family home failed to comply with the commission's minimum standards if, at the conclusion of an investigation, the commission determines the complaint is false or lacks factual foundation.

Added by Acts 2005, 79th Leg., Ch. 526 (H.B. 877), Sec. 2, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 4, eff. September 1, 2019.

Sec. 42.0447. FALSE REPORT; CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly or intentionally files a complaint alleging that a child-care facility or registered or listed family home failed to comply with the commission's minimum standards and the person knows the allegation is false or lacks factual foundation.

(b) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a state jail felony.

Added by Acts 2005, 79th Leg., Ch. 526 (H.B. 877), Sec. 2, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 5, eff. September 1, 2019.

Sec. 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS. The department shall notify a child-placing agency or a continuum-of-care residential operation that includes a child-placing agency of each family violence report the department receives under Article 5.05, Code of Criminal Procedure, that:

(1) occurred at an agency foster home; or

(2) involves a person who resides at an agency foster home.

Added by Acts 2007, 80th Leg., R.S., Ch. 524 (S.B. 723), Sec. 4, eff. June 16, 2007.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 50, eff. September 1, 2017.

Sec. 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY VIOLENCE CALL. The executive commissioner shall adopt rules specifying the actions that the department, a child-placing agency, and a continuum-of-care residential operation that includes a child-placing agency shall take after receiving notice of a family violence report under Article 5.05, Code of Criminal Procedure, or Section 42.0448 to ensure the health, safety, and welfare of each child residing in the verified agency foster home.

Added by Acts 2007, 80th Leg., R.S., Ch. 524 (S.B. 723), Sec. 4, eff. June 16, 2007.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 51, eff. September 1, 2017.

Sec. 42.045. RECORDS. (a) A person who operates a licensed or certified facility shall maintain individual child development records, individual health records, statistical records, and complete financial records.

(b) A person who provides adoption services under a license to operate a child-placing agency shall furnish information required by the department to determine whether adoption related income and disbursements are reasonable, appropriate, and in compliance with the department's minimum standards.

(c) If a child-placing agency terminates operation as a child-placing agency, it shall, after giving notice to the department, transfer its files and records concerning adopted children, their biological families, and their adoptive families to the vital statistics unit of the Department of State Health Services or, after giving notice to the vital statistics unit, to a facility licensed by the department to place children for adoption.

(d) A child-placing agency shall notify the department of any change of address for an agency foster home. The child-placing agency shall notify the department of the address change within the earlier of two business days or 72 hours of the date the agency

foster home changes its address.

Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 1782, ch. 342, Sec. 2, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 707, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1129, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 524 (S.B. 723), Sec. 5, eff. June 16, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.224, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 52, eff. September 1, 2017.

Sec. 42.0451. DATABASE OF AGENCY FOSTER HOMES; INFORMATION PROVIDED TO DEPARTMENT OF PUBLIC SAFETY. (a) The department shall maintain a database of agency foster homes including the current address for each agency foster home as reported to the department. The database must be updated on a regular basis.

(b) The department shall make the database available to the Department of Public Safety for the purposes of Subsection (c).

(c) The Department of Public Safety shall include the information provided under Subsection (b) in the Texas Crime Information Center database and establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a street address is automatically provided information as to whether the address is verified as an agency foster home under this chapter.

(d) Information provided to the Department of Public Safety under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 524 (S.B. 723), Sec. 6, eff. June 16, 2007.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 53, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 54, eff. September 1, 2017.

Sec. 42.0452. FOSTER PARENT RIGHTS AND RESPONSIBILITIES STATEMENT. (a) The department shall develop a statement that lists the rights and responsibilities of a foster parent in an agency foster home and a child-placing agency, as applicable.

(b) The department shall provide a written copy of the statement developed under Subsection (a) to each foster parent in an agency foster home and to each child-placing agency licensed by the department. A child-placing agency shall provide a written copy of the statement developed under Subsection (a) to each foster parent in an agency foster home verified by the child-placing agency.

Added by Acts 2009, 81st Leg., R.S., Ch. 939 (H.B. 3137), Sec. 1, eff. June 19, 2009.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 55, eff. September 1, 2017.

Sec. 42.046. APPLICATION FOR LICENSE, LISTING, OR REGISTRATION. (a) An applicant for a license to operate a child-care facility, child-placing agency, or continuum-of-care residential operation or for a listing or registration to operate a family home shall submit to the department the appropriate fee prescribed by Section 42.054 and a completed application on a form provided by the department.

(b) The department shall supply the applicant the application form and a copy of the appropriate minimum standards, if applicable.

(c) After receiving an application, the department shall investigate the applicant and the plan of care for children, if applicable.

(d) The department shall complete the investigation and decide on an application within two months after the date the department receives a completed application.

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

(1) has a residential child-care facility license revoked in another state; or

(2) is barred from operating a residential child-care

facility in another state.

(f) An applicant for a listing to operate a family home shall submit with the application proof of the applicant's successful completion of safe sleep training in accordance with commission rules.

Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 212, Sec. 1, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 239, Sec. 4, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1022, Sec. 30, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 5, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.99, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 56, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 6, eff. September 1, 2019.

Sec. 42.0461. PUBLIC NOTICE AND HEARING: RESIDENTIAL CHILD CARE. (a) Before the department may issue a license or certificate for the operation or the expansion of the capacity of a general residential operation, a cottage home operation, or a continuum-of-care residential operation that is located in a county with a population of less than 300,000, the applicant for the license, certificate, or expansion shall, at the applicant's expense:

(1) conduct a public hearing on the application in accordance with department rules after notifying the department of the date, time, and location of the hearing; and

(2) publish notice of the application in a newspaper of general circulation in the community in which the child-care services are proposed to be provided.

(b) The notice required by Subsection (a)(2) must be published at least 10 days before the date of the public hearing required by Subsection (a)(1) and must include:

(1) the name and address of the applicant;

(2) the address at which the child-care services are proposed to be provided;

(3) the date, time, and location of the public hearing;

(4) the name, address, and telephone number of the department as the licensing authority; and

(5) a statement informing the public that a person may submit written comments to the department concerning the application instead of or in addition to appearing at the public hearing.

(c) The department shall require a representative of the department to attend the public hearing in an official capacity for the purpose of receiving public comments on the application.

(d) Before issuing a license or certificate described by Subsection (a), the department shall consider written information provided by an interested party directly to the department's representative at the public hearing concerning:

(1) the amount of local resources available to support children proposed to be served by the applicant;

(2) the impact of the proposed child-care services on the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the effect, if any, on the children proposed to be served by the applicant; and

(3) the impact of the proposed child-care services on the community and the effect on opportunities for social interaction for the children proposed to be served by the applicant.

(e) Based on the written information provided to the department's representative at the public hearing, the department may deny the application if the department determines that:

(1) the community has insufficient resources to support children proposed to be served by the applicant;

(2) granting the application would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the increase would adversely affect the children proposed to be served by the applicant; or

(3) granting the application would have a significant adverse impact on the community and would limit opportunities for social interaction for the children proposed to be served by the applicant.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 71, eff. September 1, 2017.

(g) Repealed by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7),

Sec. 71, eff. September 1, 2017.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 31, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.100, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 34, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 10, eff. September 1, 2009.
Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 57, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 58, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 71, eff. September 1, 2017.

Sec. 42.0462. WAIVER OF NOTICE AND HEARING REQUIREMENTS. (a) Subject to Subsection (b), to protect the safety and well-being of residents and employees of a general residential operation that provides comprehensive residential services to children who are victims of trafficking, the commission shall waive the notice and hearing requirements imposed under Section 42.0461 for an applicant who submits to the commission an application to provide trafficking victim services at the applicant's general residential operation.

(b) This section does not apply to an applicant who submits an application for a license for a general residential operation that provides services to children or young adults with emotional disorders.

Added by Acts 2015, 84th Leg., R.S., Ch. 1057 (H.B. 2070), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 5, eff. September 1, 2019.

Sec. 42.0463. EXPANSION OF CAPACITY. (a) Notwithstanding the limitations established by Section 42.002, the department may:

(1) develop, by rule, criteria to determine when it may be

appropriate to exclude children who are related to a caretaker in determining a residential child-care facility's total capacity; and

(2) issue an exception in accordance with department rules allowing an agency foster home, cottage family home, or specialized child-care home to expand its capacity and care for not more than eight children.

(b) The department may include children who are related to a caretaker when determining under Subsection (a)(1) whether a residential child-care facility complies with the standards relating to total capacity or child-to-caregiver ratios for the facility.

Added by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 59, eff. September 1, 2017.

Sec. 42.047. CONSULTATIONS. (a) The department shall offer consultation to potential applicants, applicants, and license, listing, registration, and certification holders about meeting and maintaining standards for licensing, listing, registration, and certification and achieving programs of excellence in child care.

(b) The department shall offer consultation to prospective and actual users of facilities or homes.

Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 6, eff. Sept. 1, 1997.

Sec. 42.048. LICENSING. (a) The commission shall issue a license after determining that an applicant has satisfied all requirements.

(b) When issuing a license, the commission may impose restrictions on a facility, including the number of children to be served and the type of children to be served.

(c) The commission may grant a variance of an individual standard set forth in the applicable standards for good and just cause.

(d) A license holder must display a license issued under this chapter in a prominent place at the facility.

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the

license application. Except as provided by Subsections (e-1), (e-2), and (e-3), a change in location or ownership automatically revokes a license.

(e-1) A change in location of a child-placing agency does not automatically revoke the license to operate the child-placing agency.

(e-2) A residential child-care facility operating under the license of a continuum-of-care residential operation that changes location may not continue to operate under that license unless the commission approves the new location after the continuum-of-care residential operation meets all requirements related to the new location.

(e-3) A change in location of a school-age program operated exclusively during the summer period or any other time when school is not in session does not automatically revoke the license to operate the school-age program. A school-age program that changes location may not operate at the new location unless the commission approves the new location after the school-age program meets all requirements related to the new location.

(f) A license must be issued if the commission determines that a facility meets all requirements. The evaluation shall be based on one or more visits to the facility and a review of required forms and records. A license is valid until the license expires, is revoked, or is surrendered.

Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1081, Sec. 1, eff. Sept. 1, 1987. Renumbered from Human Resources Code Sec. 42.049 and amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 35, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.225, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 77, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 60, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1318 (H.B. 4090), Sec. 1, eff.

September 1, 2019.

Sec. 42.049. LIABILITY INSURANCE REQUIRED. (a) A license or registration holder under this chapter shall maintain liability insurance coverage in the amount of $300,000 for each occurrence of negligence. An insurance policy or contract required under this section must cover injury to a child that occurs while the child is on the premises of or in the care of the holder.

(b) A license or registration holder under this chapter shall annually file with the commission a certificate or other evidence from an insurance company showing that the holder has an unexpired and uncancelled insurance policy or contract that meets the requirements of this section.

(c) Should the license or registration holder for financial reasons or for lack of availability of an underwriter willing to issue a policy be unable to secure the insurance required under Subsection (a) or should the policy limits be exhausted, the holder shall timely notify the parent or guardian of each child for whom the holder provides care a written notice that the liability coverage is not provided and there will not be a ground for an administrative penalty or suspension or revocation of the holder's license or registration under this chapter. The holder shall also notify the commission that the coverage is not provided and provide the reason for same. In no case shall the inability to secure coverage serve to indemnify the holder for damages due to negligence.

(c-1) The commission shall prescribe a form that a license or registration holder may use to notify a parent or guardian in accordance with Subsection (c) that liability coverage is not provided. The commission shall post the form on the commission's Internet website.

(d) The insurance policy or contract shall be maintained at all times in an amount as required by this section. Failure by a license or registration holder to renew the policy or contract or to maintain the policy or contract in the required amount is a ground for suspension or revocation of the holder's license or registration under this chapter.

Added by Acts 1993, 73rd Leg., ch. 1002, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1217, Sec. 7, eff. Sept. 1,

1997. Renumbered from Human Resources Code, Sec. 42.0491 and amended by Acts 1997 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 588 (S.B. 568), Sec. 4, eff. September 1, 2019.

Sec. 42.0495. LIABILITY INSURANCE REQUIRED FOR LISTED FAMILY HOMES. (a) A listed family home shall maintain liability insurance coverage in the amount of $300,000 for each occurrence of negligence. An insurance policy or contract required under this section must cover injury to a child that occurs while the child is on the premises of or in the care of the listed family home.

(b) A listed family home shall annually file with the commission a certificate or other evidence of coverage from an insurance company demonstrating that the listed family home has an unexpired and uncanceled insurance policy or contract that meets the requirements of this section.

(c) If a listed family home is unable to secure a policy or contract required under this section for financial reasons or for lack of availability of an underwriter willing to issue a policy or contract or the home's policy or contract limits are exhausted, the home shall timely provide written notice to the parent or guardian of each child attending the home that the liability coverage is not provided.

(d) A listed family home described by Subsection (c) shall timely provide written notice to the commission that the home is unable to secure liability insurance and the reason the insurance could not be secured.

(e) If a listed family home complies with the notice requirements under this section, the commission may not assess an administrative penalty or suspend or revoke the family home's listing for violating Subsection (a). This subsection may not be construed to indemnify a family home for damages due to negligence.

Added by Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 7, eff. September 1, 2019.

Sec. 42.050. LICENSE RENEWAL. (a) A license holder may apply

for renewal of a license in compliance with the requirements of this chapter and commission rules.

(b) The application for renewal of a license must be completed and decided on by the commission before the expiration of the license under which a facility is operating.

(c) The commission shall evaluate the application for renewal of a license to determine if all licensing requirements are met and whether the facility has been cited for repeated violations or has established a pattern of violations during the preceding two years. The evaluation may include a specified number of visits to the facility and must include a review of all required forms and records. If the commission determines the facility has repeated violations or an established pattern of violations, before the commission renews the license the commission may place restrictions, conditions, or additional requirements on the license to ensure the violations cease.

(c-1) The commission may not renew the license of a facility cited for a violation that is not corrected by the required compliance date unless the violation is pending an administrative review under commission rules or pending review as a contested case under Chapter 2001, Government Code.

(d) The executive commissioner shall adopt rules governing the license renewal process for all licenses issued under this chapter. The rules must include:

(1) renewal periods;
(2) a process for staggered renewals;
(3) a process for resolving a late application for renewal;
(4) expiration dates; and
(5) conditions for renewal.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.226, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 78, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 78, eff. September 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 588 (S.B. 568), Sec. 5, eff.

September 1, 2019.

Sec. 42.051. INITIAL LICENSE. (a) The department shall issue an initial license when a facility's plans meet the department's licensing requirements and one of the following situations exists:

(1) the facility is not currently operating;

(2) the facility has relocated and has made changes in the type of child-care service it provides; or

(3) there is a change in ownership of the facility resulting in changes in policy and procedure or in the staff who have direct contact with the children.

(b) An initial license is valid for six months from the date it is issued and may be renewed for an additional six months.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 707, Sec. 2, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.101, eff. September 1, 2005.

Sec. 42.052. CERTIFICATION, LISTING, AND REGISTRATION. (a) A state-operated child-care facility or child-placing agency must receive certification of approval from the commission. The certification of approval remains valid until the certification expires, is revoked, or is surrendered.

(b) To be certified, a facility must comply with the commission's rules and standards and any provisions of this chapter that apply to a licensed facility of the same category. The operator of a certified facility must display the certification in a prominent place at the facility.

(c) A family home that provides care for compensation for three or fewer children, excluding children who are related to the caretaker, shall list with the commission if the home provides regular care in the caretaker's own residence. The home may register with the commission.

(d) A family home that provides care for four or more children, excluding children who are related to the caretaker, shall register

with the commission. A family home that provides care exclusively for any number of children who are related to the caretaker is not required to be listed or registered with the commission.

(e) A registration remains valid until the registration expires, is revoked, or is surrendered. The operator of a registered home must display the registration in a prominent place at the home.

(e-1) A listing remains valid until the listing is revoked or surrendered.

(f) To remain listed or registered with the commission, a family home must comply with the commission's rules and standards and any provision of this chapter that applies to a listed or registered family home.

(f-1) The executive commissioner shall adopt rules governing the certification and registration renewal process for all certifications and registrations issued under this chapter. The rules must include:

(1) renewal periods;

(2) a process for staggered renewals;

(3) a process for resolving a late application for renewal;

(4) expiration dates; and

(5) conditions for renewal.

(f-2) The commission shall evaluate an application for renewal of a facility certification or family home registration to determine if all requirements are met and whether the applicant has been cited for repeated violations or has established a pattern of violations during the preceding two years. The evaluation may include a specified number of visits to the facility or family home subject to this section and must include a review of all required forms and records. If the commission determines the facility or family home has repeated violations or an established pattern of violations, before the commission renews the certification or registration the commission may place restrictions, conditions, or additional requirements on the certification or registration to ensure the violations cease.

(f-3) The commission may not renew the certification or registration of a facility or family home cited for a violation that is not corrected by the required compliance date unless the violation is pending an administrative review under commission rules or pending review as a contested case under Chapter 2001, Government Code.

(g) The certification requirements of this section do not apply

to a Texas Juvenile Justice Department facility, or a facility providing services solely for the Texas Juvenile Justice Department.

(h) The certification requirements of this section do not apply to a juvenile detention facility certified under Section 51.12, Family Code, or a juvenile correctional facility certified under Section 51.125, Family Code.

(i) The commission shall provide to a listed family home a copy of the listing. A listing must contain a provision that states: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH THE HEALTH AND HUMAN SERVICES COMMISSION. A LISTED FAMILY HOME HAS LIMITED MINIMUM STANDARDS AND IS NOT INSPECTED UNLESS A COMPLAINT IS FILED WITH THE COMMISSION." The operator of a listed family home is not required to display the listing in a prominent place at the home but shall make the listing available for examination.

(j) The operator of a listed family home shall undergo initial and subsequent background and criminal history checks required under Section 42.056. If the operator of a listed family home fails to submit the information required by Section 42.056 for a subsequent background and criminal history check, the commission shall automatically:

(1) suspend the home's listing until the required information is submitted; and

(2) revoke the home's listing if the required information is not submitted within six months after the date the automatic suspension begins.

(j-1) A suspension or revocation under Subsection (j) is not a suspension or revocation under Section 42.072.

(k) The commission shall issue a listing or registration to a family home, as appropriate, in both English and Spanish when the most recent federal census shows that more than one-half of the population in a municipality or in a commissioners precinct in a county in which the family home is located is of Hispanic origin or Spanish-speaking.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2813, ch. 759, Sec. 4, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 212, Sec. 2, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 915, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 1052, Sec. 4.06, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 707, Sec. 3, eff. Sept. 1, 1989; Acts

1995, 74th Leg., ch. 76, Sec. 8.023, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 262, Sec. 55, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1022, Sec. 32, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 8, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 6 to 8, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 26, eff. June 8, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 4, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.227, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 79, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 79, eff. September 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 588 (S.B. 568), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 8, eff. September 1, 2019.

Sec. 42.0521. DEPOSIT OF FEES. The fees authorized by this chapter and received by the department shall be deposited in the general revenue fund.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 5, eff. Sept. 1, 1985.

Sec. 42.0522. PUBLIC ADVERTISING OF FAMILY HOMES. (a) A family home may not place a public advertisement that uses the title "registered family home" or any variation of that phrase unless the home is registered under this chapter. Any public advertisement for a registered family home that uses the title "registered family home" must contain a provision in bold type stating: "THIS HOME IS REGISTERED WITH THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES BUT IS NOT LICENSED OR REGULARLY INSPECTED."

(b) A family home may not place a public advertisement that uses the title "listed family home" or any variation of that phrase

unless the home is listed as provided by this chapter. Any public advertisement for a listed family home that uses the title "listed family home" must contain a provision in bold type stating: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH THE HEALTH AND HUMAN SERVICES COMMISSION. A LISTED FAMILY HOME HAS LIMITED MINIMUM STANDARDS AND IS NOT INSPECTED UNLESS A COMPLAINT IS FILED WITH THE COMMISSION."

Added by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 9, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.228, eff. April 2, 2015.

Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 9, eff. September 1, 2019.

Sec. 42.0523. LISTING OF RELATIVE CHILD-CARE PROVIDERS. (a) A child-care provider who only provides child care under Chapter 313, Labor Code, to children related to the provider may list the provider's home as a family home.

(b) Before the department may list a child-care provider's home under this section, in addition to conducting the background or criminal history check required under Section 42.056, the department must search the central database of sex offender registration records maintained by the Department of Public Safety under Chapter 62, Code of Criminal Procedure, to determine whether the provider is listed in the registry as a sex offender.

(c) The address of a family home listed under this section is the address of the child-care provider's home, regardless of whether the child care is provided in the provider's home or in the child's home.

(d) A relative child-care provider's home listed as a family home under this section is exempt from the health and safety requirements of 45 C.F.R. Section 98.41(a).

(e) The following requirements do not apply to a family home listed under this section:

(1) the minimum standards adopted under Section 42.042; and

(2) the liability insurance requirement under Section 42.0495.

Added by Acts 2011, 82nd Leg., R.S., Ch. 869 (S.B. 76), Sec. 3, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 857 (S.B. 1496), Sec. 1, eff. September 1, 2016.
Acts 2019, 86th Leg., R.S., Ch. 589 (S.B. 569), Sec. 10, eff. September 1, 2019.

Sec. 42.053. AGENCY FOSTER HOMES. (a) An agency foster home is considered part of the child-placing agency that operates the agency foster home for purposes of licensing.

(b) The operator of a licensed agency shall display a copy of the license in a prominent place in the agency foster home used by the agency.

(c) An agency foster home shall comply with all provisions of this chapter and all department rules and standards that apply to a child-care facility caring for a similar number of children for a similar number of hours each day.

(d) The department shall revoke or suspend the license of a child-placing agency if an agency foster home operated by the licensed agency fails to comply with Subsection (c).

(e) Before verifying an agency foster home, a child-placing agency may issue a provisional verification to the home. The executive commissioner by rule may establish the criteria for a child-placing agency to issue a provisional verification to a prospective agency foster home.

(f) If a child-placing agency under contract with the division to provide services as an integrated care coordinator places children with caregivers described by Subchapter I, Chapter 264, Family Code, those caregivers are not considered a part of the child-placing agency for purposes of licensing.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.07, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.229, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 61, eff. September 1, 2017.

Sec. 42.0531. SECURE AGENCY FOSTER HOMES. (a) The commissioners court of a county or governing body of a municipality may contract with a child-placing agency to verify a secure agency foster home to provide a safe and therapeutic environment tailored to the needs of children who are victims of trafficking.

(b) A child-placing agency may not verify a secure agency foster home to provide services under this section unless the child-placing agency holds a license issued under this chapter that authorizes the agency to provide services to victims of trafficking in accordance with department standards adopted under this chapter for child-placing agencies.

(c) A secure agency foster home verified under this section must provide:

(1) mental health and other services specifically designed to assist children who are victims of trafficking under Section 20A.02 or 20A.03, Penal Code, including:

(A) victim and family counseling;

(B) behavioral health care;

(C) treatment and intervention for sexual assault;

(D) education tailored to the child's needs;

(E) life skills training;

(F) mentoring; and

(G) substance abuse screening and treatment as needed;

(2) individualized services based on the trauma endured by a child, as determined through comprehensive assessments of the service needs of the child;

(3) 24-hour services; and

(4) appropriate security through facility design, hardware, technology, and staffing.

Added by Acts 2015, 84th Leg., R.S., Ch. 338 (H.B. 418), Sec. 5, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 62, eff. September 1, 2017.

Sec. 42.0535. REQUIRED INFORMATION FOR VERIFICATION. (a) A child-placing agency that seeks to verify an agency foster home shall request background information about the agency foster home from a child-placing agency that has previously verified the home as an agency foster home or agency foster group home.

(b) Notwithstanding Section 261.201, Family Code, a child-placing agency that has verified an agency foster home or an agency foster group home is required to release to another child-placing agency background information requested under Subsection (a).

(c) A child-placing agency that releases background information under this section is immune from civil and criminal liability for the release of the information.

(d) For purposes of this section, background information means the home study under which the agency foster home or agency foster group home was verified by the previous child-placing agency and any record of noncompliance with state minimum standards received and the resolution of any such noncompliance by the previous child-placing agency.

(e) The executive commissioner by rule shall develop a process by which a child-placing agency shall report to the department:

(1) the name of any agency foster home that has been closed for any reason, including a voluntary closure;

(2) information regarding the reasons for the closure of the agency foster home; and

(3) the name and other contact information of a person who may be contacted by another child-placing agency to obtain the records relating to the closed agency foster home that are required to be maintained and made available under this section.

(f) Information gathered under Subsection (e) must be made available to child-placing agencies through a searchable database maintained by the department.

Added by Acts 1997, 75th Leg., ch. 575, Sec. 36(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 36, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.230, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 63, eff.

September 1, 2017.

Sec. 42.0536. TRANSFER OF AGENCY FOSTER HOME. (a) An agency foster home that is verified by a child-placing agency may transfer to another child-placing agency only if, before the date of the transfer, the agency foster home notifies the child-placing agency to which the agency foster home is transferring of each licensing violation for which the agency foster home has been cited by the department during the preceding three years.

(b) The child-placing agency to which the agency foster home is transferring shall submit a written request for transfer to the child-placing agency that verified the agency foster home.

(c) Not later than the 10th day after the date the child-placing agency receives a request for transfer under Subsection (b), the child-placing agency shall provide the child-placing agency that submitted the request a copy of any of the following documents regarding the agency foster home:

(1) a corrective action plan;

(2) an annual development plan; or

(3) a description of any imposed or potential service limitation.

(d) The department caseworker for each child placed in the agency foster home may conduct a review meeting to determine whether the transfer of the agency foster home is in the best interest of each child in the home on the request of:

(1) the child-placing agency to which the agency foster home is transferring;

(2) the child-placing agency that verified the agency foster home;

(3) the agency foster home; or

(4) the caseworker.

(e) After a review meeting, the caseworker shall determine whether each child placed in the agency foster home shall:

(1) stay in the agency foster home after the agency foster home is transferred to the new child-placing agency; or

(2) be removed from the agency foster home before the agency foster home is transferred to the new child-placing agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 37,

eff. September 1, 2007.

Sec. 42.0537. CAREGIVER TRAINING REQUIREMENT. (a) The department and each single source continuum contractor shall include a provision in each contract with a child-placing agency with whom children in the managing conservatorship of the department are placed that requires the child-placing agency to provide competency-based, preservice training to a potential caregiver before the child-placing agency verifies or approves the caregiver as a foster or adoptive home. Except as provided by Subsection (d), the amount of training required by this subsection may not exceed 35 hours.

(b) The department shall adopt policies to ensure that each potential caregiver receives competency-based, preservice training before the department verifies or approves the caregiver as a foster or adoptive home. Except as provided by Subsection (d), the amount of training required by this subsection may not exceed 35 hours.

(c) The training required by this section does not apply to an individual who has been designated as a kinship caregiver and who is pursuing verification or licensure as a foster parent or approval as an adoptive parent.

(d) The department and each single source continuum contractor providing foster care placement or case management services may include in each contract with a child-placing agency with whom children in the managing conservatorship of the department are placed provisions that:

(1) require the child-placing agency to, before verifying or approving a prospective caregiver as a foster or adoptive home, provide to the prospective caregiver competency-based, preservice training in addition to other training required under this section, based on the needs of the child being placed, including training regarding:

(A) the treatment of:

(i) children with complex medical needs;

(ii) children with emotional disorders;

(iii) children with intellectual or developmental disabilities; and

(iv) victims of human trafficking; and

(B) any other situation the department determines would require additional training; and

(2) allow the child-placing agency to provide training, in addition to other training required under this section for a prospective caregiver, that:

(A) meets the eligibility standards for federal financial participation under the requirements of the federal Family First Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123);

(B) meets the standards set by a nationally recognized accrediting organization; or

(C) meets the standards described by Paragraphs (A) and (B).

(e) The department may require training in addition to other training required under this section described by Subsection (d)(2), as appropriate, for certified child-placing agencies operated by the department.

(f) A child-placing agency may issue a provisional verification as provided by Section 42.053(e) to a prospective foster caregiver while the caregiver completes the training required under Subsection (d).

Added by Acts 2015, 84th Leg., R.S., Ch. 1008 (H.B. 781), Sec. 2, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1139 (H.B. 2764), Sec. 2, eff. September 1, 2019.

Sec. 42.054. FEES. (a) The department shall charge an applicant a nonrefundable application fee for an initial license to operate a child-care facility, a child-placing agency, or a continuum-of-care residential operation.

(b) The department shall charge each child-care facility a fee for an initial license. The department shall charge each child-placing agency and continuum-of-care residential operation a fee for an initial license.

(c) The department shall charge each licensed child-care facility an annual license fee. The fee is due on the date on which the department issues the child-care facility's initial license and on the anniversary of that date.

(d) The department shall charge each licensed child-placing

agency and continuum-of-care residential operation an annual license fee. The fee is due on the date on which the department issues the initial license to the child-placing agency or continuum-of-care residential operation and on the anniversary of that date.

(e) The department shall charge each family home that is listed or registered with the department an annual fee. The fee is due on the date on which the department initially lists or registers the home and on the anniversary of that date.

(f) If a facility, agency, or home fails to pay the annual fee when due, the license, listing, or registration, as appropriate, is automatically suspended until the fee is paid. The license, listing, or registration shall be revoked if the fee is not paid within six months after the date the automatic suspension begins. A suspension or revocation under this subsection is not a suspension or revocation under Section 42.072.

(g) The provisions of Subsections (b) through (f) do not apply to:

(1) nonprofit facilities regulated under this chapter that provided 24-hour care for children in the managing conservatorship of the department during the 12-month period immediately preceding the anniversary date of the facility's license;

(2) facilities operated by a nonprofit corporation or foundation that provides 24-hour residential care and does not charge for the care provided; or

(3) a family home listed under Section 42.0523 in which the relative child-care provider cares for the child in the child's own home.

(h) The executive commissioner by rule shall set fees under this section.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 10, 11, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.102, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 869 (S.B. 76), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 5, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.231, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 80, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1057 (H.B. 2070), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 64, eff. September 1, 2017.

Sec. 42.055. SIGN POSTING. (a) Each child-care facility shall post in a location that is conspicuous to all employees and customers a sign that includes:

(1) a description of the provisions of the Family Code relating to the duty to report child abuse or neglect;

(2) a description of the penalties for violating the reporting provisions of the Family Code; and

(3) a brief description of sudden infant death syndrome, shaken-baby syndrome, and childhood diabetes and methods for preventing those phenomena.

(a-1) A licensed day-care center, licensed group day-care home, or registered family home subject to Section 42.0423 shall include in the sign required under Subsection (a) a description of how to access a listing of unsafe children's products on the United States Consumer Product Safety Commission's Internet website or through the department's public Internet website.

(b) The executive commissioner by rule shall determine the design, size, and wording of the sign.

(c) The department shall provide the sign to each child-care facility without charge.

(d) A person who operates a child-care facility commits an offense if the department provides a sign to the facility as provided by this section and the person intentionally fails to display the sign in the facility as prescribed by this section. An offense under this subsection is a Class C misdemeanor.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 20, Sec. 1, eff. Nov. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.47, eff. Sept. 1, 1997. Renumbered from Human Resources Code Sec. 42.056 and amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1,

1997. Amended by Acts 2001, 77th Leg., ch. 221, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 46 (S.B. 95), Sec. 3, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.232, eff. April 2, 2015.

Sec. 42.0551. POSTING OF EMPLOYEE LIST. (a) Each day-care center, group day-care home, and family home shall post a list of all current employees at the center or home in accordance with rules adopted by the executive commissioner.
(b) The executive commissioner shall adopt rules regarding the size, wording, and placement of the list required under this section.

Added by Acts 2005, 79th Leg., Ch. 308 (S.B. 565), Sec. 1, eff. September 1, 2005.

Sec. 42.056. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS; CRIMINAL PENALTIES. (a) The director, owner, or operator of a facility or family home shall submit to the department the names of the following individuals, who must have background checks as described by this section and in accordance with rules adopted by the executive commissioner:
(1) the director, owner, and operator of the facility, agency, or home;
(2) each person employed at the facility, agency, or home;
(3) each prospective employee of the facility, agency, or home;
(4) each person who provides care or supervision to children in the care of the facility, agency, or home under a contract with the facility, agency, or home;
(5) each current or prospective foster parent providing foster care through a child-placing agency;
(6) each prospective adoptive parent seeking to adopt through a child-placing agency;
(7) each person at least 14 years of age, other than a client in care, who:

(A) is counted in child-to-caregiver ratios in accordance with the minimum standards of the department;

(B) will reside in a prospective adoptive home if the adoption is through a child-placing agency;

(C) has unsupervised access to children in care at the facility or family home; or

(D) resides in the facility or family home; or

(8) each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at a facility, family home, or prospective adoptive home, while children are being provided care.

(a-1) Notwithstanding Subsection (a), the director, owner, or operator of a residential child-care facility is not required to submit to the department the information required under that subsection for use in conducting a background and criminal history check on a parent or other relative of a child who is a client in care at the facility if:

(1) the department has on file for the parent or relative a background and criminal history check; and

(2) the background and criminal history check was conducted within the two-year period preceding the date the parent or relative visits the client at the facility.

(a-2) In accordance with rules adopted by the executive commissioner, a person shall submit a complete set of fingerprints if:

(1) the person is required to have a background check under Subsections (a)(1)-(7);

(2) the person resided in another state during the five years preceding the date the person's name was required to be submitted under Subsection (a); or

(3) the director, owner, or operator has reason to suspect that the person has a criminal history in another state.

(a-3) Subsection (a-2)(1) does not apply to a family home that is subject to regulation by the department under Section 42.0523.

(a-4) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1108 (H.B. 4094), Sec. 5(b), eff. January 1, 2018.

(a-5) The rules adopted by the executive commissioner under Subsection (a-2):

(1) must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety

and the Federal Bureau of Investigation for conducting a criminal history check;

(2) may require that the fingerprints be submitted electronically through an applicant fingerprinting service center; and

(3) may allow the department to waive the submission of fingerprints required by this section if:

(A) the person for whom the submission is required has:

(i) a fingerprint-based criminal history record check on file with the department; or

(ii) a fingerprint-based criminal history clearinghouse record, as provided by Section 411.0845, Government Code, that is accessible to the department through the Department of Public Safety; and

(B) the department has an active subscription to the Federal Bureau of Investigation's national rap back service for the person for whom the submission is required.

(b) The department shall conduct background checks using:

(1) the information provided under Subsection (a);

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code;

(3) the department's records of reported abuse and neglect; and

(4) any other registry, repository, or database required by federal law.

(b-1) For each person whose fingerprints are submitted under Subsection (a-2), the department shall conduct a state and Federal Bureau of Investigation criminal history check by:

(1) submitting the person's fingerprints, or causing the fingerprints to be submitted electronically, to the Department of Public Safety for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by that department under Section 411.114, Government Code, and by the Federal Bureau of Investigation and any other criminal justice agency under Section 411.087, Government Code.

(b-2) For each person required to have a background check under Subsection (a), but who is not required to submit fingerprints for a

Federal Bureau of Investigations criminal history check under Subsection (a-2):

(1) the person shall have a name-based check instead of a fingerprint check; and

(2) the director, owner, or operator of the child-care facility, child-placing agency, or family home shall submit the name of the person each 24 months after last submitting the person's name to the department for use in conducting a background check.

(c) The executive commissioner by rule shall require a child-care facility, child-placing agency, or listed or registered family home to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(3), eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 720, Sec. 19(3), eff. September 1, 2009.

(f) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a facility or family home to the person submitting the request.

(g) Except as otherwise provided by this subsection, a person whose name is submitted under Subsection (a) may not provide direct care or have direct access to a child in a facility or family home before the person's background check is completed. A person may be employed at a facility or family home and may provide direct care or have direct access to a child in the facility or family home before the person's criminal history check under Subsection (b-1) is completed if:

(1) the facility or family home is experiencing a staff shortage;

(2) the Federal Bureau of Investigations fingerprint check and the background check using the department's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the facility or family home; and

(3) the person does not have unsupervised access to any child in care.

(h) If the results of a criminal history check under Subsection (b-1) for a person employed by a facility or family home during a

staffing shortage as authorized by Subsection (g) preclude the person from being present at the facility or family home, the director, owner, or operator of the facility or family home shall immediately terminate the person's employment.

(i) A director, owner, or operator of a facility or family home commits an offense if the director, owner, or operator knowingly:

(1) fails to submit to the department information about a person as required by this section and department rules for use in conducting background and criminal history checks with respect to the person; and

(2) employs the person at the facility or family home or otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

(j) A director, owner, or operator of a facility or family home commits an offense if, after the date the director, owner, or operator receives notice from the department that, based on the results of a person's background or criminal history check, the person is precluded from being present at the facility or family home, the director, owner, or operator knowingly:

(1) employs the person at the facility or family home; or

(2) otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

(k) An offense under Subsection (i) or (j) is a Class B misdemeanor.

(l) In accordance with rules adopted by the executive commissioner, a person that contracts to provide one or more substitute employees to a facility or family home must submit to the department for use in conducting background and criminal history checks the name of each substitute employee. Before a substitute employee may be present at a facility or family home, the employee must meet the same requirements under this section as an employee present at the facility or family home who performs similar duties. The director, owner, or operator of a facility or family home must verify with the department that a substitute employee is eligible to be present at the facility or family home before allowing the employee to begin work.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1,

1997.
Amended by:
Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.103(a), eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 38, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 39, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 11, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 19(3), eff. September 1, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 6, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 422 (S.B. 428), Sec. 1, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 3, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 10, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.233, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 857 (S.B. 1496), Sec. 2, eff. September 1, 2016.
Acts 2017, 85th Leg., R.S., Ch. 1108 (H.B. 4094), Sec. 4, eff. January 1, 2018.
Acts 2017, 85th Leg., R.S., Ch. 1108 (H.B. 4094), Sec. 5(b), eff. January 1, 2018.

Sec. 42.0561. INFORMATION RELATING TO FAMILY VIOLENCE REPORTS. Before a child-placing agency may issue a verification certificate for an agency foster home, the child-placing agency must obtain information relating to each family violence report at the applicant's residence to which a law enforcement agency responded during the 12 months preceding the date of the application. The applicant shall provide the information on a form prescribed by the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 524 (S.B. 723), Sec. 7, eff.

June 16, 2007.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 65, eff. September 1, 2017.

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

(b) The executive commissioner by rule shall adopt a model employee drug testing policy for use by a residential child-care facility. The policy must be designed to ensure the safety of resident children through appropriate drug testing of employees while protecting the rights of employees. The model policy must require:

(1) preemployment drug testing;

(2) random, unannounced drug testing of each employee who has direct contact with a child in the care of the facility;

(3) drug testing of an employee against whom there is an allegation of drug abuse; and

(4) drug testing of an employee whom the department is investigating for the abuse or neglect of a child in the care of the facility, if the allegation of abuse or neglect includes information that provides good cause to suspect drug abuse.

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

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

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

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.104(a), eff. September 1, 2005.

Sec. 42.058. COMPETITIVE BIDDING OR ADVERTISING RULES. (a) The executive commissioner may not adopt rules restricting competitive bidding or advertising by a license holder or registration holder except to prohibit false, misleading, or deceptive practices or to prevent a violation of this chapter.

(b) Rules to prohibit false, misleading, or deceptive practices may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a license holder's or registration holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license holder or registration holder; or

(4) restricts the license holder's or registration holder's advertisement under a trade name.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 33, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.234, eff. April 2, 2015.

Sec. 42.059. REQUIRED AFFIDAVIT FOR APPLICANTS FOR EMPLOYMENT WITH FACILITY OR REGISTERED FAMILY HOME. (a) An applicant for temporary or permanent employment with a licensed facility or registered family home whose employment or potential employment with the facility or home involves direct interactions with or the opportunity to interact and associate with children must execute and submit the following affidavit with the application for employment:

STATE OF _____

COUNTY OF _____

I swear or affirm under penalty of perjury that I do not now and I have not at any time, either as an adult or as a juvenile:

1. Been convicted of;

2. Pleaded guilty to (whether or not resulting in a conviction);

3. Pleaded nolo contendere or no contest to;

4. Admitted;

5. Had any judgment or order rendered against me (whether by default or otherwise);

6. Entered into any settlement of an action or claim of;

7. Had any license, certification, employment, or volunteer

position suspended, revoked, terminated, or adversely affected because of;

8. Resigned under threat of termination of employment or volunteerism for;

9. Had a report of child abuse or neglect made and substantiated against me for; or

10. Have any pending criminal charges against me in this or any other jurisdiction for;

Any conduct, matter, or thing (irrespective of formal name thereof) constituting or involving (whether under criminal or civil law of any jurisdiction):

1. Any felony;
2. Rape or other sexual assault;
3. Physical, sexual, emotional abuse and/or neglect of a minor;
4. Incest;
5. Exploitation, including sexual, of a minor;
6. Sexual misconduct with a minor;
7. Molestation of a child;
8. Lewdness or indecent exposure;
9. Lewd and lascivious behavior;
10. Obscene or pornographic literature, photographs, or videos;
11. Assault, battery, or any violent offense involving a minor;
12. Endangerment of a child;
13. Any misdemeanor or other offense classification involving a minor or to which a minor was a witness;
14. Unfitness as a parent or custodian;
15. Removing children from a state or concealing children in violation of a court order;
16. Restrictions or limitations on contact or visitation with children or minors resulting from a court order protecting a child or minor from abuse, neglect, or exploitation; or
17. Any type of child abduction.

Except the following (list all incidents, location, description, and date) (if none, write NONE)

Signed _____

Date _____.

Subscribed and sworn to (or affirmed) before me this _____ day of _____,_____.

Signature of notarial officer

_____.

(seal, if any, of notarial officer)

My commission expires: _____

(b) The failure or refusal of the applicant to sign or provide the affidavit constitutes good cause for refusal to hire the applicant.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 33, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1129, Sec. 3, eff. Sept. 1, 1999.

Sec. 42.060. CARBON MONOXIDE DETECTORS. (a) In this section, "carbon monoxide detector" means a device that detects and sounds an alarm to indicate the presence of a harmful level of carbon monoxide gas.

(b) Except as provided by Subsection (d), each day-care center, group day-care home, and family home must be equipped with carbon monoxide detectors in accordance with department rules.

(c) The executive commissioner by rule shall prescribe requirements regarding the placement, installation, and number of carbon monoxide detectors and maintenance procedures for those detectors.

(d) A day-care center is exempt from the carbon monoxide detector requirements prescribed by this section if the day-care center is located in a school facility that is subject to the school facility standards adopted by the commissioner of education under Section 46.008, Education Code, or similar safety standards adopted by the board of a local school district.

Added by Acts 2003, 78th Leg., ch. 127, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.235, eff. April 2, 2015.

Sec. 42.062. CERTAIN EMPLOYMENT AND SERVICE PROHIBITED. A person may not be employed as a controlling person or serve in that capacity in a facility or family home if the person is not eligible to receive a license or certification for the operation of a facility or family home under Section 42.072(g) or has been denied a license under Section 42.046 for a substantive reason.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.105, eff. September 1, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 7, eff. September 1, 2011.

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

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

(2) a critical injury of a child; and

(3) an illness of a child that requires hospitalization.

(b) A person licensed under this chapter shall report to the commission each serious incident involving a child who receives services from the person, regardless of whether the department is the managing conservator of the child.

(b-1) A person licensed or registered under this chapter shall notify in accordance with commission rule a parent or guardian of a child in the care of the person of an incident of abuse, neglect, or exploitation of the child, injury of the child that requires treatment by a medical professional or hospitalization, or illness of the child that requires hospitalization.

(b-2) A person licensed or registered under this chapter shall notify in accordance with commission rule a parent or guardian of each child in the care of the person of a violation that constitutes abuse, neglect, or exploitation of a child.

(c) An employee of a person described by Subsection (b) shall report suspected abuse or neglect directly to the statewide intake system.

(d) An employee or volunteer of a general residential operation, child-placing agency, continuum-of-care residential operation, cottage home operation, or specialized child-care home shall report any serious incident directly to the commission if the incident involves a child under the care of the operation, agency, or home.

(e) A foster parent shall report any serious incident directly to the department if the incident involves a child under the care of

the parent.

(f) The executive commissioner by rule shall prescribe:

(1) procedures governing reporting required under this section; and

(2) the manner in which a report under this section must be provided.

(g) The commission shall implement this section using existing appropriations.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.106, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 12, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 66, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 588 (S.B. 568), Sec. 7, eff. September 1, 2019.

Sec. 42.064. INFORMATION REGARDING GANG-FREE ZONES. Each day-care center shall, in accordance with rules adopted by the executive commissioner, distribute to parents and guardians of children who attend the center information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 6, eff. June 19, 2009.

Sec. 42.065. ADMINISTERING MEDICATION. (a) In this section, "medication" means a drug that may be obtained with or without a prescription, excluding a topical ointment obtained without a prescription.

(b) This section applies only to a day-care center, group day-care home, before-school or after-school program, school-age program, or family home regardless of whether the facility or program is licensed, registered, or listed.

(c) A director, owner, operator, caretaker, employee, or volunteer of a child-care facility subject to this section may not administer a medication to a child unless:

(1) the child's parent or guardian has submitted to the child-care facility a signed and dated document that authorizes the facility to administer the medication for not longer than one year; and

(2) the authorized medication:

(A) is administered as stated on the label directions or as amended in writing by a practitioner, as defined by Section 551.003, Occupations Code; and

(B) is not expired.

(d) Notwithstanding Subsection (c)(1), a director, owner, operator, caretaker, employee, or volunteer of a child-care facility subject to this section may administer medication to a child under this section without a signed authorization if the child's parent or guardian:

(1) submits to the child-care facility an authorization in an electronic format that is capable of being viewed and saved; or

(2) authorizes the child-care facility by telephone to administer a single dose of a medication.

(e) An authorization under Subsection (d)(1) expires on the first anniversary of the date the authorization is provided to the child-care facility.

(f) This section does not apply to a person that administers a medication to a child in a medical emergency to prevent the death or serious bodily injury of the child if the medication is administered as prescribed, directed, or intended.

(g) A person commits an offense if the person administers a medication to a child in violation of this section. If conduct constituting an offense under this section also constitutes an offense under a section of the Penal Code, the actor may be prosecuted under either section or both sections.

(h) An offense under this section is a Class A misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 762 (H.B. 1615), Sec. 2, eff. September 1, 2011.

Sec. 42.066. REQUIRED SUBMISSION OF INFORMATION REQUESTED BY COURT. A general residential operation that provides mental health treatment or services to a child in the managing conservatorship of the department shall timely submit to the court in a suit affecting

the parent-child relationship under Subtitle E, Title 5, Family Code, all information requested by that court.

Added by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 67, eff. September 1, 2017.

Sec. 42.067. EPINEPHRINE AUTO-INJECTORS; IMMUNITY FROM LIABILITY. (a) In this section:

(1) "Anaphylaxis" means a sudden, severe, and potentially life-threatening allergic reaction that occurs when a person is exposed to an allergen.

(2) "Epinephrine auto-injector" means a disposable medical drug delivery device that contains a premeasured single dose of epinephrine intended for use to treat anaphylaxis.

(3) "Physician" means a person who holds a license to practice medicine in this state.

(b) A physician, or a person who has been delegated prescriptive authority under Chapter 157, Occupations Code, may prescribe epinephrine auto-injectors in the name of a day-care center.

(c) A physician or other person who prescribes epinephrine auto-injectors under Subsection (b) shall provide the day-care center with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis.

(d) A standing order under Subsection (c) is not required to be patient-specific. An epinephrine auto-injector may be administered under this section to a person without a previously established physician-patient relationship.

(e) Notwithstanding any other law, supervision or delegation by a physician is considered adequate if the physician:

(1) periodically reviews the order; and

(2) is available through direct telecommunication as needed for consultation, assistance, and direction.

(f) An order issued under this section must contain:

(1) the name and signature of the prescribing physician or other person;

(2) the name of the day-care center to which the order is issued;

(3) the quantity of epinephrine auto-injectors to be obtained and maintained under the order; and

(4) the date the order was issued.

(g) A pharmacist may dispense an epinephrine auto-injector to a day-care center without requiring the name of or any other identifying information relating to the user.

(h) A day-care center shall store an epinephrine auto-injector in a secure location that is easily accessible to employees or volunteers of the day-care center authorized and trained to administer an epinephrine auto-injector.

(i) Each day-care center is responsible for training employees in the administration of an epinephrine auto-injector. The training must:

(1) include information on:

(A) recognizing the signs and symptoms of anaphylaxis;

(B) administering an epinephrine auto-injector;

(C) the recommended dosages for adults and children by age and weight, if applicable, and the dosages available at the center;

(D) implementing emergency procedures, if necessary, after administering an epinephrine auto-injector; and

(E) the proper disposal of used or expired epinephrine auto-injectors; and

(2) be completed annually in a formal training session or through online education.

(j) Each day-care center shall maintain records on the training required under this section.

(k) Not later than the 10th business day after the date a day-care center employee administers an epinephrine auto-injector in accordance with this section, the day-care center shall report the following information to the persons listed in Subsection (l):

(1) the age of the person who received the administration of the epinephrine auto-injector;

(2) whether the person who received the administration of the epinephrine auto-injector was:

(A) a child enrolled in the day-care center;

(B) a day-care center employee or volunteer; or

(C) a visitor to the day-care center;

(3) the physical location where the epinephrine auto-injector was administered;

(4) the number of doses of epinephrine auto-injector administered;

(5) the title of the employee who administered the epinephrine auto-injector; and

(6) any other information required by the executive commissioner.

(l) The information required by Subsection (k) shall be reported to:

(1) the owner of the day-care center;

(2) the physician or other person who prescribed the epinephrine auto-injector;

(3) the commission; and

(4) the Department of State Health Services.

(m) The executive commissioner, in consultation with the Department of State Health Services, shall adopt rules necessary to implement this section.

(n) A person who in good faith takes, or fails to take, action relating to the prescription of an epinephrine auto-injector to a day-care center or the administration of an epinephrine auto-injector in a day-care center is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including:

(1) issuing an order for epinephrine auto-injectors;

(2) supervising or delegating the administration of an epinephrine auto-injector;

(3) possessing, maintaining, storing, or disposing of an epinephrine auto-injector;

(4) prescribing an epinephrine auto-injector;

(5) dispensing an epinephrine auto-injector;

(6) administering, or assisting in administering, an epinephrine auto-injector;

(7) providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or

(8) undertaking any other act permitted or required under this section.

(o) The immunities and protections provided by this section are in addition to other immunities or limitations of liability provided by law.

(p) Notwithstanding any other law, this section does not create

a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act or omission under this section.

(q) If a day-care center obtains epinephrine auto-injectors for use as authorized by this section, the day-care center shall notify each parent of a child enrolled in the center of the center's policy and procedures relating to the administration of the epinephrine auto-injectors.

(r) An act or omission described by this section does not create a cause of action.

Added by Acts 2019, 86th Leg., R.S., Ch. 1082 (H.B. 1849), Sec. 1, eff. June 14, 2019.

SUBCHAPTER D. REMEDIES

Sec. 42.0704. ENFORCEMENT POLICY. (a) The executive commissioner by rule shall adopt a general enforcement policy that describes the commission's approach to enforcement of this chapter.

(b) The enforcement policy must:

(1) summarize the commission's general expectations in enforcing this chapter;

(2) include the methodology required by Subsection (c); and

(3) describe the commission's plan for strengthening its enforcement efforts and for making objective regulatory decisions.

(c) As part of the enforcement policy, the commission shall develop and implement a methodology for determining the appropriate disciplinary action to take against a person who violates this chapter or a commission rule. The methodology must:

(1) provide guidance on when to use each of the available tools of enforcement, including technical assistance, voluntary plans of action, probation, suspension or revocation of a license or registration, denial of a license or registration, administrative penalties, and emergency suspension; and

(2) allow the commission to consider the circumstances of a particular case, including:

(A) the nature and seriousness of the violation, including whether the violation involved the abuse or neglect of a child or resulted in the death or near fatal injury of a child;

(B) any history of previous violations, including a

repetition or pattern of violations; and

(C) any aggravating and mitigating factors.

(d) The commission shall make the methodology described by Subsection (c) available to the public, including by posting the methodology on the commission's Internet website.

Added by Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 81, eff. September 1, 2015.
Added by Acts 2015, 84th Leg., R.S., Ch. 1057 (H.B. 2070), Sec. 3, eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 6, eff. September 1, 2019.

Sec. 42.0705. RANGE OF PENALTIES. The department shall revoke or suspend a license or registration, place on probation a person whose license or registration has been suspended, or reprimand a license holder or registration holder for a violation of this chapter or a department rule. If a license or registration suspension is probated, the department may require the license holder or registration holder to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit services to the areas prescribed by the department;

(3) continue or review professional education until the license holder or registration holder attains a degree of skill satisfactory to the department in those areas that are the basis of the probation; or

(4) take corrective action relating to the violation on which the probation is based.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 34, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 40, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.236, eff. April 2, 2015.

Sec. 42.071. SUSPENSION OR PROBATION OF LICENSE OR REGISTRATION. (a) The commission may suspend the license of a facility or the registration of a family home that has temporarily ceased operation but has definite plans for starting operations again within the time limits of the issued license or registration.

(b) The commission may suspend a facility's license or a family home's registration for a definite period rather than deny or revoke the license or registration if the commission finds repeated noncompliance with standards that do not endanger the health and safety of children. To qualify for license or registration suspension under this subsection, a facility or family home must suspend its operations and show that standards can be met within the suspension period.

(c) If the commission finds a facility or family home is in repeated noncompliance with standards that do not endanger the health and safety of children, the commission may place the facility or family home on probation rather than suspend or revoke the facility's license or the family home's registration. The commission shall provide notice to the facility or family home of the probation and of the items of noncompliance not later than the 10th day before the probation period begins. During the probation period, the facility or family home must correct the items that were in noncompliance and report the corrections to the commission for approval.

(d) The commission shall revoke the license of a facility or the registration of a family home that does not comply with standards at the end of a license or registration suspension.

(e) The commission may suspend or revoke the license of a facility or the registration of a family home that does not correct items that were in noncompliance or that does not comply with required standards within the applicable probation period.

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 111, ch. 23, Sec. 1, eff. Aug. 29, 1983; Acts 1987, 70th Leg., ch. 1081, Sec. 2, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1022, Sec. 35, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 7, eff. September 1, 2019.

Sec. 42.0715. COSTS CHARGED TO FACILITY OR FAMILY HOME. The department may charge a facility or family home for reimbursement of the reasonable cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan for the facility or family home.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 36, eff. Sept. 1, 1997.

Sec. 42.072. LICENSE, LISTING, OR REGISTRATION DENIAL, SUSPENSION, OR REVOCATION. (a) The commission may suspend, deny, revoke, or refuse to renew the license, listing, registration, or certification of approval of a facility or family home that does not comply with the requirements of this chapter, commission standards and rules, or the specific terms of the license, listing, registration, or certification. The commission may revoke the probation of a person whose license, listing, or registration is suspended if the person violates a term of the conditions of probation.

(b) If the commission proposes to take an action under Subsection (a), the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. An action under this section, including a revocation of a person's license, is a contested case as defined by Chapter 2001, Government Code, and is subject to judicial review under the substantial evidence rule in accordance with that chapter. Rules of practice adopted by the executive commissioner under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

(c) The commission may not issue a license, listing, registration, or certification to a person whose license, listing, registration, or certification is revoked or not renewed, whose application for a license, listing, registration, or certification is denied for a substantive reason under this chapter, or who in lieu of disciplinary action voluntarily closed a facility or family home or relinquished the person's license, listing, registration, or certification before the fifth anniversary of the date on which:

(1) the revocation or nonrenewal takes effect by commission

or court order;

(2) the decision to deny the application is final;

(3) the facility or family home is closed; or

(4) the license, listing, registration, or certification is relinquished.

(c-1) A person described by Subsection (c) may not be a controlling person in any facility or family home during the five-year period in which the person is ineligible to receive a license, listing, registration, or certification.

(d) The executive commissioner by rule may provide for denial of an application or renewal for a licensed facility or for listing or registering a family home or may revoke a facility's license or a family home's listing or registration based on findings of background or criminal history as a result of a background or criminal history check.

(e) A person may continue to operate a facility or family home during an appeal of a revocation or refusal to renew a license, certification, or registration unless the operation of the facility or family home poses a risk to the health or safety of children. The executive commissioner shall by rule establish the criteria for determining whether the operation of a facility or family home poses a risk to the health or safety of children. The commission shall notify the facility or family home of the criteria the commission used to determine that the operation of the facility or family home poses a risk to health or safety and that the facility or family home may not operate. A person who has been notified by the commission that the facility or home may not operate under this section may seek injunctive relief from a district court in Travis County or in the county in which the facility or home is located to allow operation during the pendency of an appeal. The court may grant injunctive relief against the commission's action only if the court finds that the child-care operation does not pose a health or safety risk to children. A court granting injunctive relief under this subsection shall have no other jurisdiction over an appeal of final commission action unless conferred by Chapter 2001, Government Code.

(f) The commission shall deny an application or renewal for listing or registering a family home or shall revoke a family home's listing or registration if the results of a background or criminal history check conducted by the commission under Section 42.056 show that a person has been convicted of an offense under Title 5 or 6,

Penal Code, or Chapter 43, Penal Code.

(g) Notwithstanding Subsection (c), the commission may refuse to issue a license, listing, registration, or certification to:

(1) a person whose license, listing, registration, or certification for a facility or family home was revoked by the commission or by court order;

(2) a person who was a controlling person of a facility or family home at the time conduct occurred that resulted in the revocation of the license, listing, registration, or certification of the facility or family home;

(3) a person who voluntarily closed a facility or family home or relinquished the person's license, listing, registration, or certification after:

(A) the commission took an action under Subsection (a) in relation to the facility, family home, or person; or

(B) the person received notice that the commission intended to take an action under Subsection (a) in relation to the facility, family home, or person; or

(4) a person who was a controlling person of a facility or family home at the time conduct occurred that resulted in the closure of the facility or family home or relinquishment of the license, listing, registration, or certification in the manner described by Subdivision (3).

Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 111, ch. 23, Sec. 2, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 977, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 37, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 218, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.107, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 526 (H.B. 877), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 13, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 8, eff.

September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.237, eff. April 2, 2015.

Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 8, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 588 (S.B. 568), Sec. 8, eff. September 1, 2019.

Sec. 42.073. EMERGENCY SUSPENSION AND CLOSURE OF A FACILITY OR FAMILY HOME. (a) The department shall suspend a facility's license or a family home's listing or registration and order the immediate closing of the facility or family home if:

(1) the department finds the facility or family home is operating in violation of the applicable standards prescribed by this chapter; and

(2) the violation creates an immediate threat to the health and safety of the children attending or residing in the facility or family home.

(b) An order suspending a license, listing, or registration and an order closing a facility or family home under this section is immediately effective on the date on which the holder of the license, listing, or registration receives written notice or on a later date specified in the order.

(c) An order is valid for 30 days after the effective date of the order.

Acts 1979, 66th Leg., p. 2366, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 977, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 38, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 14, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.108, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 14, eff. September 1, 2009.

Sec. 42.074. INJUNCTIVE RELIEF. (a) The department may file suit in a district court in Travis County or in the county in which a facility or family home is located for assessment and recovery of a civil penalty under Section 42.075, for injunctive relief, including a temporary restraining order, or for both a civil penalty and injunctive relief when it appears that a person:

(1) has violated, is violating, or is threatening to violate the licensing, certification, listing, or registration requirements of this chapter or the department's licensing, certification, listing, or registration rules and standards; or

(2) knowingly fails to meet or maintain an exemption authorized under Section 42.041 and engages in activities that require a license or registration.

(b) The district court shall grant the injunctive relief the facts may warrant.

(c) At the department's request, the attorney general or the county or district attorney of the county in which the facility or family home is located shall conduct a suit in the name of the State of Texas for injunctive relief, to recover the civil penalty, or for both injunctive relief and civil penalties as authorized by Subsection (a).

(d) Injunctive relief provided by this section is in addition to any other action, proceeding, or remedy authorized by law. It is not necessary to allege or prove in an action filed under this section that an adequate remedy at law does not exist or that substantial or irreparable harm would result from the continued violation.

(e) The department is not required to give an appeal bond in an action arising under this section.

Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.09, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1022, Sec. 39, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 15, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 15, eff. September 1, 2009.

Sec. 42.075. CIVIL PENALTY. (a) A person is subject to a civil penalty of not less than $50 nor more than $100 for each day of violation and for each act of violation if the person:

(1) threatens serious harm to a child in a facility or family home by violating a provision of this chapter or a department rule or standard;

(2) violates a provision of this chapter or a department rule or standard three or more times within a 12-month period;

(3) places a public advertisement for an unlicensed facility or an unlisted or unregistered family home;

(4) knowingly fails to meet or maintain any criterion of an exemption authorized under Section 42.041 and engages in activities that require a license or registration; or

(5) fails to inform the department of a change in status and the person knows the change in status requires the person to be licensed or registered under this chapter.

(b) The civil penalty authorized by this section is cumulative and in addition to the criminal penalties and injunctive relief provided by this chapter.

Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 40, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 16, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 16, eff. September 1, 2009.

Sec. 42.076. CRIMINAL PENALTIES. (a) A person who operates a child-care facility or child-placing agency without a license commits a Class B misdemeanor.

(b) A person who operates a family home without a required listing or registration commits a Class B misdemeanor.

(c) A person who places a public advertisement for an unlicensed facility or an unlisted or unregistered family home commits a Class C misdemeanor.

(d) It is not an offense under this section if a professional provides legal or medical services to:

(1) a parent who identifies the prospective adoptive parent

and places the child for adoption without the assistance of the professional; or

(2) a prospective adoptive parent who identifies a parent and receives placement of a child for adoption without assistance of the professional.

Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 915, Sec. 2, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 411, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 664, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 41, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 17, eff. Sept. 1, 1997.

Sec. 42.0761. CRIMINAL PENALTY FOR OPERATING DAY-CARE CENTER WITHOUT QUALIFIED DIRECTOR. (a) An owner or operator of a day-care center commits an offense if the owner or operator knowingly operates the day-care center:

(1) without a director who meets the qualifications of a director prescribed by department rules; or

(2) without the routine presence during the day-care center's hours of operation of a director described by Subdivision (1).

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

Added by Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 41, eff. September 1, 2007.

Sec. 42.077. NOTICE OF ACTION AGAINST FACILITY OR FAMILY HOME. (a) If the department revokes or suspends a facility's license or a family home's listing or registration, the department shall publish notice of this action:

(1) in a newspaper of general circulation in the county in which the facility or family home is located; or

(2) on the department's Internet website along with other information regarding child-care services.

(a-1) If notice is published in a newspaper under Subsection (a), the newspaper shall place the notice in the section in which advertisements for day-care services are normally published.

(b) If a person who operates a facility or family home that has had its license, listing, or registration revoked or suspended later applies for a new license, listing, or registration to operate the same facility or family home, the department shall charge the person an application fee set by the executive commissioner by rule in an amount necessary to reimburse the department for the cost of the notice relating to that facility or family home.

(c) The department shall pay for publication of the notice from funds appropriated to the department for licensing and regulating child-care facilities and for listing, registering, and regulating family homes and from appeal and application fees collected under Subsection (b) and appropriated to the department.

(d) A facility or family home that has its license, listing, or registration revoked or suspended shall mail notification of this action by certified mail to the parents or guardian of the child served by the facility or family home. The facility or family home shall mail the notification within five days of the effective date of the revocation or suspension of the license, listing, or registration.

(d-1) If the department determines that the license of a residential child-care facility should be revoked or suspended, the facility shall mail notification of the action or proposed action by certified mail to a parent of each child served by the facility, if the person's parental rights have not been terminated, and to the child's managing conservator, as appropriate. The residential child-care facility shall mail the notification not later than the fifth day after the date the facility is notified of the department's determination that revocation or suspension of the license is appropriate.

(e) When the most recent federal census shows that more than one-half of the population in a municipality or in a commissioners precinct in a county in which a family home whose listing or registration has been revoked or suspended is located is of Hispanic origin or Spanish-speaking, the department shall publish the notice under Subsection (a) in both English and Spanish.

Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 42, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1063, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1217, Sec. 18, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.109, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. 68), Sec. 17, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.238, eff. April 2, 2015.

Sec. 42.078. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative sanction or an administrative penalty against a facility or family home licensed, registered, or listed under this chapter that violates this chapter or a rule or order adopted under this chapter. In addition, the commission may impose an administrative penalty against a facility or family home or a controlling person of a facility or family home if the facility, family home, or controlling person:

(1) violates a term of a license or registration issued under this chapter;

(2) makes a statement about a material fact that the facility or person knows or should know is false:

(A) on an application for the issuance of a license or registration or an attachment to the application; or

(B) in response to a matter under investigation;

(3) refuses to allow a representative of the commission to inspect:

(A) a book, record, or file required to be maintained by the facility; or

(B) any part of the premises of the facility;

(4) purposefully interferes with the work of a representative of the commission or the enforcement of this chapter; or

(5) fails to pay a penalty assessed under this chapter on or before the date the penalty is due, as determined under this section.

(a-1) Except as provided by Subsection (a-2), nonmonetary administrative sanctions, including corrective action plans and probation periods, shall be imposed when appropriate before administrative penalties.

(a-2) The commission may impose an administrative penalty without first imposing a nonmonetary administrative sanction for

violating a minimum standard applicable to a facility or family home under this chapter that is determined by the commission to be a high-risk standard, including standards for a violation constituting abuse, neglect, or exploitation of a child, background check standards, safety hazard standards, standards establishing times for reporting information to a parent or guardian or the commission, and supervision standards.

(b) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The penalty for a violation may be in an amount not to exceed the following limits, based on the maximum number of children for whom the facility or family home was authorized to provide care or the number of children under the care of the child-placing agency when the violation occurred:

(1) for violations that occur in a facility other than a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	$50
21-40	$60
41-60	$70
61-80	$80
81-100	$100
More than 100	$150

(2) for violations that occur in a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	$100
21-40	$150
41-60	$200
61-80	$250
81-100	$375
More than 100	$500

(c) In addition to the number of children, the amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused

by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) Monetary penalties may not be assessed for violations that are the result of clerical errors.

(e) If the commission determines that a violation has occurred, the commission may issue a recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(e-1) Notwithstanding the amounts required by Subsections (b) and (c) and except as provided by Subsection (e-3), the commission shall recommend the penalty for the following violations by a facility or family home to be assessed in the following amounts:

(1) $1,000 for a violation that constitutes abuse, neglect, or exploitation of a child;

(2) $500 for failure to report to a parent or guardian of a child or the commission within the time required by commission standards an injury of a child in the care of the facility or home that requires treatment by a medical professional or hospitalization or an illness of a child that requires hospitalization;

(3) $50 for failure to report to a parent or guardian of each child in the care of the facility or home within the time required by commission standards that the commission cited the facility or home for a violation:

(A) that constitutes abuse, neglect, or exploitation of a child; or

(B) of a safe sleeping standard; and

(4) $50 for failure to report to a parent or guardian of each child in the care of the facility or home within the time required by commission standards that the facility or home does not maintain liability insurance coverage.

(e-2) For purposes of Subsections (e-1)(3) and (4), the commission shall recommend a penalty of $50 for the initial violation and an additional penalty of $50 for each day the violation continues or occurs.

(e-3) Subsection (e-1)(1) does not apply to a residential child-care facility.

(f) Within 14 days after the date the recommendation is issued, the commission shall give written notice of the recommendation to the

person owning or operating the facility or family home or to the controlling person, if applicable. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the commission or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) If the person accepts the determination and recommended penalty of the commission or fails to respond to the notice in a timely manner, the commission shall issue an order and impose the recommended penalty.

(i) If the person requests a hearing, the commission shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and issue a final decision finding that a violation has occurred and imposing a penalty or finding that no violation occurred.

(j) The notice of the administrative law judge's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

(k) Within 30 days after the date the administrative law judge's order becomes final as provided by Section 2001.144, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(l) Within the 30-day period, a person who acts under Subsection (k)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the department by certified mail.

(m) On receipt of a copy of an affidavit under Subsection (l)(2), the commission may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(n) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the commission may refer the matter to the attorney general for collection of the amount of the penalty.

(o) Judicial review of the order:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(p) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(q) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount

of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(r) A penalty collected under this section shall be sent to the comptroller for deposit in the safety training account established under Section 42.04215.

(s) All proceedings under this section are subject to Chapter 2001, Government Code.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 43, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1129, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.110(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 42, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 9, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.239, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 82, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1057 (H.B. 2070), Sec. 4, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 9, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 588 (S.B. 568), Sec. 9, eff. September 1, 2019.

Sec. 42.079. CEASE AND DESIST ORDER. (a) If it appears to the department that a person who is not licensed, certified, registered, or listed under this chapter is operating a child-care facility or family home, the department, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from operating the facility or home.

(b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under Section 42.078.

Added by Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 83, eff. September 1, 2015.
Added by Acts 2015, 84th Leg., R.S., Ch. 1057 (H.B. 2070), Sec. 5, eff. September 1, 2015.

SUBCHAPTER F. REGULATION OF EMPLOYER-BASED DAY-CARE FACILITIES

Sec. 42.151. DEFINITIONS. In this subchapter:

(1) "Employer-based day-care facility" means a day-care facility that is:

(A) operated by a small employer to provide care to not more than 12 children of the employer's employees; and

(B) located on the employer's premises.

(2) "Small employer" means a corporation, partnership, sole proprietorship, or other legal entity that employs fewer than 100 full-time employees.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 89 (H.B. 415), Sec. 1, eff. September 1, 2009.

Sec. 42.152. PERMIT REQUIRED. (a) Except as provided by Subsection (b), a small employer may not operate an employer-based day-care facility unless the employer holds a permit issued by the department under this subchapter.

(b) A small employer is not required to obtain a permit to operate an employer-based day-care facility under this subchapter if the employer holds a license to operate a child-care facility that is issued by the department under Subchapter C. An employer that holds

that license must comply with the applicable provisions of Subchapter C, the applicable department rules, and any specific terms of the license.

(c) Notwithstanding any other law, including Section 42.041, a small employer that holds a permit issued under this subchapter is not required to hold a license under Subchapter C to operate an employer-based day-care facility.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.240, eff. April 2, 2015.

Sec. 42.153. APPLICATION; INITIAL INSPECTION AND BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) The department shall develop and implement a streamlined procedure by which a small employer may apply for and be issued a permit to operate an employer-based day-care facility. The employer must submit an application for the permit to the department on a form prescribed by the department.

(b) Except as provided by Section 42.154, on receipt of a small employer's application for a permit, the department shall:

(1) conduct an initial inspection of the employer-based day-care facility to ensure that the employer is able to comply with the provisions of this subchapter and that the facility complies with the fire safety and sanitation standards of the political subdivision in which the facility is located; and

(2) conduct a background and criminal history check on each prospective caregiver whose name is submitted as required by Section 42.159(a).

(c) The department may charge an applicant an administrative fee set by the executive commissioner by rule in a reasonable amount that is sufficient to cover the costs of the department in processing the application.

(d) The department shall process an application not later than the 30th day after the date the department receives all of the required information.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.241, eff. April 2, 2015.

Sec. 42.154. CONVERSION OF LICENSE. (a) The department shall develop and implement a procedure by which a small employer that holds a license to operate a child-care facility that is issued under Subchapter C before September 1, 2007, may convert the license to a permit under this subchapter. The procedure must include an abbreviated application form for use by the employer in applying for the permit.

(b) The department may waive the requirements under Section 42.153(b) for an initial inspection or background and criminal history checks with respect to a facility operated by a small employer seeking to convert a license to a permit under this section if the department determines that previously conducted inspections or background and criminal history checks, as applicable, are sufficient to ensure the safety of children receiving care at the facility.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

Sec. 42.155. PARENT OR GUARDIAN WITHIN IMMEDIATE VICINITY. An employer-based day-care facility operating under this subchapter may provide care only for a child whose parent or guardian:

(1) is an employee of the small employer to which the permit to operate the facility was issued;

(2) works within the same building in which the facility is located; and

(3) is away from that building only for limited periods, as defined by department rules, during the hours the child is receiving care.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

Sec. 42.156. CAREGIVER-TO-CHILD RATIO. An employer-based day-care facility operating under this subchapter shall maintain a

caregiver-to-child ratio of at least one caregiver to every four children receiving care.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

Sec. 42.157. MINIMUM STANDARDS. The department shall encourage an employer-based day-care facility operating under this subchapter to comply with the minimum standards applicable to a child-care facility licensed under Subchapter C.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

Sec. 42.158. CAREGIVER QUALIFICATIONS. A caregiver employed by an employer-based day-care facility operating under this subchapter must:

(1) be at least 18 years of age;

(2) have received a high school diploma or its equivalent, as determined by the department;

(3) receive at least the minimum training required for an employee of a licensed day-care center as prescribed by department rules in accordance with Sections 42.042(p) and 42.0421;

(4) have a Child Development Associate or Certified Child-Care Professional credential or an equivalent credential, as determined by the department; and

(5) not have been precluded from providing direct care or having direct access to a child by the department based on the results of a background and criminal history check conducted under Section 42.159.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

Sec. 42.159. BACKGROUND AND CRIMINAL HISTORY CHECKS REQUIRED. (a) In accordance with rules adopted by the executive commissioner, a small employer shall, when applying for a permit under this subchapter and at least once during each 24 months after receiving

that permit, submit to the department for use in conducting background and criminal history checks:

(1) the name of any director of the employer-based day-care facility and the name of each caregiver employed at the facility to provide care to children; and

(2) the name of each person 14 years of age or older who will regularly or frequently be staying or working at the facility while children are being provided care.

(b) The small employer shall also submit to the department for use in conducting background and criminal history checks the name of each prospective caregiver who will provide care to children at the facility or other prospective employee who will have direct access to those children.

(c) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a) or (b), as applicable;

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) For purposes of Sections 411.114 and 411.087, Government Code:

(1) a small employer that applies for a permit is considered an applicant for a license under this chapter; and

(2) an employer-based day-care facility operating under a permit issued under this subchapter is considered a child-care facility licensed under this chapter.

(e) The department shall require the small employer to pay to the department a fee set by the executive commissioner by rule in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.242, eff. April 2, 2015.

Sec. 42.160. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this subchapter, an employer-based day-care facility operating under this subchapter is not a child-care facility, as defined by Section 42.002, and the provisions of this chapter and the department's rules that apply to a child-care facility licensed under Subchapter C do not apply to an employer-based day-care facility.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

Sec. 42.161. REPORTING OF INCIDENTS AND VIOLATIONS. An employer-based day-care facility operating under this subchapter and each employee of that facility are subject to the reporting requirements of Section 42.063 to the same extent a licensed child-care facility and employees of licensed child-care facilities are subject to that section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

Sec. 42.162. AUTHORITY TO CONDUCT LIMITED INSPECTIONS. (a) The department may inspect an employer-based day-care facility operating under this subchapter if the department receives a complaint or report of child abuse or neglect alleged to have occurred at the facility.

(b) If the department inspects an employer-based day-care facility as authorized by this section, the department may require the small employer operating the facility to take appropriate corrective action the department determines necessary to comply with the requirements of this subchapter and to ensure the health and safety of children receiving care at the facility. The department may continue to inspect the facility until corrective action is taken and for a reasonable time after that action is taken to ensure continued compliance.

(c) The department may charge a small employer issued a permit under this subchapter a reasonable fee set by the executive commissioner by rule for the cost of services provided by the

department in formulating, monitoring, and implementing a corrective action plan under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.243, eff. April 2, 2015.

Sec. 42.163. SUSPENSION, DENIAL, OR REVOCATION. (a) The department may suspend, deny, or revoke a permit issued to a small employer under this subchapter if the employer does not comply with the provisions of this subchapter or any applicable department rules.

(b) The department may refuse to issue a permit under this subchapter to a small employer that had its authorization to operate a child-care facility issued under another subchapter revoked, suspended, or not renewed for a reason relating to child health or safety as determined by the department.

(c) An employer-based day-care facility is subject to the emergency suspension of its permit to operate and to closure under Section 42.073 to the same extent and in the same manner as a licensed child-care facility is subject to that section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1414 (H.B. 1385), Sec. 2, eff. September 1, 2007.

SUBCHAPTER G. REGULATION OF TEMPORARY SHELTER DAY-CARE FACILITIES

Sec. 42.201. DEFINITIONS. In this subchapter:

(1) "Shelter" means a supervised publicly or privately operated shelter or other facility that is designed to provide temporary living accommodations to individuals and families, including a family violence shelter, a homeless shelter, and an emergency shelter. The term does not include a temporary facility established in response to a natural or other disaster.

(2) "Shelter care" means child care that is provided:

(A) to seven or more children under 14 years of age who temporarily reside at a shelter each with an adult who is related to the child by blood or who is the child's managing conservator;

(B) by a person who is not a temporary resident of a

shelter; and

(C) while the adult described by Paragraph (A) is away from the shelter.

(3) "Shelter day-care facility" means a shelter that provides shelter care for not more than 24 hours a day, but at least four hours a day, three or more days a week.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.

Sec. 42.202. PERMIT REQUIRED. (a) Except as provided by Subsections (b) and (e), a shelter may not provide shelter care unless the shelter holds a permit issued by the department under this subchapter.

(b) A shelter is not required to obtain a permit to provide shelter care under this subchapter if the shelter holds a license to operate a child-care facility that is issued by the department under Subchapter C. A shelter that holds that license must comply with the applicable provisions of Subchapter C, the applicable department rules, and any specific terms of the license.

(c) Notwithstanding any other law, including Section 42.041, a shelter that holds a permit issued under this subchapter is not required to hold a license under Subchapter C to operate a shelter day-care facility.

(d) The department may not issue a permit under this subchapter to a shelter that provides child care to a child who is not a resident of the shelter. A shelter that provides child care described by this subsection must hold a license to operate a child-care facility issued under Subchapter C.

(e) A shelter is not required to obtain a permit under this subchapter or a license under Subchapter C if the shelter provides shelter care for:

(1) less than four hours a day or for less than three days a week; or

(2) six or fewer children.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.244, eff.

April 2, 2015.

Sec. 42.203. APPLICATION; INITIAL INSPECTION AND BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) The department shall develop and implement a streamlined procedure by which a shelter may apply for and be issued a permit to operate a shelter day-care facility. The shelter must submit an application for the permit to the department on a form prescribed by the department.

(b) Except as provided by Section 42.204, on receipt of a shelter's application for a permit, the department shall:

(1) conduct an initial inspection of the shelter day-care facility to ensure that the shelter is able to comply with the provisions of this subchapter and that the facility complies with the fire safety and sanitation standards of the political subdivision in which the facility is located; and

(2) conduct a background and criminal history check on each prospective caregiver whose name is submitted as required by Section 42.206(a).

(c) The department may charge an applicant an administrative fee set by the executive commissioner by rule in a reasonable amount that is sufficient to cover the costs of the department in processing the application.

(d) The department shall process an application not later than the 30th day after the date the department receives all of the required information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.245, eff. April 2, 2015.

Sec. 42.204. CONVERSION OF LICENSE. (a) The department shall develop and implement a procedure by which a shelter that holds a license to operate a child-care facility that is issued under Subchapter C before September 1, 2012, may convert the license to a permit under this subchapter. The procedure must include an abbreviated application form for use by the shelter in applying for

the permit.

(b) The department may waive the requirements under Section 42.203(b) for an initial inspection or background and criminal history checks with respect to a licensed child-care facility seeking to convert a license to a permit under this section if the department determines that previously conducted inspections or background and criminal history checks, as applicable, are sufficient to ensure the safety of children receiving care at the facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.

Sec. 42.205. CAREGIVER QUALIFICATIONS AND TRAINING; CHILD-TO-CAREGIVER RATIOS. (a) The executive commissioner shall adopt rules that specify the minimum:

(1) qualifications and training required for a person providing child care in a shelter day-care facility; and

(2) child-to-caregiver ratios in a shelter day-care facility.

(b) In adopting rules under this section, the executive commissioner shall consider:

(1) the special circumstances and needs of families that seek temporary shelter; and

(2) the role of a shelter in assisting and supporting families in crisis.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.

Sec. 42.206. BACKGROUND AND CRIMINAL HISTORY CHECKS REQUIRED. (a) In accordance with rules adopted by the executive commissioner, a shelter shall, when applying for a permit under this subchapter and at least once during each 24-month period after receiving that permit, submit to the department for use in conducting background and criminal history checks:

(1) the name of any director or prospective director of the shelter day-care facility and the name of each caregiver or prospective caregiver employed at the facility to provide care to children;

(2) the name of each person counted in child-to-caregiver ratios at the shelter day-care facility; and

(3) the name of each person 14 years of age or older who will have unsupervised access to one or more children while in the care of the shelter day-care facility.

(b) In addition to the requirements of Subsection (a), a shelter shall submit a complete set of fingerprints of each person required to undergo a criminal history check under Subsection (a) if:

(1) the person has lived outside the state at any time during the previous five years; or

(2) the shelter has reason to suspect that the person has a criminal history in another state.

(c) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a) or (b), as applicable;

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or another criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) For purposes of Sections 411.114 and 411.087, Government Code:

(1) a shelter that applies for a permit is considered to be an applicant for a license under this chapter; and

(2) a shelter day-care facility operating under a permit issued under this subchapter is considered to be a child-care facility licensed under this chapter.

(e) The department shall require the shelter to pay to the department a fee set by the executive commissioner by rule in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.246, eff. April 2, 2015.

Sec. 42.207. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this subchapter, a shelter day-care facility operating under this subchapter is not a child-care facility, as defined by Section 42.002, and the provisions of this chapter and the department's rules that apply to a child-care facility licensed under Subchapter C do not apply to a shelter day-care facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.

Sec. 42.208. REPORTING OF INCIDENTS AND VIOLATIONS. A shelter day-care facility operating under this subchapter and each employee of that facility are subject to the reporting requirements of Section 42.063 to the same extent a licensed child-care facility and employees of licensed child-care facilities are subject to that section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.

Sec. 42.209. AUTHORITY TO CONDUCT LIMITED INSPECTIONS. (a) The department may inspect a shelter day-care facility operating under this subchapter if the department receives a complaint or report of child abuse or neglect alleged to have occurred at the shelter day-care facility.

(b) If the department inspects a shelter day-care facility as authorized by this section, the department may require the facility to take appropriate corrective action the department determines necessary to comply with the requirements of this subchapter and to ensure the health and safety of children receiving care at the facility. The department may continue to inspect the facility until corrective action is taken and for a reasonable time after that action is taken to ensure continued compliance.

(c) The department may charge a shelter issued a permit under this subchapter a reasonable fee set by the executive commissioner by rule for the cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.247, eff. April 2, 2015.

Sec. 42.210. SUSPENSION, DENIAL, OR REVOCATION. (a) The department may suspend, deny, or revoke a permit issued to a shelter under this subchapter if the shelter does not comply with the provisions of this subchapter or any applicable department rules.

(b) The department may refuse to issue a permit under this subchapter to a shelter that had its authorization to operate a child-care facility issued under another subchapter revoked, suspended, or not renewed for a reason relating to child health or safety as determined by the department.

(c) A shelter day-care facility is subject to the emergency suspension of its permit to operate and to closure under Section 42.073 to the same extent and in the same manner as a licensed child-care facility is subject to that section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 10, eff. September 1, 2012.

SUBCHAPTER H. REGULATION OF CERTAIN GENERAL RESIDENTIAL OPERATIONS

Sec. 42.251. APPLICABILITY. This subchapter applies only to a general residential operation that:

(1) provides care for seven or more children or young adults; and

(2) provides treatment services for children or young adults with emotional disorders.

Added by Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 10, eff. September 1, 2019.

Sec. 42.252. PROPOSED OPERATIONAL PLAN; LICENSING PROCEDURES. (a) In addition to the applicable requirements to obtain a license under Subchapter C, a person applying for a license to operate a general residential operation shall submit to the commission a

proposed operational plan.

(b) The executive commissioner shall adopt rules regarding:

(1) the information that must be included in the operational plan;

(2) the commission's review of the operational plan; and

(3) the basis of the commission's determination on whether:

(A) the plan is complete or incomplete; and

(B) to deny or approve the plan.

(c) The operational plan must include:

(1) a community engagement plan to develop and, if necessary, improve relations between the general residential operation and the community in which the operation is located that includes:

(A) a summary of any discussions the operation had with:

(i) local law enforcement; and

(ii) local health, therapeutic, and recreational resources available to support children at the operation; and

(B) a summary of the opportunities the children at the operation will have for social interaction in the community;

(2) an educational plan describing the applicant's plan to provide for the educational needs of the children at the general residential operation that:

(A) identifies whether the proposed operation will provide for the public or private education of school-age children at the operation;

(B) identifies whether the proposed operation will provide for the education of school-age children through a local school, off-site charter school, or on-site charter school;

(C) includes any discussions, plans, and agreements with the local school district, private school, or local charter school that will be providing education to the school-age children at the operation; and

(D) if the children are to be enrolled in a public school, includes either:

(i) a statement from the local independent school district on the impact of the proposed child-care services on the local school district; or

(ii) an explanation of the reasons the operation was unable to obtain a statement described by Subparagraph (i) and a

discussion of other alternative educational services that the operation could offer;

(3) a trauma-informed plan to address unauthorized absences of children from the general residential operation; and

(4) the qualifications, background, and history, including any compliance history, of each individual who is proposed to be involved in:

(A) the management of the operation; and

(B) the educational leadership of the operation if the operation will be using an on-site charter school.

(d) A person applying for a license to operate a general residential operation shall state in the application if the proposed operation will provide services to children who are victims of human trafficking but is not required to include this information in the operational plan.

(e) The commission must approve the proposed general residential operation's operational plan before:

(1) holding a hearing under Section 42.0461, if applicable; or

(2) granting a license to operate a general residential operation.

(f) In evaluating an application for a license to operate a general residential operation, the commission may consider:

(1) evidence gathered through the application review process;

(2) all parts of the operational plan described by Subsection (c);

(3) evidence of community support for or opposition to the proposed general residential operation, including any public comment the executive commissioner receives relating to the licensing of the proposed operation; and

(4) the impact statement from the school district likely to be affected by the proposed general residential operation, including information relating to any financial impact on the district that may result from an increase in enrollment.

(g) The commission may deny an application for a license to operate a general residential operation if the commission determines that:

(1) the community has insufficient resources to support children proposed to be served by the applicant;

(2) granting the license would significantly impact the local school district and would adversely affect the children proposed to be served by the applicant; or

(3) granting the license would have a significant adverse impact on the community and would limit opportunities for social interaction for the children proposed to be served by the applicant.

Added by Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 10, eff. September 1, 2019.

Sec. 42.253. CONFIDENTIALITY OF INFORMATION RELATING TO SERVICES FOR HUMAN TRAFFICKING VICTIMS. (a) If an applicant for a license to operate a general residential operation will provide services to victims of human trafficking, any information relating to the provision of services for victims of human trafficking is confidential and the commission may not disclose that information.

(b) If a hearing is required under Section 42.0461 for an application for a license to operate a general residential operation and the proposed operation will provide services to victims of human trafficking, the applicant is not required to disclose any information relating to the provision of services for victims of human trafficking.

Added by Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 10, eff. September 1, 2019.

Sec. 42.254. DUTIES RELATING TO EDUCATION OF CHILDREN IN GENERAL RESIDENTIAL OPERATION. (a) The commission shall collaborate with the Texas Education Agency to determine best practices for educational services in a general residential operation, including the most effective educational plans and best practices for implementing those plans.

(b) The department shall make available on the department's Internet website information and training regarding trauma-informed practices to assist school districts with training district employees by increasing staff awareness of trauma-informed care.

Added by Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 10, eff. September 1, 2019.

Sec. 42.255. HEARING BEFORE RENEWAL OF LICENSE. (a) On request of the commissioners court of a county where a general residential operation is located, the commission shall hold a public hearing to obtain public comments regarding the renewal of the operation's license.

(b) The commission shall adopt procedures that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue related to renewal of the general residential operation's license, including procedures relating to the conduct of the hearing, the order of witnesses, and the conduct of participants at the hearing.

Added by Acts 2019, 86th Leg., R.S., Ch. 394 (S.B. 781), Sec. 10, eff. September 1, 2019.

CHAPTER 43. REGULATION OF CHILD-CARE AND CHILD-PLACING AGENCY ADMINISTRATORS

Sec. 43.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 746, Sec. 10, eff. September 1, 2013.

(2) "Child-care administrator" means a person who supervises and exercises direct administrative control over a child-care institution and who is responsible for its program and personnel, whether or not the person has an ownership interest in the institution or shares duties with other persons.

(3) "Child-placing agency" has the meaning assigned in Section 42.002.

(4) "Child-placing agency administrator" means a person who supervises and exercises direct control over a child-placing agency and who is responsible for the child-placing agency's program and personnel, regardless of whether the person has an ownership interest in the child-placing agency or shares duties with other persons.

(5) "Controlling person" has the meaning assigned by Section 42.002.

(6) "General residential operation" has the meaning assigned by Section 42.002.

(7) "Permit" means a license, listing, registration, or

certification issued to a facility or family home under Chapter 42.

Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.112, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 5, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 10, eff. September 1, 2013.

Sec. 43.003. LICENSE REQUIRED. (a) Except as provided by Subsection (b) of this section, a person may not serve as a child-care administrator of a general residential operation without a license issued by the department under this chapter.

(b) A person who is not licensed under this chapter may serve as the child-care administrator of an emergency shelter located in a county with a population of less than 40,000 if the governing body of the shelter by resolution adopted by a majority vote of the membership of the governing body certifies that the shelter has made a reasonable effort to hire a licensed child-care administrator but is unable to hire a licensed child-care administrator.

(c) A person may not serve as a child-placing agency administrator without a license issued by the department under this chapter.

Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.10, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 664, Sec. 6, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.113(a), eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 6, eff. September 1, 2013.

Sec. 43.004. QUALIFICATIONS FOR LICENSE. (a) To be eligible for a child-care administrator's license a person must:

(1) provide information for the department's use in conducting a criminal history and background check under Subsection (c), including a complete set of the person's fingerprints;

(2) satisfy the minimum requirements under department rules relating to criminal history and background checks;

(3) pass an examination developed and administered by the department that demonstrates competence in the field of child-care administration;

(4) have one year of full-time experience in management or supervision of child-care personnel and programs; and

(5) have one of the following educational and experience qualifications:

(A) a master's or doctoral degree in social work or other area of study; or

(B) a bachelor's degree and two years' full-time experience in child care or a closely related field.

(b) To be eligible for a child-placing agency administrator's license a person must:

(1) provide information for the department's use in conducting a criminal history and background check under Subsection (c), including a complete set of the person's fingerprints;

(2) satisfy the minimum requirements under department rules relating to criminal history and background checks;

(3) pass an examination developed and administered by the department that demonstrates competence in the field of placing children in residential settings or adoptive homes;

(4) have one year of full-time experience in management or supervision of child-placing personnel and programs; and

(5) have one of the following educational and experience qualifications:

(A) a master's or doctoral degree in social work or other area of study; or

(B) a bachelor's degree and two years' full-time experience in the field of placing children in residential settings or adoptive homes or a closely related field.

(c) Before the department issues a license under this chapter, the department must conduct a criminal history and background check of the applicant using:

(1) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the

Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(2) the information in the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code.

(d) The executive commissioner shall adopt rules consistent with Section 42.056 relating to requiring a criminal history and background check before issuing or renewing a license under this chapter.

Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.114(a), eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 7, eff. September 1, 2013.

Sec. 43.0041. EXAMINATION RESULTS. (a) Not later than the 30th day after the date on which a licensing examination is administered under this chapter, the department shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the department shall notify examinees of the results of the examination not later than the 14th day after the date on which the department receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the department shall notify the examinee of the reason for the delay before that 90th day.

(b) If requested in writing by a person who fails a licensing examination administered under this chapter, the department shall furnish the person with an analysis of the person's performance on the examination.

(c) A person who fails an examination three times may not submit a new application for a license until after the first anniversary of the date the person last failed the examination.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 4.11, eff. Sept. 1, 1987.

Amended by:
Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.115(a), eff. September 1, 2005.

Sec. 43.0042. RECOGNITION OF LICENSE ISSUED BY ANOTHER STATE. (a) The department may waive any prerequisite to obtaining a license for an applicant:

(1) after reviewing the applicant's credentials and determining that the applicant holds a valid license from another state that has license requirements substantially equivalent to those of this state; or

(2) after determining the applicant has a valid license from another state with which this state has a reciprocity agreement.

(b) The department may enter into an agreement with another state to permit licensing by reciprocity.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 44, eff. Sept. 1, 1997.

Sec. 43.005. RULES. The executive commissioner may adopt rules to administer the provisions of this chapter.

Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.248, eff. April 2, 2015.

Sec. 43.0055. COMPETITIVE BIDDING OR ADVERTISING RULES. (a) The executive commissioner may not adopt rules restricting competitive bidding or advertising by a license holder except to prohibit false, misleading, or deceptive practices.

(b) Rules to prohibit false, misleading, or deceptive practices may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a license holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license holder; or

(4) restricts the license holder's advertisement under a trade name.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 45, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.249, eff. April 2, 2015.

Sec. 43.006. FEES. The executive commissioner by rule may set and the department may collect fees for administering an examination and issuing an initial license, renewal license, or provisional license in amounts necessary to cover the costs of administering this chapter.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 386, ch. 81, Sec. 13(a), eff. Sept. 1, 1983; Acts 1997, 75th Leg., ch. 1022, Sec. 46, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.250, eff. April 2, 2015.

Sec. 43.007. LICENSE APPLICATION. (a) A person who has the education and experience required by Section 43.004 of this code may apply to the department for a license.
(b) The applicant shall send the appropriate license fee with the application.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 386, ch. 81, Sec. 13(b), eff. Sept. 1, 1983.

Sec. 43.008. LICENSING. (a) The department shall issue a license to a person who has satisfied all the licensing requirements.
(b) The license is valid for a period of two years from the date issued.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1,

1979.

Sec. 43.0081. PROVISIONAL LICENSE. (a) The department may issue a provisional child-care administrator's license to an applicant licensed in another state who applies for a license in this state. An applicant for a provisional license under this section must:

(1) be licensed in good standing as a child-care administrator for at least two years in another state, the District of Columbia, a foreign country, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(2) have passed a national or other examination recognized by the department that demonstrates competence in the field of child-care administration; and

(3) be sponsored by a person licensed by the department under this chapter with whom the provisional license holder may practice under this section.

(b) The department may waive the requirement of Subsection (a)(3) for an applicant if the department determines that compliance with that subsection constitutes a hardship to the applicant.

(c) A provisional license is valid until the date the department approves or denies the provisional license holder's application for a license. The department shall issue a license under this chapter to the provisional license holder if:

(1) the provisional license holder passes the examination required by Section 43.004;

(2) the department verifies that the provisional license holder has the academic and experience requirements for a license under this chapter; and

(3) the provisional license holder satisfies any other license requirements under this chapter.

(d) The department must complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The department may extend the 180-day limit if the results of the license holder's examination have not been received by the department.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 47, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.116, eff. September 1, 2005.

Sec. 43.009. LICENSE RENEWAL. (a) To be eligible for license renewal, a license holder shall:

(1) present evidence to the department of participation in a program of continuing education for 15 hours of formal study each year during the two-year period before the renewal; and

(2) provide information for the department's use in conducting a criminal history and background check under Section 43.004(c) and applicable department rules, including a complete set of the person's fingerprints.

(b) The department shall recognize, prepare, or administer continuing education programs for license holders. The continuing education requirement may be fulfilled by studies in the areas of legal aspects of child care, concepts related to the field of social work, or other subjects approved by the department.

(c) A person who is otherwise eligible to renew a license may renew an unexpired license by paying to the department before the expiration date of the license the required renewal fee. A person whose license has expired may not engage in the activities that require a license until the license has been renewed under the provisions of this section.

(d) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the department one and one-half times the required renewal fee.

(e) If a person's license has been expired for longer than 90 days but less than one year, the person may renew the license by paying to the department two times the required renewal fee.

(f) If a person's license has been expired for one year or longer, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license. If the person was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application, the person may renew an expired license without reexamination. The person must pay to the department a fee that is equal to two times the required renewal fee for the

license.

(g) At least 30 days before the expiration of a person's license, the department shall send written notice of the impending license expiration to the person at the licensee's last known address according to the records of the department.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 386, ch. 81, Sec. 13(c), eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 1052, Sec. 4.12, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1022, Sec. 48, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.117(a), eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 8, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.251, eff. April 2, 2015.

Sec. 43.010. LICENSE DENIAL, REVOCATION, SUSPENSION, OR REFUSAL TO RENEW; REPRIMAND OR PROBATION. (a) The department may deny, revoke, suspend, or refuse to renew a license, or place on probation or reprimand a license holder for:

(1) violating this chapter or a rule adopted under this chapter;

(2) circumventing or attempting to circumvent the requirements of this chapter or a rule adopted under this chapter;

(3) engaging in fraud or deceit related to the requirements of this chapter or a rule adopted under this chapter;

(4) providing false or misleading information to the department during the license application or renewal process for any person's license;

(5) making a statement about a material fact during the license application or renewal process that the person knows or should know is false;

(6) having:

(A) a criminal history or central registry record that would prohibit a person from working in a child-care facility, as defined by Section 42.002, under rules applicable to that type of

facility; or

(B) a criminal history relevant to the duties of a licensed child-care or child-placing administrator, as those duties are specified in rules adopted by the executive commissioner;

(7) using drugs or alcohol in a manner that jeopardizes the person's ability to function as an administrator;

(8) performing duties as a child-care administrator in a negligent manner; or

(9) engaging in conduct that makes the license holder ineligible for:

(A) a permit under Section 42.072; or

(B) employment as a controlling person or service in that capacity in a facility or family home under Section 42.062.

(b) A person whose license is revoked under Subsection (a) is not eligible to apply for another license under this chapter for a period of five years after the date the license was revoked.

(c) Repealed by Acts 2005, 79th Leg., Ch. 268, Sec. 1.129(5), eff. September 1, 2005.

(d) If a license holder is placed on probation, the department may require the license holder:

(1) to report regularly to the department on the conditions of the probation;

(2) to limit practice to the areas prescribed by the department; or

(3) to continue or renew professional education until the practitioner attains a degree of skill satisfactory to the department in those areas in which improvement is a condition of the probation.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 4.13, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1022, Sec. 49, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.118, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.119(a), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.129(5), eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 11, eff.

September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 746 (S.B. 427), Sec. 9, eff. September 1, 2013.

Sec. 43.0105. REVOCATION OF PROBATION. The department may revoke the probation of a license holder if the license holder violates a term of the conditions of probation.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 50, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.120, eff. September 1, 2005.

Sec. 43.0106. ADMINISTRATIVE HEARING. (a) If the department denies a license or proposes to suspend, revoke, or refuse to renew a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. Rules of practice adopted by the executive commissioner under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

(b) A person may not continue to operate as a licensed child-care administrator or child-placing agency administrator during the appeal process if the department determines that the person is an immediate threat to the health or safety of a child.

(c) The department must notify the person, and if applicable, the governing body of the facility that employs the person, of the department's determination under Subsection (b).

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 50, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.121, eff. September 1, 2005.

Sec. 43.011. APPEALS. (a) A person whose license application is denied or whose license is revoked is entitled to written notice

of the reasons and may request that the department provide a hearing.

(b) The hearing shall be held within 30 days after the date the department receives the request.

(c) If the hearing results in the department upholding the license denial or revocation, the person may challenge the department's decision by filing suit in a district court in the county where the person resides within 30 days after the date the person receives notice of the department's final decision.

(d) The trial shall be de novo.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 43.012. PENALTY. A person who serves as a child-care or child-placing agency administrator without the license required by this chapter commits a Class C misdemeanor.

Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 8, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.122, eff. September 1, 2005.

CHAPTER 44. ADMINISTRATION OF FEDERAL AND STATE DAY-CARE PROGRAMS

SUBCHAPTER A. FEDERALLY ESTABLISHED DAY-CARE PROGRAMS

Sec. 44.001. DESIGNATED AGENCY. The Texas Workforce Commission is the state agency designated to administer a day-care program established by federal law and financed partially or totally by federal funds.

Acts 1979, 66th Leg., p. 2370, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 8.024, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.64, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

Sec. 44.002. ADMINISTRATIVE RULES. (a) The Texas Workforce Commission shall promulgate rules to carry out the administrative provisions of the program consistent with federal law and regulations.

(b) The rules must include procedures to allow operators of day-care centers to review and comment on proposed rules and policies.

Acts 1979, 66th Leg., p. 2370, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th leg., ch. 717, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 8.025, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.65, eff. Sept. 1, 1995. Amended by:

Acts 2005, 79th Leg., Ch. 228 (H.B. 2961), Sec. 1, eff. May 27, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

Sec. 44.003. ADMINISTRATION OF FEDERAL-LOCAL PROGRAM. (a) If the program is to be funded through political subdivisions of the state or local agencies approved by the Texas Workforce Commission matching federal grants, the Texas Workforce Commission shall promulgate procedures for effective delivery of services consistent with this section and with federal law and regulations.

(b) If the services are provided through contracting with operators of day-care programs on request from political subdivisions or local agencies, the Texas Workforce Commission may not promulgate standards for selection of the type of programs more restrictive than required by federal law or regulations.

(c) The executive director of the Texas Workforce Commission shall establish an accounting system consistent with federal law and regulations which will provide that an operator of a day-care program contracting with the Texas Workforce Commission:

(1) shall receive prepayment in accordance with policies and procedures mutually agreed on by the comptroller and the Texas Workforce Commission; and

(2) shall be paid on the basis of legitimate and reasonable expenses, insofar as possible, given federal regulations and department policy, instead of being paid on the basis of the number

of children attending or the number of children enrolled in the program, provided that on being monitored by the Texas Workforce Commission, the contracting operator can substantiate that there were sufficient preparations in the development of the services offered.

(d) The executive director of the Texas Workforce Commission shall establish procedures for hearing complaints by operators of day-care programs contracting with the Texas Workforce Commission relating to the failure of the Texas Workforce Commission to comply with Subsection (c).

Acts 1979, 66th Leg., p. 2370, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 8.026, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.66, eff. Sept. 1, 1995. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

SUBCHAPTER B. DAY-CARE CENTERS

Sec. 44.031. ESTABLISHMENT. (a) The Texas Workforce Commission may establish day-care centers for all children who qualify for services under Section 44.032. Where in the opinion of the executive director of the Texas Workforce Commission it appears feasible for the furtherance of the objectives of this legislation, the Texas Workforce Commission may establish cooperative agreements with other state agencies.

(b) The Texas Workforce Commission is not required to establish a day-care center or to provide services under this subchapter unless funds are appropriated for that purpose.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.027, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.67, eff. Sept. 1, 1995. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

Sec. 44.032. ELIGIBILITY. (a) Except as provided by Subsection (b), to be eligible for admission to a day-care center

authorized under this subchapter, a child must be at least six weeks of age and:

(1) the child must be eligible for state assistance under the aid to families with dependent children program and the child's caretaker must be employed, enrolled in a job training program authorized by the Texas Workforce Commission, registered to work by the Texas Workforce Commission, or permanently and totally disabled; or

(2) the child must be from a family eligible under federal law or regulations to participate in a partially or totally federally funded welfare or social services program.

(b) Additional children of the same age group may also be admitted to a center under additional standards established by the Texas Workforce Commission.

(c) To reduce rapid turnover of children in care and to ensure maximum stability for the child to the extent possible within federal guidelines, once a child meets the initial eligibility standards and is enrolled in a child-care program, the child remains eligible for not less than one year after the date of enrollment.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.028, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.68, eff. Sept. 1, 1995. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

Sec. 44.033. FEES. (a) A fee for services rendered by the day-care center may not be charged for a child who is eligible for state assistance under the aid to families with dependent children program.

(b) A fee that is scaled to family income for services rendered by the day-care program may be charged for a child who is not eligible for state assistance under the aid to families with dependent children program.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

Sec. 44.034. STANDARDS; RECOMMENDATIONS. (a) If the Texas Workforce Commission establishes day-care centers under this subchapter, the department shall prescribe standards of operation and performance for the centers that will ensure proper nutrition, social adjustment, health services, and appropriate growth and development for children admitted.

(b) The executive director of the Texas Workforce Commission shall prescribe procedures for receiving recommendations relating to the operation of the centers from parents, guardians, or custodians of children admitted to the centers, operators of the centers, and other interested persons.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.029, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.69, eff. Sept. 1, 1995. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

Sec. 44.035. CONTRACTS. (a) The executive director of the Texas Workforce Commission may contract for services authorized under this subchapter with an individual, organization, association, or corporation meeting the standards established under Section 44.034 and the standards for child-care facilities licensed by the department.

(b) The fees paid to the center under the contract may not exceed the amount it would cost the state to provide the same services.

(c) The executive director of the Texas Workforce Commission shall terminate a contract with a day-care center that fails to maintain the department's standards.

(d) When the executive director of the Texas Workforce Commission intends to cancel a contract with a day-care center, the executive director shall give the center reasonable notice and an opportunity for a hearing if one is requested. The Texas Workforce Commission shall adopt rules consistent with Chapter 2001, Government Code, to implement this section. Hearings under this section are

contested cases under that chapter.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), 8.030, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.70, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

Sec. 44.036. ANNUAL EVALUATION OF DAY-CARE CENTERS. If the Texas Workforce Commission establishes day-care centers or provides services under this subchapter, the Texas Workforce Commission, with the assistance of the department, shall evaluate the performance of the centers each state fiscal year. This evaluation shall be sent to the governor and to the Legislative Budget Board not later than the 100th day after the last day of the state fiscal year covered by the evaluation.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.031, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.71, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

CHAPTER 45. PROTECTION OF RIGHTS OF CONSCIENCE FOR CHILD WELFARE SERVICES PROVIDERS

Sec. 45.001. LEGISLATIVE INTENT. It is the intent of the legislature to maintain a diverse network of service providers that offer a range of foster capacity options and that accommodate children from various cultural backgrounds. To that end, the legislature expects reasonable accommodations to be made by the state to allow people of diverse backgrounds and beliefs to be a part of meeting the needs of children in the child welfare system. Decisions regarding the placement of children shall continue to be made in the best interest of the child, including which person is best able to provide for the child's physical, psychological, and emotional needs and development.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

Sec. 45.002. DEFINITIONS. In this chapter:

(1) "Adverse action" means any action that directly or indirectly adversely affects the person against whom the adverse action is taken, places the person in a worse position than the person was in before the adverse action was taken, or is likely to deter a reasonable person from acting or refusing to act. An adverse action includes:

(A) denying an application for, refusing to renew, or canceling funding;

(B) declining to enter into, refusing to renew, or canceling a contract;

(C) declining to issue, refusing to renew, or canceling a license;

(D) terminating, suspending, demoting, or reassigning a person; and

(E) limiting the ability of a person to engage in child welfare services.

(2) "Catchment area" means a geographic service area for providing child protective services or child welfare services.

(3) "Child welfare services" means social services provided to or on behalf of children, including:

(A) assisting abused or neglected children;

(B) counseling children or parents;

(C) promoting foster parenting;

(D) providing foster homes, general residential operations, residential care, adoptive homes, group homes, or temporary group shelters for children;

(E) recruiting foster parents;

(F) placing children in foster homes;

(G) licensing foster homes;

(H) promoting adoption or recruiting adoptive parents;

(I) assisting adoptions or supporting adoptive families;

(J) performing or assisting home studies;

(K) assisting kinship guardianships or kinship caregivers;

(L) providing family preservation services;
(M) providing family support services;
(N) providing temporary family reunification services;
(O) placing children in adoptive homes; and
(P) serving as a foster parent.

(4) "Child welfare services provider" means a person, other than a governmental entity, that provides, seeks to provide, or applies for or receives a contract, subcontract, grant, subgrant, or cooperative agreement to provide child welfare services. The person is not required to be engaged exclusively in child welfare services to be a child welfare services provider.

(5) "Governmental entity" means:

(A) this state or a municipality or other political subdivision of this state;

(B) any agency of this state or of a municipality or other political subdivision of this state, including a department, bureau, board, commission, office, agency, council, and public institution of higher education; or

(C) a single source continuum contractor in this state providing services identified under Section 264.126, Family Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

Sec. 45.003. APPLICABILITY. (a) This chapter applies to any ordinance, rule, order, decision, practice, or other exercise of governmental authority.

(b) This chapter applies to an act of a governmental entity, in the exercise of governmental authority, granting or refusing to grant a government benefit to a child welfare services provider.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

Sec. 45.004. CHILD WELFARE SERVICES PROVIDERS PROTECTED. A governmental entity or any person that contracts with this state or operates under governmental authority to refer or place children for child welfare services may not discriminate or take any adverse action against a child welfare services provider on the basis, wholly

or partly, that the provider:

(1) has declined or will decline to provide, facilitate, or refer a person for child welfare services that conflict with, or under circumstances that conflict with, the provider's sincerely held religious beliefs;

(2) provides or intends to provide children under the control, care, guardianship, or direction of the provider with a religious education, including through placing the children in a private or parochial school or otherwise providing a religious education in accordance with the laws of this state;

(3) has declined or will decline to provide, facilitate, or refer a person for abortions, contraceptives, or drugs, devices, or services that are potentially abortion-inducing; or

(4) refuses to enter into a contract that is inconsistent with or would in any way interfere with or force a provider to surrender the rights created by this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

Sec. 45.005. SECONDARY SERVICES PROVIDERS AND REFERRALS. (a) A child welfare services provider may not be required to provide any service that conflicts with the provider's sincerely held religious beliefs.

(b) A governmental entity or any person that operates under governmental authority to refer or place children for child welfare services shall:

(1) ensure that a secondary child welfare services provider is available in that catchment area to provide a service described by Subsection (a) to a child; or

(2) if there is an insufficient number of secondary services providers willing or available in that catchment area to provide that service, provide for one or more secondary services providers in a nearby catchment area.

(c) A child welfare services provider who declines to provide a child welfare service as authorized by this section shall:

(1) provide to the person seeking the service written information directing the person to:

(A) the web page on the department's Internet website

that includes a list of other licensed child welfare services providers; or

(B) other information sources that identify other licensed child welfare services providers who provide the service being denied;

(2) refer the applicant to another licensed child welfare services provider who provides the service being denied; or

(3) refer the applicant to the department or to a single source continuum contractor to identify and locate a licensed child welfare services provider who provides the service being denied.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

Sec. 45.006. PRIVATE RIGHT OF ACTION. A child welfare services provider may assert an actual or threatened violation of this chapter as a claim or defense in a judicial or administrative proceeding and obtain the relief specified in Section 45.007.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

Sec. 45.007. REMEDIES. (a) A child welfare services provider who successfully asserts a claim or defense under this chapter is entitled to recover:

(1) declaratory relief under Chapter 37, Civil Practice and Remedies Code; or

(2) injunctive relief to prevent the threatened or continued adverse action.

(b) A person may not bring an action for declaratory or injunctive relief against an individual, other than an action brought against an individual acting in the individual's official capacity.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

Sec. 45.008. IMMUNITY WAIVED. (a) Sovereign and governmental immunity to suit are waived.

(b) Notwithstanding Subsection (a), this chapter does not waive or abolish sovereign immunity to suit under the Eleventh Amendment to the United States Constitution.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

Sec. 45.009. EFFECT ON RIGHTS; CONSTRUCTION OF LAW. (a) This chapter may not be construed to authorize a governmental entity to burden a person's free exercise of religion.

(b) The protections of religious freedom afforded by this chapter are in addition to the protections provided under federal or state law and the constitutions of this state and the United States.

(c) This chapter may not be construed to supersede any law of this state that is equally as protective of religious beliefs as, or more protective of religious beliefs than, this chapter.

(d) This chapter may not be considered to narrow the meaning or application of any other law protecting religious beliefs.

(e) This chapter may not be construed to prevent law enforcement officers from exercising duties imposed on the officers under the Family Code and the Penal Code.

(f) This chapter may not be construed to allow a child welfare services provider to decline to provide, facilitate, or refer a person for child welfare services on the basis of that person's race, ethnicity, or national origin.

(g) This chapter may not be construed to allow a child welfare services provider to deprive a minor of the rights, including the right to medical care, provided by Chapters 32, 263, and 266, Family Code.

(h) This chapter may not be construed to prohibit the department from:

(1) exercising its duty as the child's managing conservator to make decisions in the child's best interest; or

(2) obtaining necessary child welfare services from an alternate child welfare services provider.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

Sec. 45.010. INTERPRETATION. This chapter shall be liberally construed to effectuate its remedial and deterrent purposes.

Added by Acts 2017, 85th Leg., R.S., Ch. 1152 (H.B. 3859), Sec. 1, eff. September 1, 2017.

CHAPTER 48. INVESTIGATIONS AND PROTECTIVE SERVICES FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 48.001. PURPOSE. The purpose of this chapter is to provide for the authority to investigate the abuse, neglect, or exploitation of an elderly person or person with a disability and to provide protective services to that person.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 303, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 907, Sec. 2, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.254, eff. April 2, 2015.

Sec. 48.002. DEFINITIONS. (a) Except as otherwise provided under Section 48.251, in this chapter:

(1) "Elderly person" means a person 65 years of age or older.

(2) "Abuse" means:

(A) the negligent or wilful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to an elderly person or person with a disability by the person's caretaker, family member, or other individual who has an ongoing relationship with the person; or

(B) sexual abuse of an elderly person or person with a disability, including any involuntary or nonconsensual sexual conduct that would constitute an offense under Section 21.08, Penal Code (indecent exposure) or Chapter 22, Penal Code (assaultive offenses), committed by the person's caretaker, family member, or other individual who has an ongoing relationship with the person.

(3) "Exploitation" means the illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship with an elderly person or person with a disability that involves using, or attempting to use, the resources of the elderly person or person with a disability, including the person's social security number or other identifying information, for monetary or personal benefit, profit, or gain without the informed consent of the person.

(4) "Neglect" means the failure to provide for one's self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide such goods or services.

(5) "Protective services" means the services furnished by the department or by another protective services agency to an elderly person or person with a disability who has been determined to be in a state of abuse, neglect, or exploitation or to a relative or caretaker of an elderly person or person with a disability if the department determines the services are necessary to prevent the elderly person or person with a disability from returning to a state of abuse, neglect, or exploitation. These services may include social casework, case management, and arranging for psychiatric and health evaluation, home care, day care, social services, health care, respite services, and other services consistent with this chapter. The term does not include the services of the department or another protective services agency in conducting an investigation regarding alleged abuse, neglect, or exploitation of an elderly person or person with a disability.

(6) "Protective services agency" means a public or private agency, corporation, board, or organization that provides protective services to elderly persons or persons with disabilities in the state of abuse, neglect, or exploitation.

(7) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(55), eff. April 2, 2015.

(8) "Person with a disability" means a person with a mental, physical, or intellectual or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection and who is:

(A) 18 years of age or older; or

(B) under 18 years of age and who has had the disabilities of minority removed.

(9) "Legal holiday" means a state holiday listed in Subchapter B, Chapter 662, Government Code, or an officially declared county holiday.

(10) "Volunteer" means a person who:

(A) performs services for or on behalf of the department under the supervision of a department employee; and

(B) does not receive compensation that exceeds the authorized expenses the person incurs in performing those services.

(11) "Home and community-based services" has the meaning assigned by Section 48.251.

(b) The definitions of "abuse," "neglect," "exploitation," and "an individual receiving services" adopted by the executive commissioner as prescribed by Section 48.251(b) apply to an investigation of abuse, neglect, or exploitation conducted under Subchapter F.

(c) Except as provided by Subsection (b), the executive commissioner by rule may adopt definitions of "abuse," "neglect," and "exploitation," as an alternative to the definitions of those terms under Subsection (a), for purposes of conducting an investigation under this chapter or Chapter 142, Health and Safety Code.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 274, ch. 51, Sec. 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 264, Sec. 16, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 568, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 213, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(15), 8.041, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 303, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 51, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 907, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 6, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.255, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.256, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(55), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 9, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 10, eff. September 1, 2015.

Sec. 48.0021. REFERENCE TO COMMISSION OR EXECUTIVE COMMISSIONER. In this chapter:

(1) a reference to the Health and Human Services Commission means the Department of Family and Protective Services; and

(2) a reference to the executive commissioner means the commissioner of the Department of Family and Protective Services.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 35, eff. September 1, 2017.

Sec. 48.003. INVESTIGATIONS IN NURSING FACILITIES, ASSISTED LIVING FACILITIES, AND SIMILAR FACILITIES. (a) Except as provided by Subsection (c), this chapter does not apply if the alleged or suspected abuse, neglect, or exploitation occurs in a facility licensed under Chapter 242 or 247, Health and Safety Code.

(b) Alleged or suspected abuse, neglect, or exploitation that occurs in a facility licensed under Chapter 242 or 247, Health and Safety Code, is governed by Chapter 260A, Health and Safety Code, except as otherwise provided by Subsection (c).

(c) Subchapter F applies to an investigation of alleged or suspected abuse, neglect, or exploitation in which a provider of home and community-based services is or may be alleged to have committed the abuse, neglect, or exploitation, regardless of whether the facility in which those services were provided is licensed under Chapter 242 or 247, Health and Safety Code.

Added by Acts 1995, 74th Leg., ch. 303, Sec. 14, eff. Sept. 1, 1995. Renumbered from Sec. 48.085 and amended by Acts 1999, 76th Leg., ch.

907, Sec. 3, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.05(l), eff. September 28, 2011.
Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 3, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 11, eff. September 1, 2015.

Sec. 48.004. RISK ASSESSMENT. The executive commissioner by rule shall develop and maintain risk assessment criteria for use by department personnel in determining whether an elderly person or person with a disability is in imminent risk of abuse, neglect, or exploitation or in a state of abuse, neglect, or exploitation and needs protective services. The criteria must:

(1) provide for a comprehensive assessment of the person's:

(A) environmental, physical, medical, mental health, and financial condition;

(B) social interaction and support; and

(C) need for legal intervention; and

(2) specify the circumstances under which a caseworker must consult with a supervisor regarding a case.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.06, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.257, eff. April 2, 2015.

Sec. 48.005. MAINTENANCE OF RECORDS. Notwithstanding Chapter 441, Government Code, or any other law, and subject to the availability of funds, the department shall maintain in an electronic format a summary of all records related to investigations of reports made under Section 48.051 that includes only critical information with respect to those investigations that will enable the department to research the history of a person's involvement in the investigated cases.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.07, eff.

September 1, 2005.

Sec. 48.006. COMMUNITY SATISFACTION SURVEY. (a) Subject to the availability of funds, the department shall develop a community satisfaction survey that solicits information regarding the department's performance with respect to providing investigative and adult protective services. In each region, the department shall send the survey at least biennially to:

(1) stakeholders in the adult protective services system, including local law enforcement agencies and prosecutors' offices;

(2) protective services agencies, including nonprofit agencies; and

(3) courts with jurisdiction over probate matters.

(b) The department shall send the results of each region's survey to:

(1) the region for evaluation by regional and program administrators and implementation of changes necessary to address community concerns;

(2) the presiding judge of the statutory probate courts in that region; and

(3) courts with jurisdiction over probate matters in that region.

(c) The department may not include any confidential information in the results of the survey provided under Subsection (b)(2) or (3) unless ordered by a court.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.07, eff. September 1, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 7, eff. September 1, 2011.

Sec. 48.007. MEMORANDUM OF UNDERSTANDING REGARDING CERTAIN ABUSE, NEGLECT, OR EXPLOITATION INVESTIGATIONS. The commission, the department, the Department of Aging and Disability Services, the office of independent ombudsman for state supported living centers, and the commission's office of inspector general shall enter into a memorandum of understanding regarding investigations of alleged

abuse, neglect, or exploitation of residents or clients of state supported living centers or the ICF-IID component of the Rio Grande State Center that delineates the responsibilities of each agency and office under this chapter, Chapter 261, Family Code, and Chapter 555, Health and Safety Code, and amend the memorandum of understanding as necessary to reflect changes in those responsibilities. During the negotiation of the memorandum of understanding, the agencies and offices shall jointly determine whether the forensic training received by relevant staff of the Department of Family and Protective Services is adequate. Specifically, the agencies and offices shall assess and, if necessary, develop a plan to enhance the ability of department staff to identify and report incidences that constitute a potential criminal offense. The commission is the final arbiter of any dispute regarding the memorandum of understanding under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 25, eff. June 11, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.258, eff. April 2, 2015.

SUBCHAPTER B. REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION: IMMUNITIES

Sec. 48.051. REPORT. (a) Except as prescribed by Subsection (b), a person having cause to believe that an elderly person, a person with a disability, or an individual receiving services from a provider as described by Subchapter F is in the state of abuse, neglect, or exploitation shall report the information required by Subsection (d) immediately to the department.

(b) If a person has cause to believe that an elderly person or a person with a disability, other than an individual receiving services from a provider as described by Subchapter F, has been abused, neglected, or exploited in a facility operated, licensed, certified, or registered by a state agency, the person shall report the information to the state agency that operates, licenses, certifies, or registers the facility for investigation by that agency.

(c) The duty imposed by Subsections (a) and (b) applies without exception to a person whose knowledge concerning possible abuse,

neglect, or exploitation is obtained during the scope of the person's employment or whose professional communications are generally confidential, including an attorney, clergy member, medical practitioner, social worker, employee or member of a board that licenses or certifies a professional, and mental health professional.

(d) The report may be made orally or in writing. It shall include:

(1) the name, age, and address of the elderly person or person with a disability;

(2) the name and address of any person responsible for the care of the elderly person or person with a disability;

(3) the nature and extent of the condition of the elderly person or person with a disability;

(4) the basis of the reporter's knowledge; and

(5) any other relevant information.

(e) If a person who makes a report under this section chooses to give self-identifying information, the caseworker who investigates the report shall contact the person if necessary to obtain any additional information required to assist the person who is the subject of the report.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 1052, Sec. 5.02, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 247, Sec. 16, eff. June 14, 1989. Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 1052, Sec. 5.02, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 247, Sec. 16, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 14, Sec. 284(22), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 8.043, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 303, Sec. 6, 15(1), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 54, eff. Sept. 1, 1997. Renumbered from Sec. 48.036 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 5, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 205, Sec. 1, eff. May 21, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.08, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 26, eff.

June 11, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 395 (S.B. 152), Sec. 6, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.259, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 12, eff. September 1, 2015.

Sec. 48.052. FAILURE TO REPORT; PENALTY. (a) A person commits an offense if the person has cause to believe that an elderly person or person with a disability has been abused, neglected, or exploited or is in the state of abuse, neglect, or exploitation and knowingly fails to report in accordance with this chapter. An offense under this subsection is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the abused, neglected, or exploited person is a person with an intellectual disability who resided in a state supported living center, the ICF-IID component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the person had suffered serious bodily injury as a result of the abuse, neglect, or exploitation.

(b) This section does not apply if the alleged abuse, neglect, or exploitation occurred in a facility licensed under Chapter 242, Health and Safety Code. Failure to report abuse, neglect, or exploitation that occurs in a facility licensed under that chapter is governed by that chapter.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 5.03, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(21), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 303, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1278, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 48.0361 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 27, eff. June 11, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.260, eff.

April 2, 2015.

Sec. 48.053. FALSE REPORT; PENALTY. (a) A person commits an offense if the person knowingly or intentionally reports information as provided in this chapter that the person knows is false or lacks factual foundation.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 55, eff. Sept. 1, 1997. Renumbered from Sec. 48.0362 by Acts 1999, 76th Leg., ch. 907, Sec. 7, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 8, eff. September 1, 2011.

Sec. 48.054. IMMUNITY. (a) A person filing a report under this chapter or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

(b) A person, including an authorized department volunteer, medical personnel, or law enforcement officer, who at the request of the department participates in an investigation required by this chapter or in an action that results from that investigation is immune from civil or criminal liability for any act or omission relating to that participation if the person acted in good faith and, if applicable, in the course and scope of the person's assigned responsibilities or duties.

(c) A person who reports the person's own abuse, neglect, or exploitation of another person or who acts in bad faith or with malicious purpose in reporting alleged abuse, neglect, or exploitation is not immune from civil or criminal liability.

(d) An employer whose employee acts under Subsection (a) or (b) is immune from civil or criminal liability on account of an employee's report, testimony, or participation in any judicial proceedings arising from a petition, report, or investigation. This subsection does not apply to an employer who is the subject of an

investigation.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 303, Sec. 10, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 907, Sec. 8, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 205, Sec. 2, eff. May 21, 2001.

SUBCHAPTER C. CONFIDENTIALITY

Sec. 48.101. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION; AGENCY EXCHANGE OF INFORMATION. (a) The following information is confidential and not subject to disclosure under Chapter 552, Government Code:

(1) a report of abuse, neglect, or exploitation made under this chapter;

(2) the identity of the person making the report; and

(3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this chapter or in providing services as a result of an investigation.

(b) Confidential information may be disclosed only for a purpose consistent with this chapter and as provided by department or investigating state agency rule and applicable federal law.

(c) A court may order disclosure of confidential information only if:

(1) a motion is filed with the court requesting release of the information and a hearing on that request;

(2) notice of that hearing is served on the department or investigating state agency and each interested party; and

(3) the court determines after the hearing and an in camera review of the information that disclosure is essential to the administration of justice and will not endanger the life or safety of any individual who:

(A) is the subject of a report of abuse, neglect, or exploitation;

(B) makes a report of abuse, neglect, or exploitation; or

(C) participates in an investigation of reported abuse, neglect, or exploitation.

(d) The executive commissioner shall adopt rules providing for the release, on request, to a person who is the subject of a report of abuse, neglect, or exploitation or to that person's legal representative of otherwise confidential information relating to that report. The department or investigating state agency shall edit the information before release to protect the confidentiality of information relating to the reporter's identity and to protect any other individual whose safety or welfare may be endangered by disclosure.

(d-1) Subject to Subsection (e-1), the executive commissioner shall adopt rules providing for the release, on request, by the department or investigating state agency of otherwise confidential information relating to a person who is the subject of a report or investigation of abuse, neglect, or exploitation or to whom the department has provided protective services, to:

(1) a court that has a matter pending before it that involves the person;

(2) the attorney ad litem or any other legal representative, other than a guardian, appointed for the person; and

(3) the person's legal guardian.

(e) The executive commissioner may adopt rules relating to the release of information by the department or investigating state agency that is contained in the record of a deceased individual who was the subject of an investigation conducted by the department or investigating state agency or to whom the department has provided protective services. The rules must be consistent with the purposes of this chapter and any applicable state or federal law. The executive commissioner shall adopt rules, subject to Subsection (e-1), that provide for the release, on request, of otherwise confidential information in the deceased person's record to the personal representative appointed for the person's estate.

(e-1) Information released by the department or an investigating state agency under Subsection (d-1) or to a personal representative under Subsection (e) may not include the identity of the person who made the report of abuse, neglect, or exploitation.

(f) The department or investigating state agency may establish procedures to exchange with another state agency or governmental entity information that is necessary for the department, state agency, or entity to properly execute its respective duties and responsibilities to provide services to elderly persons or persons

with disabilities under this chapter or other law. An exchange of information under this subsection does not affect whether the information is subject to disclosure under Chapter 552, Government Code.

(g) The department may establish procedures to exchange with a community service provider or local governmental entity confidential information relating to a report made under Section 48.051(a) that is necessary for the department, provider, or entity to provide protective services, health care services, housing services, or social services to the person who is the subject of the report. An exchange of information under this subsection does not affect whether the information is subject to disclosure under Chapter 552, Government Code.

(g-1) The executive commissioner by rule shall provide policies and procedures that are designed to guard against the unauthorized release or dissemination of confidential information that is exchanged under Subsection (g).

Added by Acts 1995, 74th Leg., ch. 303, Sec. 14, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 58, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 907, Sec. 10, eff. Sept. 1, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.09, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.261, eff. April 2, 2015.

Sec. 48.102. REPORTS OF INVESTIGATIONS IN SCHOOLS. (a) The department shall send a written report of the department's investigation of alleged abuse, neglect, or exploitation of an adult with a disability at a school, as appropriate, to the Texas Education Agency, the agency responsible for teacher certification, the local school board or the school's governing body, and the school principal or director, unless the principal or director is alleged to have committed the abuse, neglect, or exploitation. The entity to which the report is sent shall take appropriate action.

(b) On request, the department shall provide a copy of the report of the investigation to the person who is alleged to have suffered the abuse, neglect, or exploitation, to the legal guardian

of that person, and to the person alleged to have committed the abuse, neglect, or exploitation.

(c) The report of the investigation shall be edited to protect the identity of the person who made the report under Section 48.051.

(d) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 12, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.262, eff. April 2, 2015.

Sec. 48.103. NOTIFICATION OF LICENSING OR CONTRACTING AGENCY. (a) Except as otherwise provided by Subsection (c), on determining after an investigation that an elderly person or a person with a disability has been abused, exploited, or neglected by an employee of a home and community support services agency licensed under Chapter 142, Health and Safety Code, the department shall:

(1) notify the state agency responsible for licensing the home and community support services agency of the department's determination;

(2) notify any health and human services agency, as defined by Section 531.001, Government Code, that contracts with the home and community support services agency for the delivery of health care services of the department's determination; and

(3) provide to the licensing state agency and any contracting health and human services agency access to the department's records or documents relating to the department's investigation.

(b) Providing access to a confidential record or document under this section does not constitute a waiver of confidentiality.

(c) This section does not apply to an investigation of alleged or suspected abuse, neglect, or exploitation in which a provider, as defined by Section 48.251, is or may be alleged to have committed the abuse, neglect, or exploitation. An investigation described by this subsection is governed by Subchapter F.

Added by Acts 1999, 76th Leg., ch. 276, Sec. 13, eff. Sept. 1, 1999.
Renumbered from Sec. 48.0381 by Acts 2001, 77th Leg., ch. 75, Sec. 1, eff. May 14, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.263, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 13, eff. September 1, 2015.

SUBCHAPTER D. INVESTIGATIONS BY ALL AGENCIES

Sec. 48.151. ACTION ON REPORT. (a) Not later than 24 hours after the department receives a report of an allegation of abuse, neglect, or exploitation under Section 48.051, the department shall initiate a prompt and thorough investigation as needed to evaluate the accuracy of the report and to assess the need for protective services, unless the department determines that the report:

(1) is frivolous or patently without a factual basis; or

(2) does not concern abuse, neglect, or exploitation, as those terms are defined by rules adopted by the executive commissioner under Section 48.002(c), except that if the executive commissioner has not adopted applicable rules under that section, the statutory definitions of those terms under Section 48.002(a) shall be used.

(b) The executive commissioner shall adopt rules for conducting investigations under this chapter.

(c) The executive commissioner by rule may assign priorities and prescribe investigative procedures for conducting investigations according to the degree of severity and immediacy of the alleged harm to the individual. Notwithstanding Subsection (a), the priorities and procedures may provide that an investigation is not required to be initiated within 24 hours in all cases.

(d) The department shall prepare and keep on file a report of each investigation conducted by the department.

(e) This section does not apply to investigations conducted under Subchapter F.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 1052, Sec. 5.04, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 303, Sec. 8, eff. Sept. 1,

1995; Acts 1997, 75th Leg., ch. 1022, Sec. 56, eff. Sept. 1, 1997. Renumbered from Sec. 48.037 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 14, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 9, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.264, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 6, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 14, eff. September 1, 2015.

Sec. 48.152. INVESTIGATION. (a) An investigation by the department or a state agency shall include an interview with the elderly person or person with a disability, if appropriate, and with persons thought to have knowledge of the circumstances. If the elderly person or person with a disability refuses to be interviewed or cannot be interviewed because of a physical or mental impairment, the department shall continue the investigation by interviewing other persons thought to have knowledge relevant to the investigation.
(b) The investigation may include an interview with an alleged juvenile perpetrator of the alleged abuse, neglect, or exploitation.
(c) The department or state agency may conduct an interview under this section in private or may include any person the department or agency determines is necessary.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 15, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 10, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.265, eff. April 2, 2015.

Sec. 48.1521. INVESTIGATION OF COMPLEX CASES. (a) The department shall develop and implement a system to ensure that, to the greatest extent possible, investigations conducted by the department that involve especially complex issues of abuse, neglect,

or exploitation, such as issues associated with identity theft and other forms of financial exploitation, are:

(1) assigned to personnel who have experience and training in those issues; and

(2) monitored by a special task unit for complex cases.

(b) Each county with a population of 250,000 or more shall appoint persons to serve as standing members of a special task unit to monitor cases that arise in the county and require monitoring as provided by Subsection (a). The standing members of each special task unit must include:

(1) a provider of mental health services or aging services or a representative of a nonprofit entity serving persons with disabilities;

(2) a representative of a law enforcement agency; and

(3) a legal expert.

(c) In addition to the standing members specified by Subsection (b), the special task unit:

(1) must include, for purposes of monitoring a particular case, the caseworker on the case and the caseworker's supervisor; and

(2) may include a financial forensics expert and any other person with expertise that would be useful in monitoring a particular case.

(d) The department shall develop and make available to each county described by Subsection (b) a manual to assist the county in establishing and operating the special task unit required by this section. The manual must describe:

(1) the purpose and potential benefits of the unit;

(2) a description of the monitoring process the unit is expected to follow and potential problems the unit may encounter;

(3) the composition and administration of the unit; and

(4) the department's criteria for selecting cases to be monitored by the unit.

(e) Before the special task unit makes a recommendation that a guardian be appointed for a person in a case being monitored by the unit, the unit shall thoroughly consider all less-restrictive alternatives for legal intervention in the case.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.10(a), eff. September 1, 2005.

Sec. 48.1522. REPORTS OF CRIMINAL CONDUCT TO LAW ENFORCEMENT AGENCY. (a) Except as provided by Subsection (b), if during the course of the department's or another state agency's investigation of reported abuse, neglect, or exploitation a caseworker of the department or other state agency, as applicable, or the caseworker's supervisor has cause to believe that the elderly person or person with a disability has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, the caseworker or supervisor shall:

(1) immediately notify an appropriate law enforcement agency, unless the law enforcement agency reported the alleged abuse, neglect, or exploitation to the department; and

(2) provide the law enforcement agency with a copy of the investigation report of the department or other state agency, as applicable, in a timely manner.

(b) If during the course of the department's investigation of reported abuse, neglect, or exploitation a caseworker of the department or the caseworker's supervisor has cause to believe that a person with a disability who is a resident or client of a state supported living center or the ICF-IID component of the Rio Grande State Center has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, in addition to the report to the appropriate law enforcement agency required by Subsection (a), the caseworker shall immediately notify the commission's office of inspector general and promptly provide the commission's office of inspector general with a copy of the department's investigation report.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.11, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 28, eff. June 11, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 11, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.266, eff. April 2, 2015.

Sec. 48.1523. MANAGEMENT REVIEW FOLLOWING CERTAIN INVESTIGATIONS. If the department receives and investigates a report made under Section 48.051, the subject of which is a person with respect to whom the department received and investigated two previous reports under that section and closed those investigations, an adult protective services supervisor shall:

(1) classify the case as a recidivist case;

(2) review the reports and investigation files concerning that person; and

(3) assist the caseworker and supervisor investigating the third report in developing a long-term plan for resolving the issues involved in the case.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.12, eff. September 1, 2005.

Sec. 48.153. ACCESS TO INVESTIGATION. (a) To implement an investigation of reported abuse, neglect, or exploitation, the probate court, or the county court when no probate court exists, may authorize entry of the place of residence of the elderly person or person with a disability.

(b) A peace officer shall accompany and assist the person making a court-ordered entry under this section, if in the opinion of the court such action is necessary.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 15, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.267, eff. April 2, 2015.

Sec. 48.154. ACCESS TO RECORDS OR DOCUMENTS. (a) The department or another state agency, as appropriate, shall have access to any records or documents, including client-identifying information, financial records, and medical and psychological records, necessary to the performance of the department's or state agency's duties under this chapter. The duties include but are not limited to the investigation of abuse, neglect, or exploitation or the provisions of services to an elderly person or person with a disability. A person, agency, or institution that has a record or

document that the department or state agency needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to the department or state agency that requested the record or document.

(b) The department is exempt from the payment of a fee otherwise required or authorized by law to obtain a financial record from a person, agency, or institution or a medical record, including a mental health record, from a hospital or health care provider if the request for a record is made in the course of an investigation by the department.

(c) If the department or another state agency cannot obtain access to a record or document that is necessary to properly conduct an investigation or to perform another duty under this chapter, the department or state agency may petition the probate court or the statutory or constitutional county court having probate jurisdiction for access to the record or document.

(d) On good cause shown, the court shall order the person, agency, or institution who has a requested record or document to allow the department or state agency to have access to that record or document under the terms and conditions prescribed by the court.

(e) A person, agency, or institution who has a requested record or document is entitled to notice and a hearing on a petition filed under this section.

(f) Access to a confidential record under this section does not constitute a waiver of confidentiality.

Added by Acts 1993, 73rd Leg., ch. 651, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 303, Sec. 10, eff. Sept. 1, 1995. Renumbered from Sec. 48.0385 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 16, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 12, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.268, eff. April 2, 2015.

Sec. 48.155. INTERFERENCE WITH INVESTIGATION OR SERVICES PROHIBITED. (a) A person, including a guardian and notwithstanding Section 1151.001, Estates Code, may not interfere with:

(1) an investigation by the department or by another protective services agency of alleged abuse, neglect, or exploitation of an elderly person or person with a disability; or

(2) the provision of protective services to an elderly person or person with a disability.

(b) The department or another protective services agency may petition the appropriate court to enjoin any interference with:

(1) an investigation of alleged abuse, neglect, or exploitation; or

(2) the provision of protective services such as removal of the elderly person or person with a disability to safer surroundings or safeguarding the person's resources from exploitation.

Added by Acts 1995, 74th Leg., ch. 303, Sec. 14, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 59, eff. Sept. 1, 1997. Renumbered from Sec. 48.103 by Acts 1999, 76th Leg., ch. 907, Sec. 17, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.269, eff. April 2, 2015.

Sec. 48.156. AGENCY REPORTS. A protective services agency shall make reports relating to its provision of protective services as the department or a court may require.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983. Renumbered from Sec. 48.057 by Acts 1999, 76th Leg., ch. 907, Sec. 18, eff. Sept. 1, 1999.

Sec. 48.159. INTERNAL REVIEW OF DEPARTMENT INVESTIGATION. The department shall establish procedures for conducting an internal review of completed investigations conducted by the department under this chapter to:

(1) determine whether information obtained during the intake process was sufficient and accurate;

(2) assess whether telephone calls were appropriately routed;

(3) assess whether investigations were appropriately

classified and prioritized;

(4) evaluate the case reports for any special issues or requirements;

(5) assess whether appropriate law enforcement agencies were notified of any suspected criminal conduct; and

(6) identify other relevant information to enable the department to take any corrective action necessary to improve the process of conducting investigations under this chapter.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.13, eff. September 1, 2005.

SUBCHAPTER E. PROVISION OF SERVICES; EMERGENCY PROTECTION

Sec. 48.201. APPLICATION OF SUBCHAPTER. Except as otherwise provided, this subchapter does not apply to an investigation conducted under Subchapter F.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 21, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.270, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 7, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 15, eff. September 1, 2015.

Sec. 48.202. SERVICE DETERMINATION BY DEPARTMENT OR AGENCY. (a) In an investigation the department or state agency, as appropriate, shall determine:

(1) whether the person needs protective services from the department;

(2) what services are needed;

(3) whether services are available from the department, from the state agency, or in the community and how they can be provided;

(4) whether the person, acting alone, would be capable of obtaining needed services and could bear the cost or would be eligible for services from the department or state agency;

(5) whether a caretaker would be willing to provide

services or would agree to their provision;

(6) whether the elderly person or person with a disability desires the services;

(7) whether the person needs legal intervention to resolve the person's abuse, neglect, or exploitation and, if so, what type of intervention is needed; and

(8) other pertinent data.

(b) If the department or state agency, as appropriate, determines under Subsection (a)(1) that a person needs protective services, the department or agency shall, in determining how those services can be provided as required by Subsection (a)(3), determine whether the person may be eligible for community-based long-term services and supports and whether those services and supports are available. If the person is eligible for those services and supports, but the services and supports are not immediately available, the department or state agency shall ensure that the person is placed on an appropriate waiting list for the services and supports and that the person's abuse, neglect, or exploitation is resolved before the department closes the case.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 21, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.14, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.271, eff. April 2, 2015.

Sec. 48.203. VOLUNTARY PROTECTIVE SERVICES. (a) An elderly person or person with a disability may receive voluntary protective services if the person requests or consents to receive those services.

(b) The elderly person or person with a disability who receives protective services shall participate in all decisions regarding the person's welfare, if able to do so.

(c) The least restrictive alternatives should be made available to the elderly person or person with a disability who receives protective services.

(d) Except as provided by Section 48.208, if an elderly person or person with a disability withdraws from or refuses consent to

voluntary protective services, the services may not be provided.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983. Renumbered from Sec. 48.059 by Acts 1999, 76th Leg., ch. 907, Sec. 22, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 13, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.272, eff. April 2, 2015.

Sec. 48.204. AGENCY POWERS. A protective services agency may furnish protective services to an elderly person or person with a disability with the person's consent or to a relative or caretaker of the person on behalf of the person with the relative's or caregiver's consent or, if the elderly person or person with a disability lacks the capacity to consent, without that person's consent as provided by this chapter.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 303, Sec. 12, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 907, Sec. 23, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 14, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.273, eff. April 2, 2015.

Sec. 48.205. PROVISION OF SERVICES. (a) Subject to the availability of funds, the department shall provide direct protective services or contract with protective services agencies for the provision of those services.
(b) The department shall use existing resources and services of public and private agencies in providing protective services. If the department does not have existing resources to provide direct protective services to elderly persons or persons with disabilities,

the department, subject to the availability of funds, shall contract with protective services agencies for the provision of those services, especially to persons residing in rural or remote areas of this state or not previously served by the department.

(c) The department and law enforcement officials, courts, and agencies shall cooperate when providing protective services.

(d) The responsibilities prescribed by this chapter are exclusive of those designated to other state or federal agencies authorized or required by law to provide protective services to elderly persons or persons with disabilities determined to be in the state of abuse, neglect, or exploitation.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983. Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 905, Sec. 5, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 303, Sec. 4, eff. Sept. 1, 1995. Renumbered from Sec. 48.021 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 24, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.15, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.274, eff. April 2, 2015.

Sec. 48.206. COST OF SERVICES. If the elderly person or person with a disability receiving the protective services is determined to be financially able to contribute to the payments for those services, the provider shall receive a reasonable reimbursement from the person's assets.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983. Renumbered from Sec. 48.058 by Acts 1999, 76th Leg., ch. 907, Sec. 25, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.275, eff. April 2, 2015.

Sec. 48.207. OBJECTION TO MEDICAL TREATMENT. This chapter does not authorize or require any medical treatment of a person who objects on the grounds that he is an adherent or member of a recognized church or religious denomination the tenets and practice of which may include reliance solely upon spiritual means through prayer for healing.

Added by Acts 1995, 74th Leg., ch. 303, Sec. 14, eff. Sept. 1, 1995. Renumbered from Sec. 48.102 by Acts 1999, 76th Leg., ch. 907, Sec. 11, eff. Sept. 1, 1999.

Sec. 48.208. EMERGENCY ORDER FOR PROTECTIVE SERVICES. (a) For purposes of this section, a person lacks the capacity to consent to receive protective services if, because of mental or physical impairment, the person is incapable of understanding the nature of the services offered and agreeing to receive or rejecting protective services.

(b) If the department determines that an elderly person or person with a disability is suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety, that the person lacks capacity to consent to receive protective services, and that no consent can be obtained, the department may petition the probate or statutory or constitutional county court that has probate jurisdiction in the county in which the person resides for an emergency order authorizing protective services.

(c) The petition shall be verified and shall include:

(1) the name, age, and address of the elderly person or person with a disability who needs protective services;

(2) the nature of the abuse, neglect, or exploitation;

(3) the services needed; and

(4) a medical report signed by a physician stating that the person is suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety and stating that the person is physically or mentally incapable of consenting to services unless the court finds that an immediate danger to the person's health or safety exists and there is not sufficient time to obtain the medical report.

(c-1) Notwithstanding Subsection (c)(4), in lieu of a medical report described by Subsection (c)(4), the petition may include an assessment of the health status of the elderly person or person with

a disability as described by Subsection (c-2) or psychological status as described by Subsection (c-3), or a medical opinion of the person's health status as described by Subsection (c-4), if the department determines, after making a good faith effort, that a physician from whom the department may obtain the medical report is unavailable. The department shall ensure that the person who performs an assessment of the health or psychological status of the elderly person or person with a disability has training and experience in performing the applicable assessment.

(c-2) Except as provided by Subsection (c-4), an assessment of the health status of the elderly person or person with a disability must be performed by a physician assistant or advanced practice nurse. The person performing the assessment shall sign a report stating:

(1) that the elderly person or person with a disability is reported to be suffering from abuse, neglect, or exploitation, which may present a threat to the person's life or physical safety;

(2) whether the elderly person or person with a disability has provided the person's medical history to the physician assistant or advanced practice nurse, as applicable; and

(3) that in the professional opinion of the physician assistant or advanced practice nurse, as applicable, the issuance of an emergency order authorizing protective services without the consent of the elderly person or person with a disability is necessary under the circumstances.

(c-3) An assessment of the psychological status of the elderly person or person with a disability must be performed by a licensed professional counselor, licensed psychologist, or master social worker who has training and expertise in issues related to abuse, neglect, and exploitation. The person performing the assessment shall sign a report stating:

(1) that the elderly person or person with a disability is reported to be suffering from abuse, neglect, or exploitation, which may present a threat to the person's life or physical safety; and

(2) that in the professional opinion of the licensed professional counselor, licensed psychologist, or master social worker, as applicable, the issuance of an emergency order authorizing protective services without the consent of the elderly person or person with a disability is necessary under the circumstances.

(c-4) A registered nurse may perform a nursing assessment of

the health status of the elderly person or person with a disability. If the registered nurse, based on the registered nurse's professional nursing judgment, determines that the person is likely to be suffering from abuse, neglect, or exploitation, which may present a threat to the person's life or physical safety, the registered nurse shall report that assessment to a physician. After the registered nurse reports the assessment, the physician shall sign a written opinion stating whether:

(1) the elderly person or person with a disability is reported to be suffering from abuse, neglect, or exploitation, which may present a threat to the person's life or physical safety; and

(2) the issuance of an emergency order authorizing protective services without the consent of the elderly person or person with a disability is necessary under the circumstances.

(c-5) The physician may use the registered nurse's assessment of the health status of the elderly person or person with a disability as the basis of the physician's professional opinion under Subsection (c-4).

(d) On finding that there is reasonable cause to believe that abuse, neglect, or exploitation presents a threat to life or physical safety for the elderly person or person with a disability and that the person lacks capacity to consent to services, the court may:

(1) order removal of the person to safer surroundings;

(2) order medical services; and

(3) order other available services necessary to remove conditions creating the threat to life or physical safety, including the services of law enforcement officers or emergency medical services personnel.

(d-1) If the court renders an order that is based on a petition including an assessment under Subsection (c-2) or (c-3) or a medical opinion under Subsection (c-4), the court shall order that the elderly person or person with a disability be examined by a physician not later than 72 hours after the time the provision of protective services begins. After performing the examination, the physician shall sign and submit to the court a medical report stating the physician's opinion whether the person is:

(1) suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety; and

(2) physically or mentally incapable of consenting to services.

(e) The emergency order expires on the earlier of the end of the 10th day after the date the order is rendered or the end of the 10th day after the date the person was removed to safer surroundings if the emergency order was rendered subsequent to the removal of the person to safer surroundings in accordance with Subsection (h), unless:

(1) the emergency order terminates as provided by Subsection (e-1);

(2) the 10-day period ends on a Saturday, Sunday, or legal holiday in which event the order is automatically extended to 4 p.m. on the first succeeding business day; or

(3) the court extends the order as provided by Subsection (e-2).

(e-1) An emergency order that was rendered based on a petition that included an assessment under Subsection (c-2) or (c-3) or a medical opinion under Subsection (c-4) immediately terminates if the medical report issued under Subsection (d-1) states the physician's opinion that the elderly person or person with a disability:

(1) is not suffering from abuse, neglect, or exploitation presenting a threat to life or physical safety; or

(2) is physically or mentally capable of consenting to services.

(e-2) The court, after notice and a hearing, may extend an emergency order issued under this section, other than an emergency order that terminated as provided under Subsection (e-1), for a period of not more than 30 days after the date the original emergency order for protective services would have expired under Subsection (e). The court, after notice and a hearing and for good cause shown, may grant a second extension of an emergency order of not more than an additional 30 days. The court may not grant more than two extensions of the original emergency order. An extension order that ends on a Saturday, Sunday, or legal holiday is automatically extended to 4 p.m. on the first succeeding business day. The court may modify or terminate the emergency order on petition of the department, the incapacitated person, or any person interested in the person's welfare.

(f) Any medical facility, emergency medical services provider, or physician who provides treatment to or who transports an elderly person or person with a disability pursuant to an emergency order under Subsection (d) or an emergency authorization under Subsection

(h) is not liable for any damages arising from the treatment or transportation, except those damages resulting from the negligence of the facility, provider, or physician.

(g) The court shall appoint an attorney ad litem to represent the elderly person or person with a disability in any proceeding brought by the department under this section. A reasonable fee, as determined by the court, shall be paid to the attorney ad litem from the general fund of the county.

(h) If the department cannot obtain an emergency order under this section because the court is closed on a Saturday, Sunday, or legal holiday or after 5 p.m., the department may remove or authorize an appropriate transportation service, including an emergency medical services provider, to remove the elderly person or person with a disability to safer surroundings, authorize medical treatment, or authorize or provide other available services necessary to remove conditions creating the threat to life or physical safety. The department must obtain an emergency order under this section not later than 4 p.m. on the first succeeding business day after the date on which protective services are provided. If the department does not obtain an emergency order, the department shall cease providing protective services and, if necessary, make arrangements for the immediate return of the person to the place from which the person was removed, to the person's place of residence in the state, or to another suitable place.

(i) If the department's removal of a person from the person's place of residence under this section results in that residence being vacant, the department shall notify the appropriate law enforcement agency of the vacancy to facilitate the law enforcement agency's monitoring of the residence.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 568, Sec. 4, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 569, Sec. 1, eff. June 18, 1987; Acts 1991, 72nd Leg., ch. 213, Sec. 2 to 4, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 303, Sec. 13, eff. Sept. 1, 1995. Renumbered from Sec. 48.061 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 26, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 75, Sec. 2, eff. May 14, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 2.16, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 15, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 116 (S.B. 1236), Sec. 1, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 887 (H.B. 908), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.276, eff. April 2, 2015.

Sec. 48.209. REFERRAL FOR GUARDIANSHIP SERVICES. (a) The department shall refer an individual to the Department of Aging and Disability Services for guardianship services under Subchapter E, Chapter 161, if the individual is:

(1) a minor in the conservatorship of the department who:

(A) is 16 years of age or older; and

(B) the department has reason to believe will, because of a physical or mental condition, be substantially unable to provide for the individual's own food, clothing, or shelter, to care for the individual's own physical health, or to manage the individual's own financial affairs when the individual becomes an adult; or

(2) an elderly person or person with a disability who:

(A) has been found by the department to be in a state of abuse, neglect, or exploitation; and

(B) the department has reason to believe is an incapacitated person as defined by Section 1002.017(2), Estates Code.

(b) Notwithstanding Subsection (a), if a less restrictive alternative to guardianship is appropriate and available for the individual, the department shall pursue that alternative instead of making a referral to the Department of Aging and Disability Services for guardianship services.

(c) The department and the Department of Aging and Disability Services shall enter into a memorandum of understanding that sets forth in detail the roles and duties of each agency regarding the referral for guardianship services under Subsection (a) and the provision of guardianship services to individuals under Subchapter E, Chapter 161.

(d) Nothing in this section shall prohibit the department from

also making a referral of an individual to a court having probate jurisdiction in the county where the individual is domiciled or found, if the court has requested the department to notify the court of any individuals who may be appropriate for a court-initiated guardianship proceeding under Chapter 1102, Estates Code. In making a referral under this subsection and if requested by the court, the department shall, to the extent allowed by law, provide the court with all relevant information in the department's records relating to the individual. The court, as part of this process, may not require the department to:

(1) perform the duties of a guardian ad litem or court investigator as prescribed by Chapter 1102, Estates Code; or

(2) gather additional information not contained in the department's records.

(e) The department may not be appointed to serve as temporary or permanent guardian for any individual.

Added by Acts 1995, 74th Leg., ch. 303, Sec. 4, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.042, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1039, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 52, 53, eff. Sept. 1, 1997. Renumbered from Sec. 48.0215 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 27, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.02, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.277, eff. April 2, 2015.

Sec. 48.210. REPRESENTATION. (a) Except as provided by Subsection (b), the prosecuting attorney representing the state in criminal cases in the county court shall represent the department in any proceeding under this chapter unless the representation would be a conflict of interest.

(b) In a county having a population of more than 2.8 million, the prosecuting attorney representing the state in civil cases in the county court shall represent the department in any proceeding under this chapter unless the representation would be a conflict of interest.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 568, Sec. 3, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 303, Sec. 11, eff. Sept. 1, 1995. Renumbered from Sec. 48.040 by Acts 1999, 76th Leg., ch. 907, Sec. 28, eff. Sept. 1, 1999.

Sec. 48.211. REPORT TO GUARDIANSHIP COURT. If the elderly person or person with a disability has a guardian, a written notification of the findings of the investigation shall be sent to the court to which the guardian is accountable.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 29, eff. Sept. 1, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.278, eff. April 2, 2015.

SUBCHAPTER F. INVESTIGATIONS IN CERTAIN FACILITIES, COMMUNITY CENTERS, AND LOCAL MENTAL HEALTH AND INTELLECTUAL AND DEVELOPMENTAL DISABILITY AUTHORITIES

SUBCHAPTER F. INVESTIGATIONS OF ABUSE, NEGLECT, OR EXPLOITATION OF INDIVIDUALS RECEIVING SERVICES FROM CERTAIN PROVIDERS

Sec. 48.251. DEFINITIONS. (a) In this subchapter:

(1) "Behavioral health services" means:

(A) mental health services, as defined by Section 531.002, Health and Safety Code; and

(B) interventions provided to treat chemical dependency, as defined by Section 461A.002, Health and Safety Code.

(2) "Community center" has the meaning assigned by Section 531.002, Health and Safety Code.

(3) "Facility" means:

(A) a facility listed in Section 532.001(b) or 532A.001(b), Health and Safety Code, including community services operated by the Department of State Health Services or Department of Aging and Disability Services, as described by those sections, or a person contracting with a health and human services agency to provide inpatient mental health services; and

(B) a facility licensed under Chapter 252, Health and

Safety Code.

(4) "Health and human services agency" has the meaning assigned by Section 531.001, Government Code.

(5) "Home and community-based services" means services provided in the home or community in accordance with 42 U.S.C. Section 1315, 42 U.S.C. Section 1315a, 42 U.S.C. Section 1396a, or 42 U.S.C. Section 1396n, and as otherwise provided by department rule.

(6) "Local intellectual and developmental disability authority" has the meaning assigned by Section 531.002, Health and Safety Code.

(7) "Local mental health authority" has the meaning assigned by Section 531.002, Health and Safety Code.

(8) "Managed care organization" has the meaning assigned by Section 533.001, Government Code.

(9) "Provider" means:

(A) a facility;

(B) a community center, local mental health authority, and local intellectual and developmental disability authority;

(C) a person who contracts with a health and human services agency or managed care organization to provide home and community-based services;

(D) a person who contracts with a Medicaid managed care organization to provide behavioral health services;

(E) a managed care organization;

(F) an officer, employee, agent, contractor, or subcontractor of a person or entity listed in Paragraphs (A)-(E); and

(G) an employee, fiscal agent, case manager, or service coordinator of an individual employer participating in the consumer-directed service option, as defined by Section 531.051, Government Code.

(b) The executive commissioner by rule shall adopt definitions of "abuse," "neglect," "exploitation," and "an individual receiving services" for purposes of this subchapter and investigations conducted under this subchapter.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 31, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.280, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 8, eff.

September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 16, eff. September 1, 2015.

Sec. 48.252. INVESTIGATION OF REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION BY PROVIDER. (a) The department shall receive and, except as provided by Subsection (b), shall investigate under this subchapter reports of the abuse, neglect, or exploitation of an individual receiving services if the person alleged or suspected to have committed the abuse, neglect, or exploitation is a provider.

(b) The department may not investigate under this subchapter reports of abuse, neglect, or exploitation alleged or suspected to have been committed by a provider that is operated, licensed, certified, or registered by a state agency that has authority under this chapter or other law to investigate reports of abuse, neglect, or exploitation of an individual by the provider. The department shall forward any report of abuse, neglect, or exploitation alleged or suspected to have been committed by a provider described by this subsection to the appropriate state agency for investigation.

(c) The department shall receive and investigate under this subchapter reports of abuse, neglect, or exploitation of an individual who lives in a residence that is owned, operated, or controlled by a provider who provides home and community-based services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, regardless of whether the individual is receiving services under that waiver program from the provider.

Added by Acts 1995, 74th Leg., ch. 303, Sec. 14, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 57, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1281, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 48.081 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 32, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 30, eff. June 11, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.281, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 8, eff.

September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 16, eff. September 1, 2015.

Sec. 48.253. ACTION ON REPORT. (a) On receipt by the department of a report of alleged abuse, neglect, or exploitation under this subchapter, the department shall initiate a prompt and thorough investigation as needed to evaluate the accuracy of the report and to assess the need for emergency protective services, unless the department, in accordance with rules adopted under this subchapter, determines that the report:

(1) is frivolous or patently without a factual basis; or

(2) does not concern abuse, neglect, or exploitation.

(b) After receiving a report that alleges that a provider is or may be the person who committed the alleged abuse, neglect, or exploitation, the department shall notify the provider and the appropriate health and human services agency in accordance with rules adopted by the executive commissioner.

(c) The provider identified under Subsection (b) shall:

(1) cooperate completely with an investigation conducted under this subchapter; and

(2) provide the department complete access during an investigation to:

(A) all sites owned, operated, or controlled by the provider; and

(B) clients and client records.

(d) The executive commissioner shall adopt rules governing investigations conducted under this subchapter.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 33, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 8, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 16, eff. September 1, 2015.

Sec. 48.254. FORWARDING OF CERTAIN REPORTS. (a) The executive commissioner by rule shall establish procedures for the department to

use to forward a copy of the initial intake report and a copy of the completed provider investigation report relating to alleged or suspected abuse, neglect, or exploitation to the appropriate provider and health and human services agency.

(b) The department shall redact from an initial intake report and from the copy of the completed provider investigation report any identifying information contained in the report relating to the person who reported the alleged or suspected abuse, neglect, or exploitation under Section 48.051.

(c) A provider that receives a completed investigation report under Subsection (a) shall forward the report to the managed care organization with which the provider contracts for services for the alleged victim.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 33, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 31, eff. June 11, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.282, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 8, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 16, eff. September 1, 2015.

Sec. 48.255. RULES FOR INVESTIGATIONS UNDER THIS SUBCHAPTER. (a) The executive commissioner shall adopt rules to:

(1) prioritize investigations conducted under this subchapter with the primary criterion being whether there is a risk that a delay in the investigation will impede the collection of evidence in that investigation;

(2) establish procedures for resolving disagreements between the department and health and human services agencies concerning the department's investigation findings; and

(3) provide for an appeals process by the department for the alleged victim of abuse, neglect, or exploitation.

(b) A confirmed investigation finding by the department may not be changed by the administrator of a facility, a community center, a local mental health authority, or a local intellectual and

developmental disability authority.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 33, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 32, eff. June 11, 2009.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.283, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 8, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 16, eff. September 1, 2015.

Sec. 48.256. SHARING PROVIDER INFORMATION. (a) The executive commissioner shall adopt rules that prescribe the appropriate manner in which health and human services agencies and managed care organizations provide the department with information necessary to facilitate identification of individuals receiving services from providers and to facilitate notification of providers by the department.

(b) The executive commissioner shall adopt rules requiring a provider to provide information to the administering health and human services agency necessary to facilitate identification by the department of individuals receiving services from providers and to facilitate notification of providers by the department.

(c) A provider of home and community-based services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, shall post in a conspicuous location inside any residence owned, operated, or controlled by the provider in which home and community-based waiver services are provided, a sign that states:

(1) the name, address, and telephone number of the provider;

(2) the effective date of the provider's contract with the applicable health and human services agency to provide home and community-based services; and

(3) the name of the legal entity that contracted with the applicable health and human services agency to provide those services.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 33, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 33, eff. June 11, 2009.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.284, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 8, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 16, eff. September 1, 2015.

Sec. 48.257. RETALIATION PROHIBITED. (a) A provider of home and community-based services may not retaliate against a person for filing a report or providing information in good faith relating to the possible abuse, neglect, or exploitation of an individual receiving services.
(b) This section does not prohibit a provider of home and community-based services from terminating an employee for a reason other than retaliation.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 8, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 16, eff. September 1, 2015.

Sec. 48.258. TRACKING SYSTEM FOR REPORTS AND INVESTIGATIONS. (a) The health and human services agencies shall, at the direction of the executive commissioner, jointly develop and implement a system to track reports and investigations under this subchapter.
(b) To facilitate implementation of the system, the health and human services agencies shall use appropriate methods of measuring the number and outcome of reports and investigations under this subchapter.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 8, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 16, eff.

September 1, 2015.

SUBCHAPTER G. INVESTIGATIONS IN CERTAIN FACILITIES

Sec. 48.301. INVESTIGATION OF REPORTS IN OTHER STATE FACILITIES. (a) If the department receives a report of suspected abuse, neglect, or exploitation of an elderly person or a person with a disability receiving services in a facility operated, licensed, certified, or registered by a state agency, the department shall refer the report to that agency.

(a-1) This subchapter does not apply to a report of suspected abuse, neglect, or exploitation of an individual receiving services from a provider as described by Subchapter F.

(b) A state agency that receives a report under this section shall make a thorough investigation promptly after receiving a report that an elderly person or person with a disability has been or may be abused, neglected, or exploited in a facility operated, licensed, certified, or registered by the agency. The primary purpose of the investigation is the protection of the elderly person or person with a disability.

(c) Each state agency that may receive reports under this section, or the person responsible for adopting rules for that state agency, shall adopt rules relating to the investigation and resolution of reports received under this section.

(d) The state agency shall prepare and keep on file a complete written report of each investigation conducted by the state agency under this section.

(e) A state agency that receives a complaint relating to an investigation conducted under this section shall refer the complaint to its governing board, if applicable, or other person or entity designated to receive such complaints for review and appropriate action.

(f) The executive commissioner by rule shall adopt minimum standards for the investigation of suspected abuse, neglect, or exploitation of an elderly person or person with a disability under this section.

(g) A rule or policy adopted by or for a state agency under Subsection (c) must be consistent with the minimum standards adopted by the executive commissioner.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 34, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 355, Sec. 7, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 34, eff. June 11, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.285, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 9, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 17, eff. September 1, 2015.

Sec. 48.302. APPROVAL OF RULES. The executive commissioner shall review and approve the rules required by Section 48.301(c) to ensure that all agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports.

Added by Acts 1999, 76th Leg., ch. 907, Sec. 34, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.286, eff. April 2, 2015.

Sec. 48.303. MEMORANDUM OF UNDERSTANDING. (a) The department shall enter into a memorandum of understanding with each state agency that operates, licenses, certifies, or registers a facility in which elderly persons or persons with disabilities are located that clarifies each agency's responsibility under this chapter.

(b) Not later than the last month of each state fiscal year, the department and the other agencies shall review and update the memorandum.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 5.01(a), eff. Sept. 1, 1987. Renumbered from Sec. 48.022 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 35, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.287, eff. April 2, 2015.

Sec. 48.304. STATISTICS. (a) A state agency that operates, licenses, certifies, or registers a facility in which elderly persons or persons with disabilities are located shall compile and maintain statistics on the incidence of abuse, neglect, or exploitation of elderly persons or persons with disabilities that occurs in the facilities. A state agency is not required to compile and maintain statistics on the incidence of abuse, neglect, or exploitation of an individual with a disability described under Section 48.252.

(b) The agency shall make the statistics available to the commission on request.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 303, Sec. 14, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 907, Sec. 36, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.288, eff. April 2, 2015.

SUBCHAPTER I. EMPLOYEE MISCONDUCT REGISTRY

Sec. 48.401. DEFINITIONS. In this subchapter:

(1) "Agency" means:

(A) an entity licensed under Chapter 142, Health and Safety Code;

(B) a person exempt from licensing under Section 142.003(a)(19), Health and Safety Code;

(C) a facility licensed under Chapter 252, Health and Safety Code; or

(D) a provider investigated by the department under Subchapter F or under Section 261.404, Family Code.

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

(3) "Employee" means a person who:

(A) works for:

(i) an agency; or

(ii) an individual employer participating in the consumer-directed service option, as defined by Section 531.051, Government Code;

(B) provides personal care services, active treatment, or any other services to an individual receiving agency services, an individual who is a child for whom an investigation is authorized under Section 261.404, Family Code, or an individual receiving services through the consumer-directed service option, as defined by Section 531.051, Government Code; and

(C) is not licensed by the state to perform the services the person performs for the agency or the individual employer participating in the consumer-directed service option, as defined by Section 531.051, Government Code.

(4) "Employee misconduct registry" means the employee misconduct registry established under Chapter 253, Health and Safety Code.

(5) "Reportable conduct" includes:

(A) abuse or neglect that causes or may cause death or harm to an individual receiving agency services;

(B) sexual abuse of an individual receiving agency services;

(C) financial exploitation of an individual receiving agency services in an amount of $25 or more; and

(D) emotional, verbal, or psychological abuse that causes harm to an individual receiving agency services.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 13.001, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 363 (H.B. 2683), Sec. 10, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 10, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 18, eff. September 1, 2015.

Sec. 48.402. RULES RELATING TO REPORTABLE CONDUCT. The executive commissioner may adopt rules to further define reportable conduct.

Added by Acts 2001, 77th Leg., ch. 1267, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.289, eff.

April 2, 2015.

Sec. 48.403. FINDING. After an investigation and following the procedures of this subchapter, if the department confirms or validates the occurrence of reportable conduct by an employee, the department shall immediately forward the finding to the Department of Aging and Disability Services to record the reportable conduct in the employee misconduct registry under Section 253.007, Health and Safety Code.

Added by Acts 2001, 77th Leg., ch. 1267, Sec. 1, eff. Jan. 1, 2002.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 763 (S.B. 806), Sec. 16, eff. June 19, 2009.

Sec. 48.404. NOTICE OF FINDING. (a) The department shall give written notice of the department's findings under Section 48.403 to the employee. The notice must include:

(1) a brief summary of the department's findings;

(2) a statement of the employee's right to a hearing on the department's findings; and

(3) a statement notifying the employee that if the employee fails to timely respond to the notice, the finding that the employee committed the reportable conduct will be recorded in the employee misconduct registry under Section 253.007, Health and Safety Code.

(b) Not later than the 30th day after the date the notice is received, the employee notified may accept the finding of the department made under Section 48.403 or may make a written request for a hearing on that finding.

(c) If the employee notified of the violation accepts the finding of the department or fails to timely respond to the notice, the commissioner or the commissioner's designee shall issue an order approving the finding and ordering that the department's findings be forwarded to the Department of Aging and Disability Services to be recorded in the employee misconduct registry under Section 253.007, Health and Safety Code.

Added by Acts 2001, 77th Leg., ch. 1267, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 763 (S.B. 806), Sec. 17, eff. June 19, 2009.

Sec. 48.405. HEARING; ORDER. (a) If the employee requests a hearing, the department or its designee shall:

(1) set a hearing;

(2) give written notice of the hearing to the employee; and

(3) designate an administrative law judge to conduct the hearing.

(b) The administrative law judge shall make findings of fact and conclusions of law and shall promptly issue an order regarding the occurrence of the reportable conduct.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1056, Sec. 17, eff. September 1, 2011.

Added by Acts 2001, 77th Leg., ch. 1267, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 763 (S.B. 806), Sec. 18, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 16, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 17, eff. September 1, 2011.

Sec. 48.406. NOTICE; JUDICIAL REVIEW. (a) The department shall give notice of the order under Section 48.405 to the employee alleged to have committed the reportable conduct. The notice must include:

(1) separate statements of the findings of fact and conclusions of law;

(2) a statement of the right of the employee to judicial review of the order; and

(3) a statement that the reportable conduct will be recorded in the employee misconduct registry under Section 253.007, Health and Safety Code, if:

(A) the employee does not request judicial review of the finding; or

(B) the finding is sustained by the court.

(b) Not later than the 30th day after the date the decision becomes final as provided by Chapter 2001, Government Code, the employee may file a petition for judicial review contesting the finding of the reportable conduct. If the employee does not request judicial review of the finding, the department shall send a record of the department's findings to the Department of Aging and Disability Services to record in the employee misconduct registry under Section 253.007, Health and Safety Code.

(c) Judicial review of the order:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(d) If the court sustains the finding of the occurrence of the reportable conduct, the department shall forward the finding of reportable conduct to the Department of Aging and Disability Services to record the reportable conduct in the employee misconduct registry under Section 253.007, Health and Safety Code.

Added by Acts 2001, 77th Leg., ch. 1267, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 763 (S.B. 806), Sec. 19, eff. June 19, 2009.

Sec. 48.407. INFORMAL PROCEEDINGS. The executive commissioner by rule shall adopt procedures governing informal proceedings held in compliance with Section 2001.056, Government Code.

Added by Acts 2001, 77th Leg., ch. 1267, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 763 (S.B. 806), Sec. 20, eff. June 19, 2009.

Sec. 48.408. INFORMATION FOR THE EMPLOYEE MISCONDUCT REGISTRY. (a) When the department forwards a finding of reportable conduct to the Department of Aging and Disability Services for recording in the employee misconduct registry, the department shall provide the employee's name, the employee's address, the employee's social security number, if available, the name of the agency, the address of the agency, the date the reportable conduct occurred, and a

description of the reportable conduct.

(b) If a governmental agency of another state or the federal government finds that an employee has committed an act that constitutes reportable conduct, the department may send to the Department of Aging and Disability Services, for recording in the employee misconduct registry, the employee's name, the employee's address, the employee's social security number, if available, the name of the agency, the address of the agency, the date of the act, and a description of the act.

Added by Acts 2001, 77th Leg., ch. 1267, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 763 (S.B. 806), Sec. 21, eff. June 19, 2009.

SUBTITLE E. SERVICES FOR FAMILIES
CHAPTER 51. FAMILY VIOLENCE CENTERS

Sec. 51.001. PURPOSE. The purpose of this chapter is to promote development of and access to locally based and supported nonprofit services for victims of family violence throughout the state.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 636, Sec. 1, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 6, Sec. 2, eff. Sept. 1, 2001.

Sec. 51.002. DEFINITIONS. In this chapter:

(1) "Family" has the meaning assigned by Section 71.003, Family Code.

(2) "Family violence" means an act by a member of a family or household against another member of the family or household that:

(A) is intended to result in physical harm, bodily injury, or assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, or assault, but does not include defensive measures to protect oneself; or

(B) is intended to inflict emotional harm, including an act of emotional abuse.

(3) "Family violence center" includes a family violence

shelter center and a family violence nonresidential center.

(4) "Family violence nonresidential center" means a program that:

(A) is operated by a public or private nonprofit organization; and

(B) provides comprehensive nonresidential services to victims of family violence.

(5) "Family violence shelter center" means a program that:

(A) is operated by a public or private nonprofit organization; and

(B) provides comprehensive residential and nonresidential services to victims of family violence.

(6) "Family violence special project" means a project that:

(A) is operated by a public or private nonprofit organization; and

(B) provides at least one specialized family violence service.

(7) "Household" has the meaning assigned by Section 71.005, Family Code.

(8) "Member of a household" has the meaning assigned by Section 71.006, Family Code.

(9) "Victim of family violence" means:

(A) an adult member of a family or household who is subjected to an act of family violence; or

(B) a member of the household of the adult described by Paragraph (A), other than the member of the household who commits the act of family violence, including an act of emotional abuse.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 636, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 561, Sec. 36, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 6, Sec. 3, eff. Sept. 1, 2001.

Sec. 51.0021. FAMILY VIOLENCE SERVICES PLAN. (a) The commission shall develop and maintain a plan for delivering family violence services in this state.

(b) In developing the plan under this section, the commission shall consider the geographic distribution of services and the need

for services, including the need for increasing services for underserved populations.

Added by Acts 2001, 77th Leg., ch. 6, Sec. 4, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.290, eff. April 2, 2015.

Sec. 51.003. CONTRACTS. (a) The commission shall contract for services with family violence centers with consideration given to the plan for family violence services under Section 51.0021. These contracts are to expand existing family violence center services and may not result in reducing financial support a family violence center receives from another source. The contracts shall not provide for more than 75 percent of the cost of the family violence center program. The commission shall develop a declining scale of state financial support for family violence centers, declining over a six-year period from the initiation of each individual contract, with no more than 50 percent of a family violence center program's funding to be provided by the state after the sixth year. The balance each year shall be provided from other sources. The executive commissioner may adopt rules which will allow exceptions to the above scale in individual instances when a family violence center shall demonstrate that exigent circumstances require such a waiver.

(b) The commission may contract with family violence special projects for services. The commission shall consider the plan for family violence services under Section 51.0021 in contracting with family violence special projects.

(c) The commission shall contract statewide for activities that support and advance the work of family violence centers. Activities contracted for under this subsection must include the provision of technical assistance and training for family violence centers. The commission may contract for the provision of public education, consultation to the commission, research, evaluation, and liaison and training for other professionals who work with victims of family violence, including professionals in the criminal justice, medical, and social services fields, and for community or civic groups.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1131 , Sec. 3, eff. June 19, 2015.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 19, eff. Aug. 26, 1985; Acts 1989, 71st Leg., ch. 636, Sec. 3, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 6, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.291, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1131 (S.B. 59), Sec. 3, eff. June 19, 2015.

Sec. 51.004. CONTRACT ELIGIBILITY; PROCUREMENT; APPLICATION PROCESS. (a) To be eligible for a contract under Section 51.003(a), a family violence shelter center must:

(1) provide temporary lodging and direct delivery of services for adults and their dependents;

(2) have been in actual operation offering shelter services 24 hours a day with a capacity for not less than five persons for at least one year before the date on which the contract is awarded;

(3) demonstrate that the center, through the services it provides, is addressing a need in the community consistent with the plan for family violence services under Section 51.0021; and

(4) submit a contract application on forms prescribed by the commission.

(b) To be eligible for a contract under Section 51.003(a), a family violence nonresidential center must:

(1) provide, as its primary purpose, direct delivery of services to adult victims of family violence;

(2) demonstrate a system of referring victims of family violence to at least one family violence shelter center or other safe temporary lodging;

(3) have been operating and providing comprehensive services, including the services described by Section 51.005(b)(3), to victims of family violence for at least one year before the date on which the contract is awarded;

(4) demonstrate that the center, through the services it provides, is addressing a need in the community consistent with the plan for family violence services under Section 51.0021; and

(5) submit a contract application on forms prescribed by the commission.

(c) The commission shall consider the following factors in awarding contracts under Section 51.003(a):

(1) the family violence center's eligibility for and use of funds from the federal government, philanthropic organizations, and voluntary sources;

(2) community support for the family violence center, as evidenced by financial contributions from civic organizations, local governments, and individuals;

(3) evidence that the family violence center provides services that encourage self-sufficiency and effectively uses community resources;

(4) evidence of involvement with local law enforcement officials; and

(5) support for the family violence center through volunteer work, especially volunteer effort by persons who have been victims of family violence.

(d) To be eligible for a contract under Section 51.003(b), a family violence special project must:

(1) provide:

(A) community education relating to family violence; or

(B) direct delivery of services for adult victims of family violence or their children;

(2) demonstrate a system of referring victims of family violence to at least one family violence shelter center or other safe temporary lodging;

(3) demonstrate that the project, through the services it provides, is addressing a need in the community consistent with the plan for family violence services under Section 51.0021;

(4) demonstrate that the underserved or special population to be served by the project is involved in the project's design and implementation, if applicable; and

(5) submit a contract application on forms prescribed by the commission.

(e) The commission shall use a noncompetitive procurement procedure to award a contract under Section 51.003(a) or (b) if the commission determines that there is no competition between eligible family violence centers for services or a service area. If the commission determines that there is competition between eligible family violence centers for services or a service area, the commission shall award a contract under Section 51.003(a) or (b)

through an application process that considers the eligibility requirements and other factors provided in this section and allocates the money in accordance with this chapter and with consideration of the family violence services plan under Section 51.0021.

(f) The commission shall consult with a statewide family violence organization to develop the application process described in Subsection (e) but may not involve the organization in the contract selection or award process.

(g) To the extent of any conflict between this section and any other law, including Chapter 2155, Government Code, this section controls.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 636, Sec. 4, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 6, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.292, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1131 (S.B. 59), Sec. 1, eff. June 19, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1131 (S.B. 59), Sec. 2, eff. June 19, 2015.

Sec. 51.005. CONTRACT SPECIFICATIONS. (a) The commission shall contract only with public or private nonprofit organizations that fulfill the requirements of this chapter.

(b) The contracts shall require the persons operating a family violence center to:

(1) make a quarterly and an annual financial report on a form prescribed by the commission;

(2) cooperate with inspections the commission makes to ensure services standards and fiscal responsibility; and

(3) provide, as its primary purpose, services to victims of family violence that include:

(A) 24-hour-a-day shelter, except that a family violence nonresidential center may provide access to a 24-hour-a-day shelter;

(B) a 24-hour-a-day crisis hotline, except that a

family violence nonresidential center may provide access to a 24-hour-a-day crisis hotline operated by another organization located in the nonresidential center's service area;

(C) access to emergency medical care;

(D) intervention services, including safety planning, understanding and support, information, education, referrals, and other resource assistance;

(E) access to emergency transportation;

(F) legal assistance in the civil and criminal justice systems, including:

(i) identifying individual needs, legal rights, and legal options; and

(ii) providing support and accompaniment in pursuing those options;

(G) information about educational arrangements for children;

(H) information about training for and seeking employment;

(I) cooperation with criminal justice officials;

(J) community education;

(K) a referral system to existing community services; and

(L) a volunteer recruitment and training program.

(c) The contracts may require the persons operating a family violence center to use intake and case study forms. Forms required shall be developed by the commission with consultation as outlined in Section 51.008.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 636, Sec. 5, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 6, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.293, eff. April 2, 2015.

Sec. 51.0051. MAXIMIZING FEDERAL FUNDING FOR PROGRAMS TO BENEFIT VICTIMS OF FAMILY VIOLENCE. To maximize the state's receipt of federal matching funds for emergency assistance under Part A,

Title IV, Social Security Act (42 U.S.C. Section 601 et seq.):

(1) the commission shall:

(A) ensure that a contract made under Section 51.003 includes provisions necessary to maximize federal funding for services for victims of family violence; and

(B) file amendments to the state's plan for aid and services to needy families with children under Part A, Title IV, Social Security Act (42 U.S.C. Section 601 et seq.), that are necessary to maximize federal funding; and

(2) the executive commissioner shall establish by rule any reporting procedures that federal law requires as a condition of receiving federal matching funds.

Added by Acts 1995, 74th Leg., ch. 609, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 6.11, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.294, eff. April 2, 2015.

Sec. 51.006. REPORT. (a) Not later than November 1 of each even-numbered year, the commission shall publish a report that summarizes reports from family violence centers under contract with the commission and that analyzes the effectiveness of the contracts authorized by this chapter. The reports must include information on the expenditure of funds authorized under this chapter, the services provided, the number of persons for whom a service was provided, and any other information relating to the provision of family violence services. Copies of the report shall be submitted to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and the standing committees of the senate and house of representatives having primary jurisdiction over the commission.

(b) The report required under Subsection (a) may be published electronically on the commission's Internet website. The commission shall notify each agency entitled to receive a copy of the report that the report is available on the commission's Internet website on or before the date the report is due.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 636, Sec. 5, eff.

Sept. 1, 1989; Acts 1995, 74th Leg., ch. 693, Sec. 6, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 6, Sec. 8, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 72, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.295, eff. April 2, 2015.

Sec. 51.007. CONFIDENTIALITY. The commission may not disclose any information that would identify:
(1) a particular family violence center location;
(2) a board member of a family violence center or family violence special project; or
(3) a person working at or receiving services through a family violence center or family violence special project.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 636, Sec. 5, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 6, Sec. 9, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 161, Sec. 1, eff. May 27, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.296, eff. April 2, 2015.

Sec. 51.008. CONSULTATIONS. In implementing this chapter, the commission shall consult with individuals and groups having knowledge of and experience in the problems of family violence.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.297, eff. April 2, 2015.

Sec. 51.009. GRANTS AND FUNDS. The commission may seek other funds that may be available for the contracts authorized by this chapter.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.298, eff. April 2, 2015.

Sec. 51.010. RULES. The executive commissioner may adopt rules necessary to implement this chapter.

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.299, eff. April 2, 2015.

Sec. 51.011. FUNDING. (a) In order to finance the program created by this chapter, the commission is authorized to solicit and receive grants of money from either private or public sources, including appropriation by the legislature from the general revenue fund of the State of Texas, and in that regard it is hereby declared that the need for and importance of this program require priority and preferential consideration in appropriation.

(b) The commission may use not more than six percent of the annual legislative appropriation to the family violence program for administration of this chapter and not more than six percent annually for the contracts described in Section 51.003(c).

Added by Acts 1981, 67th Leg., p. 3313, ch. 867, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 2001, 77th Leg., ch. 6, Sec. 10, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.300, eff. April 2, 2015.

Sec. 51.012. COORDINATION OF SERVICES. The commission and the Department of Family and Protective Services shall coordinate the provision of violence prevention services for children.

Added by Acts 2001, 77th Leg., ch. 6, Sec. 11, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.301, eff. April 2, 2015.

CHAPTER 52. INFORMATION RELATING TO SCHOOL AGE PREGNANCY

Sec. 52.001. SCHOOL AGE PREGNANCY PREVENTION. (a) The department is designated as the state agency to collect statistical information on school age pregnancy and disburse such statistics to the proper state agencies.

(b) The department shall:

(1) set guidelines for keeping statistical information on school age pregnancy and parenthood by agencies, organizations, and individuals so that the information may be evaluated and compared;

(2) collect information relating to school age pregnancy as considered necessary by the department, including information on educational programs provided in the public school system relating to family life education, abstinence from sex, and sexually transmitted diseases;

(3) serve as a statewide clearinghouse on information relating to school age pregnancy and education on abstinence from sex and make it available to the legislature, other state agencies, and private entities that are involved in preventing school age pregnancy, addressing the problems caused by school age pregnancy, or encouraging abstinence from sex;

(4) analyze and evaluate the data collected on and studies relating to school age pregnancy and make the analysis and information readily available to the legislature, relevant agencies, and the public; and

(5) make recommendations to the relevant state agencies or the legislature to prevent duplication of services.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(115), eff. June 17, 2011.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 1.19, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 17, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 23(11), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 19, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(115), eff. June 17, 2011.

CHAPTER 53. PREVENTIVE SERVICES FOR VETERANS AND MILITARY FAMILIES

Sec. 53.001. DEFINITIONS. In this chapter:

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

(2) "Veteran" means a person who has served in:

(A) the army, navy, air force, coast guard, or marine corps of the United States;

(B) the state military forces as defined by Section 431.001, Government Code; or

(C) an auxiliary service of one of those branches of the armed forces.

Added by Acts 2015, 84th Leg., R.S., Ch. 324 (H.B. 19), Sec. 1, eff. June 4, 2015.

Sec. 53.002. VETERANS AND MILITARY FAMILIES PREVENTIVE SERVICES PROGRAM. (a) The department shall develop and implement a preventive services program to serve veterans and military families who have committed or experienced or who are at a high risk of:

(1) family violence; or

(2) abuse or neglect.

(b) The program must:

(1) be designed to coordinate with community-based organizations to provide prevention services;

(2) include a prevention component and an early intervention component;

(3) include collaboration with services for child welfare, services for early childhood education, and other child and family services programs; and

(4) coordinate with the community collaboration initiative developed under Subchapter I, Chapter 434, Government Code, and

committees formed by local communities as part of that initiative.

(c) The program must be established initially as a pilot program in areas of the state in which the department considers the implementation practicable. The department shall evaluate the outcomes of the pilot program and ensure that the program is producing positive results before implementing the program throughout the state.

(d) The department shall evaluate the program and prepare an annual report on the outcomes of the program. The department shall publish the report on the department's Internet website.

Added by Acts 2015, 84th Leg., R.S., Ch. 324 (H.B. 19), Sec. 1, eff. June 4, 2015.

TITLE 3. FACILITIES AND SERVICES FOR CHILDREN
SUBTITLE A. FACILITIES FOR CHILDREN
CHAPTER 62. DETENTION HOMES AND PARENTAL SCHOOLS

Sec. 62.001. DETENTION HOMES AND PARENTAL SCHOOLS. (a) Any county may establish detention homes and parental schools for juveniles. The commissioners court may appropriate necessary funds from the general fund of the county to establish, equip, and maintain detention homes and parental schools for the juveniles of the county.

(b) Any county in which no detention home or parental school exists may appropriate funds necessary to pay for the proper care and training of its juveniles in the detention home or parental school of any county that agrees to receive the juveniles. The cost of the care shall be agreed on by the commissioners courts of the counties concerned.

(c) If, in the opinion of the commissioners court, it is necessary to levy a special tax to establish and maintain a detention home or parental school or to pay for the care and training of juveniles as provided by Subsection (b) of this section, the commissioners court may hold a special election on the question of levying the tax. If a petition signed by 10 percent of the qualified voters of the county is submitted requesting a special election, the commissioners court shall hold the special election.

(d) All elections held under Subsection (c) of this section shall be governed by the general laws relating to elections for the levy of special school taxes.

Acts 1979, 66th Leg., p. 2391, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 62.002. MULTICOUNTY FACILITIES. (a) The purpose of this section is to enable counties jointly to provide better probation services and detention and diagnostic facilities for juveniles than the counties, acting singly, would be able to provide.

(b) The commissioners courts of two or more counties may enter into cooperative agreements to acquire, maintain, and operate detention and diagnostic facilities for juveniles. The counties may maintain, improve, and operate the property so acquired and all improvements thereon, and may sell or lease all or any part of the property and improvements in accordance with the terms of the cooperative agreement. The counties may accept any donation or gift made for the purpose of acquiring, maintaining, or operating the juvenile facilities.

(c) In accordance with the terms of the cooperative agreement, each county which is a party to the agreement may issue the bonds of the county as provided by Chapter 1301, Government Code, for the purpose of acquiring, maintaining, and operating the facilities for juveniles.

(d) The commissioners courts of two or more counties may enter into cooperative agreements to provide probation services for juveniles. The cooperative agreement shall set forth in detail how the probation services are to be provided and financed.

Acts 1979, 66th Leg., p. 2388, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.281, eff. Sept. 1, 2001.

CHAPTER 63. RESIDENTIAL FACILITIES FOR CERTAIN DELINQUENT CHILDREN

Sec. 63.001. DEFINITIONS. In this chapter:

(1) "Juvenile" means a person from the age of 10 to 18 years who has been found to have engaged in delinquent conduct by a court of competent jurisdiction.

(2) "Facility" means a residential facility for the placement of juveniles for periods up to one year in length.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.003, eff. September 1, 2009.

Sec. 63.002. AUTHORITY TO OPERATE FACILITY. A county or a combination of counties may, and they are hereby authorized to, elect to own, establish, operate, and staff a long-term residential facility for the detention of juvenile offenders.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.004, eff. September 1, 2009.

Sec. 63.003. GOVERNMENTAL NATURE OF FACILITY. The facility is an agency of the state, a governmental unit, and a unit of local government as defined and specified by Chapters 101 and 102, Civil Practice and Remedies Code, and a local government as defined by Section 791.003, Government Code.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.005, eff. September 1, 2009.

Sec. 63.004. BOARD OF TRUSTEES: SINGLE COUNTY FACILITY. The facility shall be governed by a board of trustees. The board of trustees for a facility created by a single county may be the commissioners court of the forming county, or the commissioners court may appoint from the qualified voters of the region to be served a board of trustees consisting of no less than five nor more than nine persons. If the board of trustees is appointed from the qualified voters of the region to be served, the terms of the members thereof shall be staggered by appointing not less than one-third nor more than one-half of the members for one year, or until their successors are appointed, and by appointing the remaining members for two years, or until their successors are appointed. Thereafter, all appointments shall be made for a two-year period, or until their

successors are appointed. Appointments made to fill unexpired terms shall be for the period of the unexpired term, or until a successor is appointed.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.006, eff. September 1, 2009.

Sec. 63.005. BOARD OF TRUSTEES: COMBINATION OF COUNTIES FACILITY. A facility created by a combination of counties shall be governed by a board of trustees. Such board of trustees shall consist of not less than five nor more than nine members selected from the commissioners court of such counties, or such commissioners court may jointly appoint a board of trustees from among the qualified voters of the region to be served in the manner described above.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.007, eff. September 1, 2009.

Sec. 63.006. BOARD MEETINGS. The board of trustees shall make rules to govern the holding of regular and special meetings. All meetings of the board of trustees shall be open to the public to the extent required by and in accordance with the general law of this state requiring meetings of governmental bodies to be open to the public. Should the board of trustees discuss any juvenile either in residence in the facility, being transferred to the facility, or who has formerly been a resident of the facility, such discussion shall be conducted in closed session, and such discussion, or any record thereof, shall not be open to the public.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.008, eff. September 1, 2009.

Sec. 63.007. QUORUM. A majority of the membership of the board of trustees shall constitute a quorum for the transaction of business.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.009, eff. September 1, 2009.

Sec. 63.008. FACILITY ADMINISTRATION. The board of trustees is responsible for the administration of the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.010, eff. September 1, 2009.

Sec. 63.009. BOARD POLICIES. The board of trustees shall develop policies consistent with the rules, regulations, and standards of the Texas Juvenile Justice Department.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.011, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 119, eff. September 1, 2015.

Sec. 63.010. STANDARDIZED PERSONNEL QUALIFICATIONS. The board of trustees shall standardize qualifications for personnel positions in the community center consistent with those established by the Texas Juvenile Justice Department.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.012, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 120, eff.

September 1, 2015.

Sec. 63.011. ADVISORY COMMITTEES. The board of trustees may appoint advisory committees to advise the board on matters relating to the administration of the facility. No such committee shall consist of less than five members, and the appointment of such committees shall not relieve the board of trustees of final responsibility and accountability as provided in this chapter.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.013, eff. September 1, 2009.

Sec. 63.012. FACILITY EXECUTIVE DIRECTOR: APPOINTMENT. The board of trustees shall appoint an executive director for the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.014, eff. September 1, 2009.

Sec. 63.013. FACILITY EXECUTIVE DIRECTOR: DELEGATED POWERS. The executive director shall have the powers delegated by and be subject to the policy direction of the board of trustees.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.015, eff. September 1, 2009.

Sec. 63.014. FACILITY PERSONNEL. The board of trustees or the director may employ and train personnel for the administration of the various programs and services of the facility. The employee shall be provided the appropriate rights, privileges, and benefits available to the employees of the governing bodies that establish the facility.

The board of trustees is authorized to provide workers' compensation benefits in the manner provided by Chapter 504, Labor Code.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 9.64, eff. Sept. 1, 1995.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.016, eff. September 1, 2009.

Sec. 63.015. COUNTY CONTRIBUTIONS. Each county participating in the creation of the facility may contribute lands, buildings, personnel, and funds for the administration of the various programs and services of the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.017, eff. September 1, 2009.

Sec. 63.016. GIFTS, GRANTS, AND DONATIONS. The board of trustees of the facility may accept gifts, grants, and donations of money, personal property, and real property for use in the administration of its programs and services.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.018, eff. September 1, 2009.

Sec. 63.017. SINGLE COUNTY FACILITY: ACQUISITION OF REAL PROPERTY; RULES FOR ADMISSION; RATES CHARGED. (a) In the instance of a facility formed by a single county, the commissioners court of the creating county may acquire, through gift, purchase, condemnation, or any other method, real property for the purpose of locating a facility on such property. Such property may be acquired outside of the boundaries of the creating county if, in the opinion of the commissioners court of the forming county, there will exist a

demand for the services to be provided by the facility in the county in which the facility is to be located in addition to any need which may already exist within the boundaries of the creating county.

(b) The board of trustees for a facility created by a single county shall establish rules and regulations for the admission of juveniles into the facility from other than the forming county. Such rules may allow that the forming county shall have priority in the placement of its juveniles into the facility. The board may establish a rate of charges to be paid by the county of origin of the juvenile being placed into the facility, and such rates may be reduced for those juveniles being admitted from the county which created the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.019, eff. September 1, 2009.

Sec. 63.018. COMBINATION OF COUNTIES FACILITY: ACQUISITION OF REAL PROPERTY; RULES FOR ADMISSION; RATES CHARGED. (a) In the instance of a facility being created by two or more counties, the commissioners courts of the forming counties may acquire, by gift, purchase, condemnation, or other means, real property for the purpose of locating the facility on such property. The method of acquisition and the amount of cost sharing between those counties shall be negotiated among the forming counties and reduced to contract. Such property to be acquired shall be situated within the boundaries of any one of the creating counties.

(b) The board of trustees for a facility created by an organizational component of two or more counties shall establish rules and regulations for the admission of juveniles who are residents of other than the creating counties. The board may establish a rate of charges to be paid by the county of origin of the juvenile being placed into the facility, and those rates may be reduced for juveniles being admitted from a county that was part of the organizational component that created the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.020, eff.

September 1, 2009.

Sec. 63.019. RULES REGULATING ADMINISTRATION OF SERVICES. The board of trustees may make rules consistent with those promulgated by the Texas Juvenile Justice Department and the policies, principles, and standards provided in this Act to regulate the administration of services by the facility to the juveniles placed into the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.021, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 121, eff. September 1, 2015.

Sec. 63.020. MINIMUM SERVICES TO BE PROVIDED. The board of trustees will provide at least the following services to a juvenile who is placed into the facility:

(1) Education. Upon admission into the facility, the juvenile will be tested to determine his educational level, and a program of instruction consistent with the juvenile's educational level shall be developed to educate the juvenile. Education shall be given to each juvenile admitted in the facility consistent with the standards set forth by the Texas Juvenile Justice Department.

(2) Counseling. Upon admission into the facility, the juvenile shall be examined by a trained psychologist or psychiatrist to determine if the juvenile would benefit from a program of counseling. At the completion of such examination, the findings of the psychologist or psychiatrist shall be forwarded to the director in the form of a recommendation that counseling be given to the juvenile, along with a program of counseling to be adhered to by the staff of the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.022, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 122, eff. September 1, 2015.

Sec. 63.021. LIST OF SERVICES. The board of trustees of the facility shall devise a list of services that it will offer to each juvenile who is placed into the facility for the use by the court in making its determination as to whether the juvenile would benefit by admission into the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.023, eff. September 1, 2009.

Sec. 63.022. FACILITY RESEARCH AND RECRUITMENT AND TRAINING OF PERSONNEL; CONTRACTS AUTHORIZED. The facility may engage in research and in recruitment and training of personnel in support of its programs and services and may make contracts for those purposes.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.024, eff. September 1, 2009.

Sec. 63.023. FEES FOR SERVICES. The board of trustees for the facility may charge reasonable fees to cover costs for services provided, except where prohibited by other service contracts or by law.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.025, eff. September 1, 2009.

Sec. 63.024. PAYMENT OF FEES BY COUNTY. In collecting fees for the treatment rendered juveniles, the director will bill directly that county in which the juvenile resided prior to his admission to the facility. The county that receives such a bill from the director must pay that bill within 45 days of its receipt.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.026, eff. September 1, 2009.

Sec. 63.025. ADMISSION OF AND PAYMENT FOR SERVICES PROVIDED TO JUVENILES RESIDING IN ANOTHER COUNTY. The board of trustees may provide that juveniles who reside outside the boundaries of a county that participated in the formation of the facility may be admitted to the facility. However, the charges to the county of residence of the juvenile may be billed at a rate higher than that charged to a county that participated in the formation of the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.027, eff. September 1, 2009.

Sec. 63.026. COURT-ORDERED ADMISSION. A juvenile may be admitted upon the order of a court of competent jurisdiction that finds that the juvenile has engaged in delinquent conduct and is in need of supervision or is experiencing a dysfunctional home environment and will benefit from placement in the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.028, eff. September 1, 2009.

Sec. 63.027. LIMITATION ON PERIOD FOR JUVENILE'S RESIDENCE. The court will include in its order the length of time that the juvenile will reside in the facility, which will not exceed a period of one year. At the conclusion of the one-year period, the court will make a determination as to whether the juvenile will benefit from further residence within the facility. The court may then order the juvenile to be placed into the facility for additional time not to exceed one year.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.029, eff. September 1, 2009.

Sec. 63.028. MODIFICATION OF COURT ORDER. The court may modify any order by which a juvenile is placed in the facility upon recommendation of the director of the facility.

Added by Acts 1989, 71st Leg., ch. 564, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.030, eff. September 1, 2009.

SUBTITLE B. SERVICES FOR CHILDREN
CHAPTER 72. HEAD START PROGRAMS

Sec. 72.001. DEFINITION. In this chapter, "Head Start program" means the federal program established under the Head Start Act (42 U.S.C. Section 9831 et seq.) and its subsequent amendments.

Added by Acts 1999, 76th Leg., ch. 402, Sec. 2, eff. Aug. 30, 1999.

Sec. 72.002. EDUCATIONAL SERVICES. To promote the comprehensive health, safety, and well-being of children receiving child care through Head Start programs, a program provider shall provide educational services to children participating in the program so that each child is prepared to enter school and is ready to learn after completing the program. The educational services provided must include components designed to enable a child to:

(1) develop phonemic, print, and numeracy awareness, including the ability to:

(A) recognize that letters of the alphabet are a special category of visual graphics that can be individually named;

(B) recognize a word as a unit of print;

(C) identify at least 10 letters of the alphabet; and

(D) associate sounds with written words;

(2) understand and use language to communicate for various purposes;

(3) understand and use an increasingly complex and varied vocabulary;

(4) develop and demonstrate an appreciation of books; and

(5) progress toward mastery of the English language, if the child's primary language is a language other than English.

Added by Acts 1999, 76th Leg., ch. 402, Sec. 2, eff. Aug. 30, 1999.

Sec. 72.003. COORDINATION OF SERVICES. (a) In a manner consistent with federal law and regulations, each Head Start and Early Head Start program provider shall coordinate with the Texas Workforce Commission and local workforce development boards regarding subsidized child-care services.

(b) The coordination required by this section must include coordinating to ensure, to the extent practicable, that full-day, full-year child-care services are available to meet the needs of low-income parents who are working or participating in workforce training or workforce education. The coordination may also include:

(1) cooperating with the Texas Workforce Commission regarding studies conducted by the commission;

(2) collecting data necessary to determine a child's eligibility for subsidized child-care services or a Head Start or Early Head Start program, when permissible;

(3) cooperating to provide for staff training and professional development activities;

(4) identifying and developing methods for the collaborative provision of subsidized child-care services and Head Start or Early Head Start program services, including:

(A) sharing facilities or staff; and

(B) increasing the enrollment capacity of those programs;

(5) identifying child-care facilities located in close proximity to Head Start or Early Head Start programs; and

(6) coordinating transportation between child-care facilities identified under Subdivision (5) and a Head Start or Early Head Start program.

Added by Acts 2001, 77th Leg., ch. 616, Sec. 1, eff. Sept. 1, 2001.

CHAPTER 73. EARLY CHILDHOOD INTERVENTION SERVICES

Sec. 73.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of Assistive and Rehabilitative Services.

(3) "Developmental delay" means a significant variation in normal development as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

(A) cognitive development;

(B) physical development;

(C) communication development;

(D) social or emotional development; or

(E) adaptive development.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Added by Acts 1983, 68th Leg., p.1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.304, eff. April 2, 2015.

Sec. 73.003. STRATEGIC PLAN. The department shall develop and implement a strategic plan for a statewide system of early childhood intervention services, as required by Part C, Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1431 et seq.), and its subsequent amendments, to ensure that the provisions of this chapter are properly implemented by the agencies affected.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.305, eff. April 2, 2015.

Sec. 73.004. ADVISORY COMMITTEE. (a) The governor shall appoint an advisory committee to assist the department in the performance of its duties under this chapter. The executive commissioner shall establish the size and composition of the committee by rule, consistent with federal regulations and state rules. The commissioner of assistive and rehabilitative services may also appoint ex officio members to serve for specific purposes to assist the department in the performance of its duties under this chapter.

(b) The committee shall meet and serve in accordance with department rules, but the committee shall elect its own presiding officer. The committee may be divided into regional committees to assist the department in community-level program planning and implementation under this chapter.

(c) The advisory committee is not subject to Chapter 2110, Government Code.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.18, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 923, Sec. 6, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.306, eff. April 2, 2015.

Sec. 73.0041. ADVISORY COMMITTEE DUTIES. The advisory committee established under Section 73.004 shall perform the duties and responsibilities required of an advisory committee under 20 U.S.C. Section 1441 and its subsequent amendments.

Added by Acts 1997, 75th Leg., ch. 923, Sec. 7, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.307, eff. April 2, 2015.

Sec. 73.0045. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner of assistive and rehabilitative services by this chapter

or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.06, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.308, eff. April 2, 2015.

Sec. 73.005. ISSUES RELATED TO INTERVENTION SERVICES; LEGISLATIVE PROPOSALS. (a) The executive commissioner with the advice of the advisory committee shall address contemporary issues affecting intervention services in the state including:

(1) successful intervention strategies;
(2) personnel preparation and continuing education;
(3) screening services;
(4) day or respite care services;
(5) public awareness; and
(6) contemporary research.

(b) The executive commissioner with the advice of the advisory committee shall advise the legislature on legislation that is needed to maintain a statewide system of quality intervention services for children with developmental delay who are under three years of age and the families of those children. The department may develop and submit legislation to the legislature or comment on pending legislation that affects this population.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 8, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.309, eff. April 2, 2015.

Sec. 73.0051. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND DEPARTMENT UNDER CHAPTER. (a) The department is the lead agency designated by the governor under Part C, Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1431 et seq.),

and its subsequent amendments, for the administration, supervision, and monitoring of a statewide comprehensive system of early intervention services that will ensure that all infants and toddlers in this state who are below the age of three and have developmental needs or are at risk of developmental delay receive services that are provided in partnership with their families and in the context of their local community.

(b) The executive commissioner by rule shall:

(1) provide for compliance with the terms and provisions of applicable federal and state laws in the administration of programs and the delivery of services under this chapter;

(2) establish a program to monitor fiscal and program implementation under this chapter; and

(3) establish appropriate sanctions for providers who fail to comply with statutory and regulatory fiscal and program requirements under this chapter.

(c) The department may enter into, administer, and monitor contracts with providers for programs and projects authorized under this chapter.

(d) The department shall periodically monitor program activities and fiscal performance of the entities funded under this chapter to:

(1) determine compliance with federal and state requirements;

(2) assess the performance of the entities in identifying children under three years of age with developmental delay in populations at risk of developmental delay; and

(3) issue reports regarding program monitoring.

(e) The department may apply for and accept gifts, grants, and donations from public and private sources for use in programs authorized under this chapter. The department shall deposit money received under this section into the state treasury.

(f) The department shall:

(1) cooperate with the commission and other local, state, and federal agencies in the strategic planning, funding, delivery, and monitoring of services authorized under this chapter; and

(2) jointly with the Department of Family and Protective Services develop and implement policies applicable to providers of services authorized under this chapter in situations involving service recipients who are vulnerable to abuse or neglect.

(g) The department shall make periodic reports relating to the department's functions under this chapter as required by law to other agencies, the legislature, appropriate committees, the governor, and the United States secretary of education.

(h) The department shall ensure that all programs and department functions under this chapter are conducted in a nondiscriminatory manner.

(i) The department shall include parents when deciding the appropriate treatment for the needs of their child or children under this chapter. After establishing an initial and ongoing treatment plan for a child, the department shall ensure that the child's parents continue to be included in all decisions relating to the services provided to the child, including the determination of the most appropriate setting for the child to receive services. The department shall ensure that a child's parents receive written notification of the progress toward meeting the child's treatment plan. The notification must include details to assist parents in meeting the child's treatment goals.

(j) The department shall provide services under this chapter in the child's natural environments but must make alternatives available when early intervention cannot be achieved satisfactorily in a natural environment.

(k) The department shall cooperate with the commission to select an appropriate automated system or systems currently used by a state agency to plan, manage, and maintain records of client services under this chapter. If cost-effective, the department may use the automated system or systems to carry out other appropriate department administrative functions under this chapter.

(l) The executive commissioner by rule may establish a system of payments by families of children receiving services under this chapter, including a schedule of sliding fees, in a manner consistent with 34 C.F.R. Sections 303.13(a)(3), 303.520, and 303.521.

Added by Acts 1997, 75th Leg., ch. 923, Sec. 9, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 33, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.114, eff. Sept. 1, 2003. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.310, eff. April 2, 2015.

Sec. 73.006. REIMBURSEMENT FOR EXPENSES. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(63), eff. April 2, 2015.

(b) The members of the advisory committee are entitled to reimbursement for reasonable and necessary expenses incurred in the performance of advisory committee duties, including reimbursement for child care.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(63), eff. April 2, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(63), eff. April 2, 2015.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 747, Sec. 31, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 8.142, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 923, Sec. 11, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.311, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(63), eff. April 2, 2015.

Sec. 73.007. PUBLIC AWARENESS AND TRAINING. The department shall develop and implement:

(1) a general public awareness strategy focusing on the importance of prenatal care and early identification of infants and toddlers with developmental delay and the availability of resources to meet their needs; and

(2) a statewide plan for conducting training and technical assistance for service providers, primary referral sources, and families with children under three years of age with developmental delay.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 22, eff. Aug. 26, 1985; Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 12, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.312, eff. April 2, 2015.

Sec. 73.008. EARLY IDENTIFICATION STRATEGY. (a) The department shall develop and implement a statewide strategy for:

(1) the early identification of children under three years of age with developmental delay;

(2) improving the early identification of children under three years of age with developmental delay in populations at risk of developmental delay, through measures such as:

(A) targeting at-risk populations and appropriate geographical regions; and

(B) monitoring the performance of providers of services authorized under this chapter in identifying those children; and

(3) the coordination of programs with other agencies serving children with developmental delay, including the coordination of policy issues that affect children with developmental delay who are three years of age or older.

(b) The strategy must include plans to:

(1) incorporate, strengthen, and expand similar existing local efforts;

(2) incorporate and coordinate screening services currently provided through a public agency;

(3) establish a liaison with primary referral sources, including hospitals, physicians, public health facilities, and day-care facilities, to encourage referrals of children with developmental delay; and

(4) provide active leadership in addressing issues affecting the effectiveness of services for children with developmental delay, including issues such as the provision of respite care and development of incentives to encourage provision of respite care by providers of services authorized under this chapter.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 13, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 33, Sec. 7, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.313, eff. April 2, 2015.

Sec. 73.009. REFERRAL FOR SERVICES. (a) The department shall develop and the executive commissioner shall establish policies concerning services described by this section. A child under three years of age and the child's family may be referred for services described by this section if the child is:

(1) identified as having a developmental delay;

(2) suspected of having a developmental delay; or

(3) considered at risk of developmental delay.

(b) For each child referred, the department shall ensure the performance of appropriate medical or developmental screening or evaluation, and if such screening services or evaluation services are not available, the department shall ensure that the child is referred to a public or private program that can meet the child's needs.

(c) Services under this section shall be provided in a manner that minimizes intrusion into family privacy.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 747, Sec. 32, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 923, Sec. 14, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.314, eff. April 2, 2015.

Sec. 73.010. ELIGIBILITY FOR SERVICES. A child is eligible for services under this chapter if the child:

(1) is under three years of age; and

(2) is documented as having developmental delay or has a medically diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 747, Sec. 33, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.57,

eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 923, Sec. 15, eff. Sept. 1, 1997.

Sec. 73.011. PROVIDER SELECTION. (a) The department shall select providers of services authorized under this chapter on a best value basis in a manner that:

(1) maximizes federal, private, and local sources of funding; and

(2) promotes competition when possible.

(b) The department shall determine best value as required by Subsection (a) when the department initially awards a contract to a provider and when the department considers renewal of a provider's contract.

(c) In determining whether a provider will provide best value to the department, the department shall consider:

(1) the past performance of the provider;

(2) the quality of the provider's services;

(3) the cost of the provider's services;

(4) the ability of the provider to maximize federal, private, and local sources of funding;

(5) the ability of the provider to comply with state and federal program requirements;

(6) the availability of the provider to deliver required services; and

(7) any other relevant factor.

Added by Acts 1999, 76th Leg., ch. 33, Sec. 8, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.315, eff. April 2, 2015.

Sec. 73.022. FINANCES. (a) The executive commissioner shall:

(1) ensure compliance with requirements necessary to obtain federal funds in the maximum amount and the most advantageous proportions possible for programs funded under this chapter; and

(2) seek funding in a manner that maximizes the total amount of money available from federal, private, and local sources for programs funded under this chapter.

(a-1) The department shall:

(1) apply for, receive, administer, and spend federal and state funds for Part C, Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1431 et seq.), and its subsequent amendments, dealing with infants and toddlers from birth to age three with developmental delay and their families; and

(2) authorize and account for the classification and spending of maintenance of effort and carryover funds from all sources in carrying out the programs funded under this chapter.

(b) All money paid to the department under this chapter shall be deposited in the state treasury and may be used only for the administration of this chapter.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(64), eff. April 2, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(64), eff. April 2, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(64), eff. April 2, 2015.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(117), eff. June 17, 2011.

Added by Acts 1989, 71st Leg., ch. 813, Sec. 6.09, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.58, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 923, Sec. 16, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 33, Sec. 9, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(117), eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.316, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(64), eff. April 2, 2015.

Sec. 73.024. APPLICATION OF OPEN MEETINGS LAW, OPEN RECORDS LAW, AND ADMINISTRATIVE PROCEDURE LAW TO ADVISORY COMMITTEE. The advisory committee is subject to the requirements of the open meetings law, Chapter 551, Government Code, the open records law, Chapter 552, Government Code, and Chapter 2001, Government Code.

Added by Acts 1997, 75th Leg., ch. 923, Sec. 18, eff. Sept. 1, 1997.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.317, eff. April 2, 2015.

SUBTITLE D. MISCELLANEOUS PROVISIONS
CHAPTER 80. MISCELLANEOUS PROVISIONS

Sec. 80.001. FINGERPRINTING FOR IDENTIFICATION. (a) A state law enforcement agency or the law enforcement agency of any political subdivision of the state shall comply with the request of a person to have a record of his fingerprints made or a record of the fingerprints of a child or ward of the person made.

(b) A law enforcement agency may charge a fee not to exceed $10 for the service provided under this section and may retain records of fingerprints made under this section.

Added by Acts 1985, 69th Leg., ch. 117, Sec. 6(a), eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 695, Sec. 1, eff. Sept. 1, 1995.

Sec. 80.003. CHILDREN BORN TO IMPRISONED WOMEN. (a) The department shall provide medical care for a child born to a woman who, at the time of giving birth, is imprisoned in the Texas Department of Criminal Justice if there is no other source of payment for the medical care.

(b) In this section, "medical care" means the care relating to childbirth and the period of the child's hospitalization immediately following the birth or rehospitalization in the first 28 days of life.

Added by Acts 1989, 71st Leg., ch. 1117, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 80.002 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(15), eff. Sept. 6, 1990.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.116, eff. September 1, 2009.

TITLE 4. SERVICES FOR PERSONS WHO ARE DEAF OR HARD OF HEARING
CHAPTER 81. FUNCTIONS OF DEPARTMENT OF ASSISTIVE AND REHABILITATIVE

SERVICES RELATING TO PERSONS WHO ARE DEAF OR HARD OF HEARING

Sec. 81.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(67), eff. April 2, 2015.

(2) "Deaf" means a hearing impairment of such severity that an individual must depend on visual methods to communicate.

(2-a) "Department" means the Department of Assistive and Rehabilitative Services.

(3) "Hard of hearing" means a hearing impairment that results in a loss of hearing function to an individual and in which the individual:

(A) relies on residual hearing; and

(B) may depend on visual methods to communicate.

(4) "Deaf-blind" means:

(A) being legally blind and possessing a hearing impairment of such severity that a person cannot understand most speech even with the use of optimum amplification; or

(B) having a medical diagnosis of deteriorating hearing and vision expected to lead to the condition described by Paragraph (A).

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979; Acts 1987, 70th Leg., ch. 343, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 183, Sec. 1, eff. May 26, 1989; Acts 1991, 72nd Leg., ch. 353, Sec. 9, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 835, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 1, eff. May 23, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.320, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(67), eff. April 2, 2015.

Sec. 81.0055. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner of assistive and rehabilitative services by this

chapter, or another law relating to services for persons who are deaf or hard of hearing, conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.08, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.321, eff. April 2, 2015.

Sec. 81.006. DUTIES AND POWERS OF DEPARTMENT AND EXECUTIVE COMMISSIONER UNDER CHAPTER. (a) The department shall:

(1) develop and implement a statewide program of advocacy and education to ensure continuity of services to persons who are deaf, deaf-blind, or hard of hearing;

(2) provide direct services to persons who are deaf or hard of hearing, including communication access, information and referral services, advocacy services, services to elderly persons who are deaf or hard of hearing, and training in accessing basic life skills;

(3) work to ensure more effective coordination and cooperation among public and nonprofit organizations providing social and educational services to individuals who are deaf or hard of hearing;

(4) maintain a registry of available qualified interpreters for persons who are deaf or hard of hearing by updating the registry at least quarterly and making the registry available to interested persons at cost;

(5) establish a system to approve and provide courses and workshops for the instruction and continuing education of interpreters for persons who are deaf or hard of hearing;

(6) assist institutions of higher education that have or are initiating training programs for interpreters for persons who are deaf or hard of hearing;

(6-a) develop guidelines for the curricula for the programs described by Subdivision (6) to promote uniformity of the skills taught within those programs;

(7) with the assistance of the Texas Higher Education Coordinating Board, develop standards for evaluation of the programs described by Subdivision (6); and

(8) develop guidelines to clarify the circumstances under which interpreters certified by the department are qualified to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(b) The department may:

(1) appoint one or more advisory committees to consult with and advise the department under this chapter;

(2) collect training fees and accept gifts, grants, and donations of money, personal property, or real property for use in expanding and improving services to persons of this state who are deaf or hard of hearing;

(3) contract with or provide grants to agencies, organizations, or individuals as necessary to implement this chapter;

(4) collect a reasonable fee from interpreters for training to defray the cost of conducting the training;

(5) develop guidelines for trilingual interpreter services; and

(6) provide training programs for persons who provide trilingual interpreter services.

(c) The executive commissioner shall establish the fees described by Subsections (b)(2) and (4).

(d) The executive commissioner may adopt rules necessary to implement this chapter, including rules adopting standards and guidelines under this section.

(f) The executive commissioner shall establish and the department shall collect reasonable fees for some or all department publications to cover the department's publication costs. However, the department shall waive the fee if a person who is deaf or hard of hearing is financially unable to pay for the publication, and may waive the fees for publications provided to certain entities. The executive commissioner shall adopt rules to implement this subsection. The rules must specify the standards used for determining ability to pay for a publication and must specify the types of entities for which the fees will be waived.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Renumbered from Sec. 81.008 and amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 351, ch. 140, Sec. 1, eff. May 14, 1981; Acts 1983, 68th Leg., p. 2176, ch. 403, Sec. 1, eff. Aug. 29, 1983;

Acts 1985, 69th Leg., ch. 619, Sec. 6, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 343, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 508, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 835, Sec. 6, 28(1), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.62, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 122, Sec. 6, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 2, 14, eff. May 23, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(118), eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.322, eff. April 2, 2015.

Sec. 81.007. BOARD FOR EVALUATION OF INTERPRETERS. (a) The department may establish a program in accordance with this section for the certification of interpreters who have reached varying levels of proficiency in communication skills necessary to facilitate communication between persons who are deaf or hard of hearing and persons who are not deaf or hard of hearing.

(b) The department shall appoint an advisory board of seven persons to assist in administering the interpreter certification program. A board member may not receive compensation, but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the board, as provided in the General Appropriations Act.

(c) The board shall develop, subject to the department's approval, and the executive commissioner shall adopt qualifications for each of several levels of certification based on proficiency. The board shall evaluate and certify interpreters using these qualifications.

(d) A qualified board member may serve as an evaluator under Subsection (c), and the department shall compensate the board member for services performed as an evaluator.

(e) The executive commissioner by rule shall set and the department shall collect fees for written and performance examinations, for annual certificate renewal, and for recertification. The fees must be in an amount sufficient to recover the costs of the certification program.

(f) The department may waive any prerequisite to obtaining a

certificate for an applicant after reviewing the applicant's credentials and determining that the applicant holds a certificate issued by another jurisdiction that has certification requirements substantially equivalent to those of this state.

(g) The executive commissioner by rule may adopt a system under which certificates are valid for a five-year period, subject to the certificate holder's payment of an annual certificate renewal fee. After expiration of the five-year period, an interpreter must be recertified by the department. The department may recertify an interpreter who:

(1) receives specified continuing education credits; or

(2) achieves an adequate score on a specified examination.

(h) The executive commissioner shall adopt rules specifying the grounds for denying, suspending, or revoking an interpreter's certificate.

(i) The department shall determine the frequency for conducting the interpreter examinations. The department shall conduct the interpreter examinations:

(1) in a space that can be obtained free of charge; or

(2) at a facility selected in compliance with Section 2113.106, Government Code.

(k) The department shall compensate an evaluator based on a fee schedule as determined by department rule.

(l) The department shall recognize, prepare, or administer continuing education programs for its certificate holders. A certificate holder must participate in the programs to the extent required by the department to keep the person's certificate.

Added by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 352, ch. 140, Sec. 3, eff. May 14, 1981; Acts 1983, 68th Leg., p. 2177, ch. 403, Sec. 2, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 619, Sec. 7, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 343, Sec. 6, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 687, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 722, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 835, Sec. 7, 28(3), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 7, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 3, eff. May 23, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 857 (S.B. 2420), Sec. 1, eff.

June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.323, eff. April 2, 2015.

Sec. 81.0071. EXAMINATION RESULTS. (a) Not later than the 60th day after the date on which a certification examination is administered under this chapter, the department shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the department shall notify examinees of the results of the examination not later than the 14th day after the date on which the department receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify each examinee of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 8, eff. Sept. 1, 1985.
Amended by Acts 1999, 76th Leg., ch. 122, Sec. 8, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 14, eff. May 23, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.324, eff. April 2, 2015.

Sec. 81.0072. REVOCATION OR SUSPENSION OF CERTIFICATE. (a) The department, based on the recommendation of the Board for Evaluation of Interpreters, may revoke or suspend a certificate or place a certificate holder on probation for a violation of a statute, rule, or policy of the department. If a certificate holder is placed on probation, the department may require the practitioner:

(1) to report regularly to the department on matters that are the basis of the probation;

(2) to limit practice to those areas prescribed by the department; or

(3) to continue or renew professional education until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

(b) If the department proposes to suspend or revoke a certificate or place a certificate holder on probation, the certificate holder is entitled to a hearing before the department or a hearings officer appointed by the department. All final decisions to suspend or revoke a certificate or place a certificate holder on probation shall be made by the department.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 9, eff. Sept. 1, 1985.
Amended by Acts 1995, 74th Leg., ch. 835, Sec. 8, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 4, eff. May 23, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.325, eff. April 2, 2015.

Sec. 81.0073. CERTIFICATE RENEWAL. (a) A person who is otherwise eligible to renew a certificate may renew an unexpired certificate by paying the required renewal fee to the department before the expiration date of the certificate. A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

(b) A person whose certificate has been expired for 90 days or less may renew the certificate by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose certificate has been expired for one year or more may not renew the certificate. The person may obtain a new certificate by complying with the requirements and procedures, including the examination requirements, for obtaining an original certificate.

(e) A person who was certified in this state, moved to another state, and is currently certified and has been in practice in the other state for the two years preceding the date of application may obtain a new certificate without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for the certificate.

(f) Not later than the 30th day before the date a person's

certificate is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

Added by Acts 1999, 76th Leg., ch. 122, Sec. 9, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.326, eff. April 2, 2015.

Sec. 81.0074. PROVISIONAL CERTIFICATE. (a) The department may issue a provisional certificate to an applicant currently certified in another jurisdiction who seeks a certificate in this state and who:

(1) has been certified in good standing as an interpreter for at least two years in another jurisdiction, including a foreign country, that has certification requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the department relating to the practice of interpretation for people who are deaf or hard of hearing; and

(3) is sponsored by a person certified by the department under this chapter with whom the provisional certificate holder will practice during the time the person holds a provisional certificate.

(b) The department may waive the requirement of Subsection (a)(3) for an applicant if the department determines that compliance with that subdivision would be a hardship to the applicant.

(c) A provisional certificate is valid until the date the department approves or denies the provisional certificate holder's application for a certificate. The department shall issue a certificate under this chapter to the provisional certificate holder if:

(1) the provisional certificate holder is eligible to be certified under Section 81.007(f); or

(2) the provisional certificate holder passes the part of the examination under this chapter that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of interpretation for people who are deaf or hard of hearing in this state, and:

(A) the department verifies that the provisional

certificate holder meets the academic and experience requirements for a certificate under this chapter; and

(B) the provisional certificate holder satisfies any other certification requirements under this chapter.

(d) The department must approve or deny a provisional certificate holder's application for a certificate not later than the 180th day after the date the provisional certificate is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

(e) The executive commissioner by rule may establish a fee for provisional certificates in an amount reasonable and necessary to cover the cost of issuing the certificate.

Added by Acts 1999, 76th Leg., ch. 122, Sec. 10, eff. Sept. 1, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.327, eff. April 2, 2015.

Sec. 81.013. PRIVATE OUTDOOR TRAINING PROGRAMS FOR CHILDREN WHO ARE DEAF OR HARD OF HEARING. (a) The department may contract with private entities to provide for the participation of children who are deaf or hard of hearing at outdoor recreational programs operated for the purpose of providing skill training and recreational experiences for children who are deaf or hard of hearing. Outdoor training programs under this section may also provide for participation by the parents of children who are deaf or hard of hearing.

(b) In selecting children to attend programs under this section, the department shall select qualified children from across the state that will benefit from the program.

(c) The department may request criminal history record information on any person who applies for a staff position in an outdoor training program from the Department of Public Safety in accordance with Section 411.1131, Government Code.

Added by Acts 1981, 67th Leg., p. 288, ch. 113, Sec. 1, eff. May 13, 1981. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 9, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 5, eff. May 23, 2003. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.328, eff.

April 2, 2015.

Sec. 81.015. ADVERTISEMENT. (a) The executive commissioner may not adopt rules restricting competitive bidding or advertising by a person regulated by the department under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The executive commissioner may not include in department rules to prohibit false, misleading, or deceptive practices by a person regulated by the department under this chapter a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(c) The department may advertise to promote awareness and use of the programs, services, and activities conducted by the department under this chapter. The department may not use money derived from state tax revenue to pay for advertisements under this subsection.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 16, eff. Sept. 1, 1985.
Amended by Acts 2003, 78th Leg., ch. 118, Sec. 7, eff. May 23, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.329, eff. April 2, 2015.

Sec. 81.016. CONTRACTS FOR SERVICES. (a) Before the department contracts with or provides grant funding to an agency, organization, or individual to provide direct services to persons who are deaf or hard of hearing, the department shall make reasonable efforts to notify all potential service providers of the availability and purpose of the contract or grant.

(b) The notice shall include a request that all interested service providers submit within a specified period a contract or grant proposal for the department's consideration. The notice must also clearly state the criteria that the department will consider in

determining which applicant will be awarded the contract or grant.

(c) The department shall review all proposals submitted under this section and shall award the contract or grant to the applicant that the department determines is best able to provide the needed services. The department may not award contracts or grants to a former employee of the department's Office for Deaf and Hard of Hearing Services within two years after the person's employment with that office ceased.

(d) To ensure an equitable distribution of contract or grant funds, the department shall develop a formula, based on population and region, to allocate those funds among the agencies, organizations, or individuals that are awarded the contracts or grants.

(e) The executive commissioner shall adopt rules to implement this section.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 17, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 343, Sec. 8, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 835, Sec. 10, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 8, eff. May 23, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.330, eff. April 2, 2015.

Sec. 81.017. MEMORANDUM OF UNDERSTANDING. (a) The department and each of the following agencies shall adopt a memorandum of understanding to coordinate the delivery of services to persons who are deaf or hard of hearing and to reduce duplication of services:

(1) the Department of Aging and Disability Services;

(2) the Department of State Health Services;

(3) the Texas Workforce Commission;

(4) the Health and Human Services Commission;

(5) the Texas Higher Education Coordinating Board;

(6) the Texas Education Agency;

(7) the Texas School for the Deaf;

(8) the Texas Department of Criminal Justice; and

(9) any other state agency that provides or is required by law to provide services to persons who are deaf or hard of hearing.

(b) If gaps in the delivery of services are identified while

developing a memorandum, the involved agencies shall formulate in the memorandum methods to reduce or eliminate those gaps.

(c) Not later than the last month of each state fiscal year, the department and the other agencies shall review their respective memorandums.

Added by Acts 1987, 70th Leg., ch. 343, Sec. 9, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 11, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.63, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 122, Sec. 13, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 9, eff. May 23, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.117, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.331, eff. April 2, 2015.

Sec. 81.019. SYMBOLS OR OTHER FORMS OF IDENTIFICATION FOR PERSONS WITH HEARING IMPAIRMENTS. (a) The department shall design and provide for the issuance of a symbol or other form of identification that may be attached to a motor vehicle regularly operated by a person who is deaf or hard of hearing.

(b) A person who is deaf or hard of hearing may apply to the department for the symbol or other form of identification. The department may require acceptable medical proof that a person is deaf or hard of hearing and may collect a fee for each symbol or other form of identification to defray the costs of administering this section. The executive commissioner shall establish the fee.

(c) The department may contract with a state or local agency for the distribution of the symbol or other form of identification.

Added by Acts 1987, 70th Leg., ch. 172, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 81.017 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(27), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 12, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 14, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 10, eff. May 23, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.332, eff. April 2, 2015.

Sec. 81.020. ASSISTANCE REGARDING TELECOMMUNICATIONS DEVICES. The department may not advertise, distribute, or publish the name or address or other related information received by the department about an individual who applies for assistance regarding telecommunications devices.

Added by Acts 1999, 76th Leg., ch. 122, Sec. 15, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.333, eff. April 2, 2015.

Sec. 81.021. SPECIALIZED LICENSE PLATE PROGRAM. The department shall develop and the executive commissioner shall adopt rules and guidelines for the use of funds collected from the sale of specialized license plates under Section 504.619, Transportation Code, that are deposited in accordance with Section 504.6012, Transportation Code, and appropriated to the department for direct services programs, training, and education.

Added by Acts 2003, 77th Leg., ch. 118, Sec. 11, eff. May 23, 2003; Acts 2003, 78th Leg., ch. 118, Sec. 12, eff. May 23, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.334, eff. April 2, 2015.

CHAPTER 82. CONFIDENTIALITY OF INTERPRETED, TRANSLITERATED, OR RELAYED CONVERSATIONS

Sec. 82.001. DEFINITIONS. In this chapter:

(1) "Qualified interpreter" means a person employed as an interpreter who holds a current certification issued by the Board for Evaluation of Interpreters, or another current certificate that the Department of Assistive and Rehabilitative Services determines is comparable or appropriate and approves.

(2) "Relay agent" means a person employed to relay conversations for a person who is hearing impaired or speech impaired over a dual-party telephone system.

Added by Acts 1991, 72nd Leg., ch. 333, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 835, Sec. 21, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.335, eff. April 2, 2015.

Sec. 82.002. CONFIDENTIALITY OF CONVERSATIONS. A qualified interpreter or relay agent who is employed to interpret, transliterate, or relay a conversation between a person who can hear and a person who is hearing impaired or speech impaired is a conduit for the conversation and may not disclose or be compelled to disclose, through reporting or testimony or by subpoena, the contents of the conversation.

Added by Acts 1991, 72nd Leg., ch. 333, Sec. 1, eff. Sept. 1, 1991.

Sec. 82.003. CRIMINAL PENALTY. (a) A qualified interpreter or relay agent who is employed to interpret, transliterate, or relay a conversation between a person who can hear and a person who is hearing impaired or speech impaired commits an offense if the qualified interpreter or relay agent discloses the contents of the conversation, unless the qualified interpreter or relay agent obtains the consent of each party to the conversation.
(b) An offense under this section is a Class C misdemeanor.

Added by Acts 1991, 72nd Leg., ch. 333, Sec. 1, eff. Sept. 1, 1991.

TITLE 5. SERVICES FOR THE BLIND AND PERSONS WITH VISUAL DISABILITIES
CHAPTER 91. FUNCTIONS OF DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES RELATING TO THE BLIND AND PERSONS WITH VISUAL DISABILITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 91.002. DEFINITIONS. In this chapter:
(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(79), eff. April 2, 2015.
(2) "Blind" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the field of

vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(3) "Child with visual impairments" means a child who is blind or visually impaired or who has a visual condition that requires treatment, psychological assistance counseling, or other assistance that the department can provide.

(3-a) "Commissioner" means the commissioner of assistive and rehabilitative services.

(3-b) "Department" means the Department of Assistive and Rehabilitative Services.

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

(4) "Visual disability" includes blindness, an eye condition for which there is a medical prognosis indicating that the condition is of a progressive nature and may deteriorate either to blindness or to a substantial loss of vision, and physical or psychological disabilities that accompany or complement a disorder or imperfection of the eye.

(5) "Visually impaired" means a visual acuity of not more than 20/70 in the better eye with correcting lenses, or visual acuity greater than 20/70 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 30 degrees.

Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 2, eff. Sept. 1, 1985; Acts 1999, 76th Leg., ch. 213, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.338, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(79), eff. April 2, 2015.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 91.012. AUTHORITY OF COMMISSIONER. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(81), eff. April 2, 2015.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(81), eff. April 2, 2015.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec.

4.465(a)(81), eff. April 2, 2015.

(d) The commissioner may:

(1) delegate to an employee a power of the commissioner under this chapter or Subchapter E, Chapter 117, except the power to appoint personnel;

(2) accept and use gifts and grants to the department to carry out the purposes of this title or Subchapter E, Chapter 117, if the commissioner determines that the conditions of the gift or grant are consistent with this title or Subchapter E, Chapter 117; and

(3) take other actions that the commissioner considers necessary or appropriate to carry out the department's purposes under this chapter or Subchapter E, Chapter 117.

Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 4, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 8.144, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 693, Sec. 7, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 213, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1460, Sec. 2.10, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.339, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.340, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(81), eff. April 2, 2015.

Sec. 91.014. FUNDS. (a) All sums of money paid to the department under this title or Subchapter E, Chapter 117, shall be deposited in the state treasury.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(83), eff. April 2, 2015.

Added by Acts 1983, 68th Leg., p. 3821, ch. 594, Sec. 1, eff. June 19, 1983. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 6, eff. Sept. 1, 1985.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.341, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(83),

eff. April 2, 2015.

Sec. 91.016. COMPENSATION OF CERTAIN EMPLOYEES. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(85), eff. April 2, 2015.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(85), eff. April 2, 2015.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(85), eff. April 2, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(85), eff. April 2, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1138 , Sec. 30(2), eff. September 1, 2015.

Added by Acts 1985, 69th Leg., ch. 793, Sec. 8, eff. Sept. 1, 1985.
Amended by Acts 1999, 76th Leg., ch. 213, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.342, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.343, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(85), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1138 (S.B. 208), Sec. 30(2), eff. September 1, 2015.

Sec. 91.018. COMPLAINTS. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(87), eff. April 2, 2015.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(87), eff. April 2, 2015.

(c) Except as required by federal regulations for resolving complaints received from people who are receiving service from the department, under this chapter or Subchapter E, Chapter 117, the department shall maintain a file in the manner prescribed by Section 117.072(a) on each written complaint filed with the department.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(87), eff. April 2, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec.

4.465(a)(87), eff. April 2, 2015.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(87), eff. April 2, 2015.

(g) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(87), eff. April 2, 2015.

Added by Acts 1985, 69th Leg., ch. 793, Sec. 10, eff. Sept. 1, 1985.
Amended by Acts 1999, 76th Leg., ch. 213, Sec. 5, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.344, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.345, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(87), eff. April 2, 2015.

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 91.0205. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner by this chapter, or another law relating to services for the blind or persons with visual disabilities, conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.11, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.347, eff. April 2, 2015.

Sec. 91.021. RESPONSIBILITY FOR PERSONS WITH VISUAL DISABILITIES. (a) The department has primary responsibility for providing all services to persons with visual disabilities except welfare services and services for children provided by regularly established educational agencies and state authorities.

(b) The department shall negotiate interagency agreements with other state agencies to provide services for individuals who have both a visual disability and another disability so that those individuals with multiple disabilities may be provided the most beneficial services with the greatest possible economy.

(c) The department and other concerned state agencies may not refuse to enter into an interagency agreement developed to advance the state's policies regarding the rehabilitation or education of the blind and persons with visual disabilities. In negotiating the agreements the agencies shall seek to extend and improve the regular services provided by the agencies and to effectively use all specialty and fiscal resources that are available. The agencies shall give careful consideration to avoiding unnecessary duplication or overlap of their respective efforts.

(d) The department shall enter into agreements with the federal government to implement federal legislation authorizing the provision of services to persons with visual disabilities. The department shall use methods of administration required by the federal government for the proper and efficient implementation of the agreements, and shall comply with other federal requirements necessary to secure the full benefits of the federal legislation.

(e) The department and other concerned state agencies may not refuse to enter into interagency agreements designed to secure the full benefits of federal legislation authorizing services for persons with visual disabilities.

(f) The department shall:

(1) serve as an information center and referral resource for persons with visual disabilities; and

(2) develop mechanisms and procedures that tend to assist individuals with visual disabilities in bridging gaps between educational, institutional, rehabilitative, vocational, and related types of services operated by public and private nonprofit organizations throughout the state.

Acts 1979, 66th Leg., p. 2397, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2437, ch. 842, art. 2, Sec. 12, eff. Sept. 1, 1979; Acts 1985, 69th Leg., ch. 793, Sec. 12, eff. Sept. 1, 1985; Acts 2003, 78th Leg., ch. 198, Sec. 2.130, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 13.08, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 4.06, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 32(f), eff. September 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.348, eff. April 2, 2015.

Sec. 91.0211. SERVICE DELIVERY BY TEXAS WORKFORCE COMMISSION. The Texas Workforce Commission has primary responsibility for providing vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, notwithstanding Section 91.021(a) and subject to receipt of any required federal approval to administer those services and programs. A power or duty under this chapter, including rulemaking authority, of the department, the commissioner, or the executive commissioner that is applicable to those services or programs is a power or duty of the Texas Workforce Commission with respect to those services or programs.

Added by Acts 2015, 84th Leg., R.S., Ch. 1138 (S.B. 208), Sec. 6, eff. September 1, 2016.

Sec. 91.023. ASSISTANCE WITH REHABILITATION SERVICES. The department may furnish materials, tools, books, and other necessary apparatus and assistance for use in rehabilitating the blind and persons with visual disabilities.

Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.350, eff. April 2, 2015.

Sec. 91.027. BLINDNESS EDUCATION, SCREENING, AND TREATMENT PROGRAM. (a) To the extent that funds are available under Sections 521.421(j) and 521.422(b), Transportation Code, the department shall operate a Blindness Education, Screening, and Treatment Program to provide:

(1) blindness prevention education and screening and treatment to prevent blindness for residents who are not covered under an adequate health benefit plan; and

(2) transition services to individuals with visual

disabilities eligible for vocational rehabilitation services under Section 117.102.

(b) The program shall include:

(1) public education about blindness and other eye conditions;

(2) screenings and eye examinations to identify conditions that may cause blindness;

(3) treatment procedures necessary to prevent blindness; and

(4) transition services.

(c) The executive commissioner by rule shall prescribe eligibility requirements for the program.

Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 510, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 198, Sec. 2.115(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1140, Sec. 1, eff. June 20, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(11), eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.351, eff. April 2, 2015.

Sec. 91.028. SERVICES FOR CHILDREN WITH VISUAL IMPAIRMENTS. (a) The department may provide services to children with visual impairments to supplement the services provided by other state agencies if the department determines that the provision of the services is appropriate and that the services will assist the children in achieving financial self-sufficiency and a fuller and richer life. It is the intention of the legislature that all state agencies concerned with children with visual impairments cooperate fully to achieve this purpose.

(b) The executive commissioner shall establish, by rule, the income level at which the Medicaid eligibility of a client applying for services under Subsection (a) shall be verified.

(c) The department shall verify the Medicaid eligibility of a client applying for services under Subsection (a) whose income level is equal to or less than the income level established by the executive commissioner under Subsection (b).

(d) The department shall verify the Medicaid eligibility of a client who is required by the department to apply for Medicaid not later than the 90th day after the date the application for services from the department under Subsection (a) is made.

(e) In verifying Medicaid eligibility, an employee of the department shall:

(1) examine appropriate state or private Medicaid eligibility databases; and

(2) record on each client's case records whether Medicaid eligibility was verified, the source of the verification, and the date of the verification.

(f) Except as provided by Subsection (g), a person may not solicit, disclose, receive, use, or knowingly permit the use of records or other information concerning an applicant for or recipient of children's program services that is directly or indirectly acquired by an officer or employee of the state or its political subdivisions in the course of the officer's or employee's official duties.

(g) A person may use the information provided under Subsection (f) in accordance with department rules only for purposes directly connected with the administration of the children's program and for the investigation of a complaint filed against an agency, employee, or contracted provider of services.

Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1999, 76th Leg., ch. 213, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.352, eff. April 2, 2015.

Sec. 91.0301. LOANS FOR VISUAL AIDS. (a) The department may establish a program to make loans to finance the purchase of technological aids for persons with visual disabilities. Interest on the loans may not exceed 10 percent a year.

(b) The executive commissioner may promulgate rules to administer the loan program.

Added by Acts 1981, 67th Leg., p. 317, ch. 126, Sec. 2, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 13, eff. Sept.

1, 1985.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.353, eff. April 2, 2015.

Sec. 91.031. CONTRACTS FOR SERVICE. (a) The department shall include in its contracts with service providers under this chapter or Subchapter E, Chapter 117, provisions relating to:

(1) clearly defined and measurable program performance standards that directly relate to the service provided;

(2) clearly defined penalties for nonperformance of a contract term; and

(3) clearly specified accounting, reporting, and auditing requirements applicable to money received under the contract.

(b) The department shall monitor a service provider's performance under a contract for service under this chapter or Subchapter E, Chapter 117. In monitoring performance, the department shall:

(1) use a risk-assessment methodology to institute statewide monitoring of contract compliance of service providers; and

(2) evaluate service providers based on clearly defined and measurable program performance objectives.

Added by Acts 1999, 76th Leg., ch. 213, Sec. 8, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.354, eff. April 2, 2015.

Sec. 91.032. CONTRACTS FOR ASSISTIVE TECHNOLOGY. The department shall include in a contract under this chapter or Subchapter E, Chapter 117, with a supplier of assistive technology equipment provisions that require the supplier to provide training for clients receiving the assistive technology equipment.

Added by Acts 1999, 76th Leg., ch. 213, Sec. 8, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.355, eff. April 2, 2015.

SUBCHAPTER E. CENTRAL MEDIA DEPOSITORY

Sec. 91.081. PURPOSE. (a) The purpose of this subchapter is to establish a comprehensive central state depository for braille, large print, slow speed records and machines, tape recordings and tape players, and related forms of media that will enable the Texas State Library and Archives Commission, the Texas Education Agency, the department, volunteer organizations involved in the production of braille or recorded materials for the blind, the Library of Congress, and related types of organizations to work together more closely and effectively.

(b) It is the intent of this subchapter to allow various agencies and organizations interested in or responsible for such services to work together cooperatively in one facility without requiring one central management.

Renumbered from Sec. 92.051 by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, Sec. 15, eff. Sept. 1, 1979; Amended by Acts 1985, 69th Leg., ch. 793, Sec. 17, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.64, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.357, eff. April 2, 2015.

Sec. 91.082. ESTABLISHMENT OF CENTRAL MEDIA DEPOSITORY. (a) The Texas State Library and Archives Commission shall generally supervise the establishment and operation of a central media depository in Austin to house materials and devices required by the blind and individuals with visual disabilities or by other individuals who are unable to use ordinary printed materials.

(b) With the approval of the Texas State Library and Archives Commission, the agencies and organizations maintaining and operating the central media depository shall develop and periodically evaluate and modify specific arrangements for administrative support, sharing of staff and equipment, and related matters involved in the operation of the program.

Renumbered from Sec. 92.052 and amended by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, Sec. 15, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.358, eff.

April 2, 2015.

Sec. 91.083. ANCILLARY SERVICES. The Texas State Library and Archives Commission shall allow the central media depository to be used for the repair of special media and equipment required by individuals who are unable to use ordinary print and for research and demonstration, training, and the production of materials in special media by volunteer organizations.

Renumbered from Sec. 92.053 and amended by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, Sec. 15, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.359, eff. April 2, 2015.

Sec. 91.084. FUNDING. The cost of establishing and operating the central media depository shall be paid with:

(1) funds appropriated by the legislature for that purpose;

(2) gifts, grants, bequests, and donations received by cooperating agencies for the establishment and support of the depository;

(3) reasonable fees customarily charged for services by the agencies and organizations using or occupying the facility; and

(4) funds budgeted by the cooperating agencies and organizations for that purpose pursuant to interagency contracts and agreements.

Renumbered from Sec. 92.054 by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, Sec. 15, eff. Sept. 1, 1979.

TITLE 6. SERVICES FOR THE ELDERLY
CHAPTER 101A. STATE SERVICES FOR THE AGING
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 101A.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of aging and disability services.

(2) "Department" means the Department of Aging and Disability Services.

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

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.002. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner by this chapter or another law relating to state services for the aging conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.003. COOPERATION WITH FEDERAL AND STATE AGENCIES. (a) The department is the state agency designated to handle federal programs relating to the aging that require action within the state and that are not the specific responsibility of another state agency under federal or state law.

(b) The department is not intended to supplant or to take over from the counties and municipalities of this state or from other state agencies or facilities any of the specific responsibilities relating to services for the aging that they hold. The department shall cooperate with federal and state agencies, counties, and municipalities and private agencies or facilities in the state in accomplishing the purposes of this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT AND EXECUTIVE COMMISSIONER

Sec. 101A.051. RULES. The executive commissioner shall adopt rules governing the functions of the department under this chapter, including rules that prescribe the policies and procedures followed by the department in the administration of any local services programs, employment programs for the aged, volunteer programs for

the aged, or other programs.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.052. GENERAL FUNCTIONS OF DEPARTMENT RELATED TO AGING SERVICES. (a) The department shall provide expertise and advice to state agencies and the legislature and other elected officials on aging issues, including recommendations to meet the needs of this state's elderly population.

(b) The department shall develop and strengthen the services available for the aged in the state by coordinating services provided by governmental and private agencies and facilities.

(c) The department shall extend and expand services for the aged by coordinating the interest and efforts of local communities in studying the problems of the aged citizens of this state.

(d) The department shall encourage, promote, and aid in the establishment of area agencies on aging for the development of programs and services on a local level that improve the living conditions of the aged by enabling them to more fully enjoy and participate in family and community life.

(e) The department shall sponsor voluntary community rehabilitation and recreational facilities to improve the general welfare of the aged.

(f) The department shall cooperate with state and federal agencies and other organizations in conducting studies and surveys on the special problems of the aged in matters such as mental and physical health, housing, family relationships, employment, income, vocational rehabilitation, recreation, transportation, insurance, legal rights, and education. The department shall make appropriate reports and recommendations to the governor and to state and federal agencies.

(g) The department shall conduct research and long-range planning regarding long-term care, community care, and other issues that affect elderly individuals.

(h) The department shall make recommendations to the governor, the legislature, and state agencies regarding:

(1) opportunities to coordinate programs for elderly individuals;

(2) unnecessary duplication in providing services to elderly individuals; and

(3) gaps in services to elderly individuals.

(i) The department shall:

(1) cooperate with the Texas Department of Housing and Community Affairs to provide affordable housing for elderly individuals and for families in which an elderly individual is head of the household;

(2) assess the need for housing for elderly individuals and for families in which an elderly individual is head of the household in different localities;

(3) set standards relating to the design and construction of housing for elderly individuals;

(4) provide planning assistance to builders; and

(5) publicize the availability of the housing program to potential developers and residents.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.053. OLDER AMERICANS ACT; STATE PLAN. (a) The department shall develop this state's plan on aging, as required by the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.).

(b) The department shall conduct a statewide needs assessment for long-term care and other services for older individuals and their caregivers. The assessment shall include input from:

(1) area agencies on aging;

(2) regional and local state agency staff; and

(3) community-based organizations.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

SUBCHAPTER C. PROGRAMS AND SERVICES

Sec. 101A.101. COMMUNITY SENIOR CITIZENS EMPLOYMENT PROGRAMS. (a) In this section, "suitable employment" means employment that is commensurate with the individual's skills and ability and for which compensation is paid equal to the federal minimum wage rate.

(b) The Texas Workforce Commission may administer a community

program for persons 55 years of age or older who lack suitable employment and have family incomes under federal poverty guidelines.

(c) The Texas Workforce Commission may contract with a public agency or a private, nonprofit organization with experience in managing similar programs to employ persons under this program in providing recreation, beautification, conservation, or restoration services, or public service employment positions for state, county, city, or regional governments or school districts. The Texas Workforce Commission may not contract with an organization that is not a subscriber under the state workers' compensation law or that does not pay the federal minimum wage rate or the prevailing wage rate for the particular job, whichever is greater.

(d) The state shall finance 80 percent of the cost of the program, and the governments receiving the services shall finance 20 percent of the cost.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.102. VOLUNTARY COMMUNITY SERVICES PROGRAMS. (a) The department shall ensure that state funds appropriated to the department for programs to recruit elderly persons to perform voluntary community services or for programs under Senior Corps are disbursed to local public agencies or private, nonprofit corporations that operate those programs.

(b) A public agency or private, nonprofit corporation may not receive state money under this section if it is not able to qualify for federal matching money for the same purpose.

(c) The executive commissioner by rule shall establish guidelines or formulas to determine the proportion of state money distributed to each public agency or private, nonprofit corporation under this section. The executive commissioner by rule may establish additional qualifications to receive the state money.

(d) State funds disbursed under this section may not be used to pay compensation to volunteer workers, except for participants in the Foster Grandparent and Senior Companion Programs of Senior Corps, or for purposes other than financing the operation or administration of the volunteer programs, but it may be used to defray expenses incurred by volunteers in the performance of volunteer work. The

executive commissioner by rule may further limit the purposes for which the state money may be spent.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.103. TEXAS CARES PROGRAM. (a) The executive commissioner by rule may establish and the department may operate a Texas Cares program to provide persons eligible for discount drug price programs offered by pharmaceutical companies with:

(1) information regarding the availability of those programs; and

(2) in appropriate circumstances, assistance in enrolling in those programs.

(b) The department may solicit and accept gifts, grants, and donations from any source to use in funding the Texas Cares program.

(c) The executive commissioner shall design the Texas Cares program to meet the primary goal of increasing awareness in appropriate populations of the availability of discount drug price programs offered by pharmaceutical companies. To the extent that adequate resources are available, the department shall:

(1) make information regarding discount drug price programs readily available on the department's Internet site;

(2) maintain a toll-free telephone number through which a person may obtain information regarding discount drug price programs; and

(3) make brochures or other written informational materials regarding discount drug price programs available on request by a pharmacist, physician, representative of an organization serving senior citizens, or other interested person.

(d) The department may:

(1) conduct community outreach and education activities to increase awareness of the availability of discount drug price programs offered by pharmaceutical companies;

(2) solicit and train volunteers to perform functions associated with the Texas Cares program, including:

(A) providing assistance to eligible persons in enrolling in discount drug price programs offered by pharmaceutical companies; and

(B) conducting community outreach and education activities; and

(3) coordinate operation of the Texas Cares program with the activities of area agencies on aging.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.104. PUBLIC INFORMATION ON COST OF LONG-TERM CARE. The department shall develop programs to provide information to the public relating to:

(1) the cost of long-term care;

(2) the limits on Medicaid eligibility;

(3) the adequacy or inadequacy of other financing options, including Medicare; and

(4) possible methods of financing long-term care, including group insurance policies and other methods designed to assist individuals.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.105. SERVICES OF OTHER AGENCIES. The department may accept services performed by other agencies to accomplish the purposes of this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.106. REVIEW OF ADMINISTRATIVE COSTS AND PROGRAMS. (a) The executive commissioner by rule shall define "administrative costs" as used in this section. However, if a standard definition of administrative costs is required by law to be used by state agencies, the executive commissioner shall use that definition.

(b) To determine the administrative costs incurred by an entity, including an area agency on aging and including an entity that spends money distributed by the department under Section 101A.101 or 101A.102 in engaging in a program that is funded in any

part by money derived from the department under this chapter, the department shall request appropriate information from the entity.

(c) The executive commissioner shall establish the maximum amount of administrative costs that may be incurred by the entity in engaging in the program.

(d) The department periodically shall review the actions of entities receiving funds from the department under this chapter and shall document its review. The review of an entity that spends money distributed under Section 101A.102 must include on-site evaluations of the entity and must include the review of documentation, which shall be required by the department, of the services performed by the aged in programs under Section 101A.102.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.107. REPORT ON UNIT COSTS. The department shall file with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy a report that clearly identifies the unit cost of each service, other than services related to community service volunteering and subsidized employment services, provided by an area agency on aging. The report must be filed twice each year on or before the date specified by the Legislative Budget Board. The report must be in the form required by the Legislative Budget Board.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

SUBCHAPTER D. OPTIONS FOR INDEPENDENT LIVING PROGRAM

Sec. 101A.151. DEFINITIONS. In this subchapter:

(1) "Case management" means the process of assessing service needs, developing a plan of care, and arranging for and monitoring delivery of care to an elderly person under this subchapter.

(2) "Case management unit" is an entity that coordinates and administers case management.

(3) "Elderly person" means a person who is 60 years of age or older.

(4) "Service area" means a geographical area of the state

designated for purposes of planning, development, and overall administration of services provided under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.152. OPTIONS FOR INDEPENDENT LIVING PROGRAM. (a) The department shall establish a statewide Options for Independent Living program to help elderly persons remain at home despite limited self-care capacities and to prevent institutionalization.

(b) The Options for Independent Living program shall provide short-term support services to elderly persons for the purposes of:

(1) restoring functional capacities after illness or hospitalization; and

(2) educating and preparing elderly persons and their caregivers to provide self-care.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.153. PERSONS TO BE SERVED. (a) The Options for Independent Living program shall give priority to an elderly person who:

(1) has recently suffered a major illness or health care crisis or has recently been hospitalized;

(2) lives in a rural area;

(3) has insufficient caregiver support;

(4) has a mild to moderate impairment or a temporary severe impairment; and

(5) is in great economic or social need, with particular attention to low-income minority older persons.

(b) In awarding funding under this subchapter, the department shall serve priority populations consistent with the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.).

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.154. PROVISION OF SERVICES. (a) Support services shall include:

(1) case management;

(2) homemaking assistance, including personal care;

(3) residential repair and modification;

(4) benefits counseling;

(5) respite care;

(6) emergency response;

(7) education and training for caregivers;

(8) home-delivered meals;

(9) transportation; and

(10) other appropriate services identified by the case manager and client through the assessment and care planning process.

(b) A case manager shall conduct an individual assessment of an elderly person's needs and shall, in consultation with the elderly person and the elderly person's family, create a plan of care that specifies the type, amount, frequency, and duration of support services the elderly person needs.

(c) A plan of care must coordinate the available public and private services and resources that are most appropriate to meet the elderly person's needs.

(d) An area agency on aging may not directly provide homemaker, home health, residential repair, respite, meal delivery, or transportation service unless the area agency:

(1) receives no response to a request for proposals that meets department standards; and

(2) has exhausted all other procurement options available under department rules.

(e) An area agency on aging that wants to provide directly a service not available through a local public or private entity must obtain approval from the department in accordance with department rules governing the granting of such approval.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.155. CASE MANAGEMENT UNITS. (a) The department shall designate one or more case management units for each service area to provide case management services according to department

rules and standards.

(b) The department shall designate an area agency on aging as a case management unit for a service area. The area agency on aging may act as the case management unit, after obtaining approval from the department in accordance with department rules governing the granting of such approval, or the area agency on aging may subcontract with a local service agency or hospital to act as the case management unit.

(c) A case manager must be an employee of a case management unit.

(d) The department shall periodically review a case management unit.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.156. ADMINISTRATION OF PROGRAM. (a) The department shall administer the Options for Independent Living program through grants to area agencies on aging.

(b) Area agencies on aging shall maintain their service provision levels in effect on September 1, 1989, independent of the Options for Independent Living program. Funds made available under this program may not be used to supplant service funds for services provided on September 1, 1989.

(c) An area agency on aging that receives funds under this section shall ensure the availability of the services for which the funds were granted.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.157. FEES. (a) The executive commissioner by rule shall establish a copayment system using a sliding scale that is based on an elderly person's income.

(b) An elderly person whose income exceeds the basic income and resources requirements for eligibility for the community care for aged and disabled program of the department, but whose income is less than 200 percent of that level, shall pay a portion of the cost of support services provided to the person by a case management unit

according to the fee scale.

(c) An elderly person whose income exceeds 200 percent of the level established by the department for the community care for aged and disabled program shall pay the full cost of support services provided by a case management unit.

(d) A local case management unit shall collect and account for all fees imposed for services provided by the case management unit and shall submit reports to the department as prescribed by department rules.

(e) Fees collected shall be used to defray program costs and to expand the Options for Independent Living program.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

SUBCHAPTER E. FUNDING

Sec. 101A.201. AUTHORITY TO ACCEPT, EXPEND, AND TRANSFER FUNDS. The department may accept, expend, and transfer federal and state funds appropriated for programs authorized by federal and state law and administered by the department under this chapter. The department may accept, expend, and transfer funds received in relation to this chapter from any source, including a county, municipality, or public or private agency. The funds shall be deposited in the state treasury and may be used for the purposes of this chapter, subject to any conditions attached to the funds.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.202. CONTRIBUTIONS TO LOCAL ORGANIZATIONS: CERTAIN COUNTIES. (a) This section applies only to counties having a population of not less than 22,140 and not more than 22,340 and to cities and towns within those counties.

(b) Each county and each city or town to which this section applies may cooperate with the department in carrying out the department's purposes under this chapter on a local level by contributing funds to any local organization the functions of which are to cooperate with the department in carrying out those purposes. The organization must operate with the approval and sanction of the

department.

(c) The operation of buildings, facilities, services, and programs by an organization for other community services or benefits does not prohibit the contribution of the funds under this section for the part of the organization's program for the aging if that part of the program is approved by the department.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.203. FUNDING TO AREA AGENCIES ON AGING. (a) The executive commissioner by rule shall adopt a formula that meets the intent of the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) for allocating among area agencies on aging funds that the department receives under the Act.

(b) The formula must provide for the allocation of the funds among the area agencies on aging according to the most recent population estimates available from the Health and Human Services Commission.

(c) The executive commissioner shall update the formula biennially and the department shall include the formula and population estimates in each state plan on aging.

(d) Unless otherwise provided for by department rules regarding the carryover of unexpended funds allocated under this section, at the end of a fiscal year excess unexpended funds of an area agency on aging's allocations for that fiscal year shall be deducted from the allocation for the new fiscal year and that same amount of new fiscal year funds shall be reallocated. The executive commissioner by rule shall adopt a reallocation formula that includes performance as a criterion, in addition to other criteria adopted by the executive commissioner.

(e) The funds that the department receives under the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) shall be allocated and reallocated to area agencies on aging under the formulas adopted under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Sec. 101A.204. TRUSTS FOR CERTAIN RECIPIENTS OF MEDICAL ASSISTANCE. (a) An area agency on aging may contract with one or more private attorneys to establish trusts described by 42 U.S.C. Section 1396p(d)(4)(B) for the benefit of recipients of medical assistance under Chapter 32 who, without the establishment of these trusts, would become ineligible for medical assistance.

(b) The department shall allocate available state funds to the area agencies on aging for use in contracting for the establishment of trusts under Subsection (a).

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

SUBCHAPTER F. OFFICE OF STATE LONG-TERM CARE OMBUDSMAN

Sec. 101A.251. DEFINITIONS. In this subchapter:

(1) "Commission" means the Health and Human Services Commission.

(1-a) "Local ombudsman entity" means a distinct unit or entity, consisting of representatives, designated by the state long-term care ombudsman to carry out the ombudsman program in a service area of the state.

(2) "Long-term care facility" means a facility that is licensed or regulated or that is required to be licensed or regulated by the commission under Chapter 242 or 247, Health and Safety Code.

(3) "Office" means the office of the state long-term care ombudsman, consisting of the state long-term care ombudsman and representatives who are employed by the commission.

(3-a) "Ombudsman program" means the program through which the functions and duties of the office are carried out, consisting of the office and all representatives.

(4) "Representative" means an employee or volunteer specifically designated by the office as a representative of the office.

(4-a) "Resident" means a resident of a long-term care facility.

(5) "State long-term care ombudsman" means the chief administrator of the office.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.

Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.252. OPERATION OF OFFICE. (a) The office shall operate and is subject to the commission's oversight in accordance with federal and state statute.

(b) The commission may operate the office directly or by contract or memorandum of agreement with a public agency or other appropriate private nonprofit organization. The commission, agency, or organization may not implement a policy that prohibits the office from performing its duties under this subchapter. The commission may not use an agency or organization that:

(1) is responsible for licensing or certifying long-term care services;

(2) is an association of long-term care facilities or of any other residential facility that serves persons with disabilities or who are 60 years of age or older, or that is an affiliate of such an association; or

(3) has an ownership, operational, or investment interest in a long-term care facility.

(c) The commission shall consider the views of residents, provider organizations, advocacy groups, and area agencies on aging in planning and operating the office.

(d) The commission shall ensure that a person involved in designating the state long-term care ombudsman or in designating a representative does not have a conflict of interest.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.253. ROLE OF OFFICE. The office and the ombudsman program shall operate in cooperation with any regulatory agency funded and mandated by federal and state statute.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361,

eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.254. POWERS AND DUTIES OF STATE LONG-TERM CARE OMBUDSMAN AND OFFICE. (a) The office has the powers and duties authorized and required by state and federal law.

(b) The office may use appropriate administrative, legal, and other remedies to assist residents as provided by commission rules.

(c) The office acts independently of the commission in the performance of its powers and duties under this subchapter.

(d) The state long-term care ombudsman has the authority to designate a local ombudsman entity or representative and to suspend or revoke that designation.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.255. OMBUDSMEN. (a) The office shall recruit volunteers and citizen organizations to participate in the ombudsman program. A paid staff member of an area agency on aging network or a nonprofit social service agency may be an ombudsman. An ombudsman is a representative.

(b) The office shall provide training to ombudsmen as required by this subchapter and federal law.

(c) The office shall coordinate ombudsman services with the protection and advocacy systems that exist for persons with developmental disabilities or mental illness.

(d) The office shall coordinate ombudsman services with state and local law enforcement agencies and courts of competent jurisdiction. The office is not authorized to compel those law enforcement agencies or courts to coordinate ombudsman services or other activities with the office.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361,

eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.256. LEGAL COUNSEL. The commission shall ensure that the office receives adequate legal advice and representation without conflict of interest as defined by the Texas Disciplinary Rules of Professional Conduct. The attorney general shall represent the state long-term care ombudsman and a representative if a suit or other legal action is brought or threatened to be brought against that person in connection with the person's performance of the official duties of the ombudsman program.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.257. INVESTIGATIONS. (a) The office shall have access to residents and shall, in accordance with commission rules, investigate and resolve complaints made by or on behalf of residents.

(b) The state long-term care ombudsman shall ensure that each ombudsman designated under Section 101A.255 who investigates complaints has received proper training and has been approved by the office as qualified to investigate complaints.

(c) The office shall investigate a grievance made against a representative in accordance with commission rules and inform the person who made the grievance of the outcome of the investigation when the investigation is concluded.

(d) A long-term care facility shall cooperate with an investigation conducted by the state long-term care ombudsman or a representative, including an ombudsman designated under Section 101A.255.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.258. ACCESS TO RECORDS AND CONFIDENTIALITY. (a) The state long-term care ombudsman and representatives shall have access to patient care records of residents as provided by commission rules. Except as provided by Subsection (b), all records and information created or obtained by the state long-term care ombudsman or a representative remain confidential.

(a-1) The state long-term care ombudsman and representatives shall have access to patient care records of a resident if:

(1) the resident or the resident's legal representative consents to the access;

(2) the resident is unable to consent to the access and the resident has no legal representative; or

(3) access to the records is necessary to investigate a complaint and:

(A) a legal representative of the resident refuses to consent to the access;

(B) the state long-term care ombudsman or representative has reasonable cause to believe that the legal representative of the resident is not acting in the best interests of the resident; and

(C) the state long-term care ombudsman approves the access.

(b) The office shall ensure that the identity of a complainant or any resident may be disclosed only with the consent of the person or the person's legal representative or on court order.

(c) Files, records, and other information maintained as part of the ombudsman program may be disclosed only at the discretion of the state long-term care ombudsman.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.259. REPORTING SYSTEM. The office shall maintain a statewide ombudsman uniform reporting system to collect and analyze information relating to complaints and conditions in long-term care facilities as long as such system does not duplicate other state reporting systems. The office shall provide the information to the commission in accordance with federal law.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.260. ANALYSIS OF LAWS. (a) The office shall analyze and monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies relating to long-term care facilities and services and shall recommend any changes the office considers necessary.

(b) To the extent necessary to perform any duties under this subchapter, Section 556.006(a), Government Code, and Section 391.0116, Local Government Code, do not apply to the state long-term care ombudsman or a representative.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.261. PUBLIC INFORMATION. The office shall provide information and make recommendations to public agencies, legislators, and other persons about the problems and concerns of residents.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.262. REPORT. (a) The office shall prepare a report that contains:

(1) information and findings relating to the problems and concerns of residents; and

(2) policy, regulatory, and legislative recommendations to solve the problems, resolve the concerns, and improve the quality of the residents' care and lives.

(b) The report must be submitted to the governor and the presiding officer of each house of the legislature not later than November 1 of each even-numbered year.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.263. LIMITATION OF LIABILITY. The state long-term care ombudsman or a representative is not liable for civil damages or subject to criminal prosecution for performing official duties unless the state long-term care ombudsman or representative acts in bad faith or with a malicious purpose.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

Sec. 101A.264. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) by act or omission, wilfully interferes or attempts to interfere with the state long-term care ombudsman or a representative attempting to perform official duties; or

(2) commits or attempts to commit an act of retaliation or reprisal against any resident or employee of a long-term care facility for filing a complaint or providing information to the state long-term care ombudsman or a representative.

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

(c) The commission shall ensure that criminal sanctions will be initiated only after all administrative procedures are exhausted.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.361, eff. April 2, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 900 (H.B. 3564), Sec. 1, eff. September 1, 2017.

CHAPTER 102. RIGHTS OF THE ELDERLY

Sec. 102.001. DEFINITIONS. In this chapter:

(1) "Convalescent and nursing home" means an institution licensed by the Department of Aging and Disability Services under Chapter 242, Health and Safety Code.

(2) "Home health services" means the provision of health service for pay or other consideration in a patient's residence regulated under Chapter 142, Health and Safety Code.

(3) "Alternate care" means services provided within an elderly individual's own home, neighborhood, or community, including:

(A) day care;

(B) foster care;

(C) alternative living plans, including personal care services; and

(D) supportive living services, including attendant care, residential repair, or emergency response services.

(4) "Person providing services" means an individual, corporation, association, partnership, or other private or public entity providing convalescent and nursing home services, home health services, or alternate care services.

(5) "Elderly individual" means an individual 60 years of age or older.

Added by Acts 1983, 68th Leg., p. 5159, ch. 936, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 25, eff. Aug. 26, 1985; Acts 1991, 72nd Leg., ch. 14, Sec. 284(20), (30), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 8.101, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 475, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.362, eff.

April 2, 2015.

Sec. 102.002. PROHIBITION. (a) A person providing services to the elderly may not deny an elderly individual a right guaranteed by this chapter.

(b) Each agency that licenses, registers, or certifies a person providing services shall require the person to implement and enforce this chapter. A violation of this chapter is grounds for suspension or revocation of the license, registration, or certification of a person providing services.

Added by Acts 1983, 68th Leg., p. 5159, ch. 936, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 26, eff. Aug. 26, 1985; Acts 1997, 75th Leg., ch. 475, Sec. 1, eff. Sept. 1, 1997.

Sec. 102.003. RIGHTS OF THE ELDERLY. (a) An elderly individual has all the rights, benefits, responsibilities, and privileges granted by the constitution and laws of this state and the United States, except where lawfully restricted. The elderly individual has the right to be free of interference, coercion, discrimination, and reprisal in exercising these civil rights.

(b) An elderly individual has the right to be treated with dignity and respect for the personal integrity of the individual, without regard to race, religion, national origin, sex, age, disability, marital status, or source of payment. This means that the elderly individual:

(1) has the right to make the individual's own choices regarding the individual's personal affairs, care, benefits, and services;

(2) has the right to be free from abuse, neglect, and exploitation; and

(3) if protective measures are required, has the right to designate a guardian or representative to ensure the right to quality stewardship of the individual's affairs.

(c) An elderly individual has the right to be free from physical and mental abuse, including corporal punishment or physical or chemical restraints that are administered for the purpose of

discipline or convenience and not required to treat the individual's medical symptoms. A person providing services may use physical or chemical restraints only if the use is authorized in writing by a physician or the use is necessary in an emergency to protect the elderly individual or others from injury. A physician's written authorization for the use of restraints must specify the circumstances under which the restraints may be used and the duration for which the restraints may be used. Except in an emergency, restraints may only be administered by qualified medical personnel.

(d) An elderly individual with an intellectual disability who has a court-appointed guardian of the person may participate in a behavior modification program involving use of restraints or adverse stimuli only with the informed consent of the guardian.

(e) An elderly individual may not be prohibited from communicating in the individual's native language with other individuals or employees for the purpose of acquiring or providing any type of treatment, care, or services.

(f) An elderly individual may complain about the individual's care or treatment. The complaint may be made anonymously or communicated by a person designated by the elderly individual. The person providing service shall promptly respond to resolve the complaint. The person providing services may not discriminate or take other punitive action against an elderly individual who makes a complaint.

(g) An elderly individual is entitled to privacy while attending to personal needs and a private place for receiving visitors or associating with other individuals unless providing privacy would infringe on the rights of other individuals. This right applies to medical treatment, written communications, telephone conversations, meeting with family, and access to resident councils. An elderly person may send and receive unopened mail, and the person providing services shall ensure that the individual's mail is sent and delivered promptly. If an elderly individual is married and the spouse is receiving similar services, the couple may share a room.

(h) An elderly individual may participate in activities of social, religious, or community groups unless the participation interferes with the rights of other persons.

(i) An elderly individual may manage the individual's personal financial affairs. The elderly individual may authorize in writing another person to manage the individual's financial affairs. The

elderly individual may choose the manner of financial management, which may include management through or under a money management program, a representative payee program, a financial power of attorney, a trust, or a similar method, and the individual may choose the least restrictive of these methods. A person designated to manage an elderly individual's financial affairs shall do so in accordance with each applicable program policy, law, or rule. On request of the elderly individual or the individual's representative, the person designated to manage the elderly individual's financial affairs shall make available the related financial records and provide an accounting relating to the financial management. An elderly individual's designation of another person to manage the individual's financial affairs does not affect the individual's ability to exercise another right described by this chapter. If an elderly individual is unable to designate another person to manage the individual's financial affairs and a guardian is designated by a court, the guardian shall manage the individual's financial affairs in accordance with the Estates Code and other applicable laws.

(j) An elderly individual is entitled to access to the individual's personal and clinical records. These records are confidential and may not be released without the elderly individual's consent, except the records may be released:

(1) to another person providing services at the time the elderly individual is transferred; or

(2) if the release is required by another law.

(k) A person providing services shall fully inform an elderly individual, in language that the individual can understand, of the individual's total medical condition and shall notify the individual whenever there is a significant change in the person's medical condition.

(l) An elderly individual may choose and retain a personal physician and is entitled to be fully informed in advance about treatment or care that may affect the individual's well-being.

(m) An elderly individual may participate in an individual plan of care that describes the individual's medical, nursing, and psychological needs and how the needs will be met.

(n) An elderly individual may refuse medical treatment after the elderly individual:

(1) is advised by the person providing services of the possible consequences of refusing treatment; and

(2) acknowledges that the individual clearly understands the consequences of refusing treatment.

(o) An elderly individual may retain and use personal possessions, including clothing and furnishings, as space permits. The number of personal possessions may be limited for the health and safety of other individuals.

(p) An elderly individual may refuse to perform services for the person providing services.

(q) Not later than the 30th day after the date the elderly individual is admitted for service, a person providing services shall inform the individual:

(1) whether the individual is entitled to benefits under Medicare or Medicaid; and

(2) which items and services are covered by these benefits, including items or services for which the elderly individual may not be charged.

(r) A person providing services may not transfer or discharge an elderly individual unless:

(1) the transfer is for the elderly individual's welfare, and the individual's needs cannot be met by the person providing services;

(2) the elderly individual's health is improved sufficiently so that services are no longer needed;

(3) the elderly individual's health and safety or the health and safety of another individual would be endangered if the transfer or discharge was not made;

(4) the person providing services ceases to operate or to participate in the program that reimburses the person providing services for the elderly individual's treatment or care; or

(5) the elderly individual fails, after reasonable and appropriate notices, to pay for services.

(s) Except in an emergency, a person providing services may not transfer or discharge an elderly individual from a residential facility until the 30th day after the date the person providing services provides written notice to the elderly individual, the individual's legal representative, or a member of the individual's family stating:

(1) that the person providing services intends to transfer or to discharge the elderly individual;

(2) the reason for the transfer or discharge listed in

Subsection (r);

(3) the effective date of the transfer or discharge;

(4) if the individual is to be transferred, the location to which the individual will be transferred; and

(5) the individual's right to appeal the action and the person to whom the appeal should be directed.

(t) An elderly individual may:

(1) make a living will by executing a directive under Subchapter B, Chapter 166, Health and Safety Code;

(2) execute a medical power of attorney under Subchapter D, Chapter 166, Health and Safety Code; or

(3) designate a guardian in advance of need to make decisions regarding the individual's health care should the individual become incapacitated.

Added by Acts 1983, 68th Leg., p. 5159, ch. 936, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1997, 75th Leg., ch. 475, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.363, eff. April 2, 2015.

Sec. 102.004. LIST OF RIGHTS. (a) A person providing services shall provide each elderly individual with a written list of the individual's rights and responsibilities, including each provision of Section 102.003, before providing services or as soon after providing services as possible, and shall post the list in a conspicuous location.

(b) A person providing services must inform an elderly individual of changes or revisions in the list.

Added by Acts 1983, 68th Leg., p. 5159, ch. 936, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1997, 75th Leg., ch. 475, Sec. 1, eff. Sept. 1, 1997.

Sec. 102.005. RIGHTS CUMULATIVE. The rights described in this chapter are cumulative of other rights or remedies to which an elderly individual may be entitled under law.

Added by Acts 1997, 75th Leg., ch. 475, Sec. 1, eff. Sept. 1, 1997.

CHAPTER 103. DAY ACTIVITY AND HEALTH SERVICES

Sec. 103.001. PURPOSE. It is the purpose of this chapter to establish programs of quality day activity and health services that will enable persons with disabilities who have medical or functional impairments and elderly persons to maintain maximum independence and to prevent premature or inappropriate institutionalization. It is the purpose of this chapter to provide adequately regulated supervision for elderly persons and persons with disabilities while enabling them to remain in a family environment and affording the family a measure of normality in its daily activities. The legislature intends to provide for the development of policies and programs that will:

(1) provide alternatives to institutionalization;

(2) establish facilities for day activity and health services throughout the state that offer services and are accessible to economically disadvantaged persons; and

(3) prevent inappropriate institutionalization.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.364, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 6, eff. June 19, 2015.

Sec. 103.002. SHORT TITLE. This chapter may be cited as the Day Activity and Health Services Act.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 6, eff. June 19, 2015.

Sec. 103.003. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(1-a) "Day activity and health services facility" means a facility that provides services under a day activity and health services program on a daily or regular basis but not overnight to four or more elderly persons or persons with disabilities who are not related by blood, marriage, or adoption to the owner of the facility.

(2) "Day activity and health services program" means a structured, comprehensive program that is designed to meet the needs of adults with functional impairments through an individual plan of care by providing health, social, and related support services in a protective setting.

(3) "Department" means the Department of Aging and Disability Services.

(4) "Elderly person" means a person 65 years of age or older.

(4-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4-b) "Facility" means a day activity and health services facility.

(5) "Person with a disability" means a person whose functioning is sufficiently impaired to require frequent medical attention, counseling, physical therapy, therapeutic or corrective equipment, or another person's attendance and supervision.

(6) "Person" means an individual, corporation, or association.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 27, eff. Aug. 26, 1985; Acts 1993, 73rd Leg., ch. 434, Sec. 2, eff. Jan. 1, 1994.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.365, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 7, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 836 (H.B. 2025), Sec. 17, eff. September 1, 2017.

Sec. 103.004. DEPARTMENT AND EXECUTIVE COMMISSIONER DUTIES. (a) The executive commissioner shall adopt rules for implementing this chapter.

(b) The executive commissioner shall set standards for:

(1) the health and welfare of persons attending a facility;

(2) the eligibility of persons to attend a facility;

(3) the scope of services provided by a facility;

(4) adequate supervision for persons attending a facility;

(5) the professional staff and other personnel at a facility;

(6) adequate and healthful food service, where it may be offered;

(7) procedures for consultation with family members, case workers, or other persons responsible for the welfare of a person attending a facility; and

(8) prohibiting racial discrimination.

(c) The department may contract with a political subdivision or a person for transporting persons to a facility.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.366, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.367, eff. April 2, 2015.

Sec. 103.0041. LICENSE REQUIRED. (a) A person may not operate a day activity and health services facility without a license issued under this chapter.

(b) A person commits an offense if the person violates Subsection (a) of this section. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 434, Sec. 1, eff. Jan. 1, 1994.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 8, eff. June 19, 2015.

Sec. 103.005. LICENSING DUTIES. The executive commissioner shall:

(1) adopt rules for the licensing procedures for a licensed facility; and

(2) set standards for the safety and sanitation requirements for a licensed facility.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.102, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.368, eff. April 2, 2015.

Sec. 103.006. LICENSE. (a) The commission shall issue a license to operate a day activity and health services facility to a person who has met the application requirements and received approval after an on-site inspection.

(b) The license expires three years from the date of its issuance. The executive commissioner by rule shall adopt a system under which licenses expire on staggered dates during the three-year period. The commission shall prorate the license fee as appropriate if the expiration date of a license changes as a result of this subsection.

(c) An applicant for a license under this chapter who has a health care provider license is entitled to have inspections and license renewal procedures coordinated so that one inspection may fulfill various licensing requirements.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983. Amended by Acts 1993, 73rd Leg., ch. 434, Sec. 3, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 76, Sec. 8.103, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 809 (S.B. 1318), Sec. 3, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.369, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 9, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 836 (H.B. 2025), Sec. 18, eff. September 1, 2017.

Sec. 103.007. LICENSE APPLICATION. (a) An applicant for a license to operate a day activity and health services facility must file an application on a form prescribed by the commission together with a license fee of $75.

(b) The applicant must provide evidence of:

(1) the ability to comply with the requirements of the commission;

(2) responsible management; and

(3) qualified professional staff and personnel.

(c) A person who operates a facility that is licensed under this chapter must file an application for a renewal license not later than the 45th day before the expiration date of the current license on a form prescribed by the commission together with a renewal fee of $50.

(d) An applicant for a license renewal who submits an application later than the 45th day before the expiration date of the license is subject to a late fee in accordance with commission rules.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983. Amended by Acts 1993, 73rd Leg., ch. 434, Sec. 4, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 76, Sec. 8.104, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 809 (S.B. 1318), Sec. 4, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 10, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 836 (H.B. 2025), Sec. 19, eff. September 1, 2017.

Sec. 103.0075. EARLY COMPLIANCE REVIEW. (a) The executive commissioner by rule shall adopt a procedure under which a person proposing to construct or modify a day activity and health services facility may submit building plans to the department for review for compliance with the department's architectural requirements before

beginning construction or modification. In adopting the procedure, the executive commissioner shall set reasonable deadlines by which the department must complete review of submitted plans.

(b) The department shall, within 30 days, review plans submitted under this section for compliance with the department's architectural requirements and inform the person in writing of the results of the review. If the plans comply with the department's architectural requirements, the department may not subsequently change the architectural requirements applicable to the project unless:

(1) the change is required by federal law; or

(2) the person fails to complete the project within a reasonable time.

(c) The department may charge a reasonable fee adopted by the executive commissioner by rule for conducting a review under this section.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(90), eff. April 2, 2015.

(e) The review procedure provided by this section does not include review of building plans for compliance with the Texas Accessibility Standards as administered and enforced by the Texas Department of Licensing and Regulation.

Added by Acts 2001, 77th Leg., ch. 339, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.370, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(90), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 11, eff. June 19, 2015.

Sec. 103.008. INSPECTIONS. (a) In addition to the inspection required under Section 103.006(a), the commission:

(1) shall inspect each facility every two years following the initial inspection required under Section 103.006(a); and

(2) may inspect a facility at other reasonable times as necessary to ensure compliance with this chapter.

(b) Any person may request an inspection of a facility by

notifying the commission in writing of an alleged violation of a licensing requirement. The complaint shall be as detailed as possible and signed by the complainant. The commission shall perform an on-site inspection as soon as feasible but no later than 30 days after receiving the complaint unless after an investigation the complaint is found to be frivolous. The commission shall respond to a complainant in writing. The commission shall also receive and investigate anonymous complaints.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.105, eff. Sept. 1, 1995.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 836 (H.B. 2025), Sec. 20, eff. September 1, 2017.

Sec. 103.009. LICENSE DENIAL, SUSPENSION, OR REVOCATION. (a) The department may deny, suspend, or revoke the license of an applicant or holder of a license who fails to comply with the rules or standards for licensing required by this chapter or has committed an act described by Sections 103.012(a)(2)-(7).

(b) The denial, suspension, or revocation of a license and the appeal from that action are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983. Amended by Acts 1993, 73rd Leg., ch. 434, Sec. 5, eff. Jan. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), 8.106, eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 3.17, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 32, eff. September 1, 2011.

Sec. 103.0091. INJUNCTION. (a) The department may petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter if the department finds that the

violation creates an immediate threat to the health and safety of the day activity and health services facility residents.

(b) A district court, on petition of the department and on a finding by the court that a person is violating the standards or licensing requirements provided under this chapter, may by injunction:

(1) prohibit a person from continuing a violation of the standards or licensing requirements provided under this chapter;

(2) restrain or prevent the establishment or operation of a facility without a license issued under this chapter; or

(3) grant any other injunctive relief warranted by the facts.

(c) The attorney general may institute and conduct a suit authorized by this section at the request of the department.

(d) Venue for a suit brought under this section is in the county in which the facility is located or in Travis County.

Added by Acts 1993, 73rd Leg., ch. 434, Sec. 1, eff. Jan. 1, 1994.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.107, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 12, eff. June 19, 2015.

Sec. 103.0092. EMERGENCY SUSPENSION AND CLOSING ORDER. (a) If the department finds a day activity and health services facility operating in violation of the standards prescribed by this chapter and the violations create an immediate threat to the health and safety of a resident in the facility, the department shall suspend the license or order immediate closing of all or part of the facility.

(b) The order suspending a license under Subsection (a) is immediately effective on written notice to the license holder or on the date specified on the order.

(c) The order suspending the license and ordering closure of all or part of a facility is valid for 10 days after the effective date.

Added by Acts 1993, 73rd Leg., ch. 434, Sec. 1, eff. Jan. 1, 1994.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.108, eff. Sept. 1,

1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 13, eff. June 19, 2015.

Sec. 103.010. DISPOSITION OF FUNDS. (a) All fees collected under this chapter shall be deposited to the credit of the General Revenue Fund.
(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(91), eff. April 2, 2015.

Added by Acts 1983, 68th Leg., p. 1008, ch. 235, art. 4, Sec. 3(a), eff. Sept. 1, 1983.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(91), eff. April 2, 2015.

Sec. 103.011. RIGHTS OF THE ELDERLY. (a) In addition to other rights an individual attending a day activity and health services facility has as a citizen, an individual who is 55 years of age or older has the rights prescribed by Chapter 102 of this code.
(b) The department shall require each day activity and health services facility to implement and enforce the applicable provisions of Chapter 102 of this code.

Added by Acts 1985, 69th Leg., ch. 117, Sec. 1(a), eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1052, Sec. 7.06, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 434, Sec. 6, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 76, Sec. 8.109, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 14, eff. June 19, 2015.

Sec. 103.012. ADMINISTRATIVE PENALTY. (a) The commission may assess an administrative penalty against a person who:
(1) violates this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter;

(2) makes a false statement of a material fact that the person knows or should know is false:

(A) on an application for issuance or renewal of a license or in an attachment to the application; or

(B) with respect to a matter under investigation by the commission;

(3) refuses to allow a representative of the commission to inspect:

(A) a book, record, or file required to be maintained by a day activity and health services facility; or

(B) any portion of the premises of a day activity and health services facility;

(4) wilfully interferes with the work of a representative of the commission or the enforcement of this chapter;

(5) wilfully interferes with a representative of the commission preserving evidence of a violation of this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter;

(6) fails to pay a penalty assessed under this chapter not later than the 30th day after the date the assessment of the penalty becomes final; or

(7) fails to notify the commission of a change of ownership before the effective date of the change of ownership.

(b) Except as provided by Section 103.013(c), the penalty may not exceed $500 for each violation.

(c) Each day of a continuing violation constitutes a separate violation.

(d) The executive commissioner shall establish gradations of penalties in accordance with the relative seriousness of the violation.

(e) In determining the amount of a penalty, the commission shall consider any matter that justice may require, including:

(1) the gradations of penalties established under Subsection (d);

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act and the hazard or potential hazard created by the act to the health or safety of the public;

(3) the history of previous violations;

(4) the deterrence of future violations; and

(5) the efforts to correct the violation.

(f) A penalty assessed under Subsection (a)(6) is in addition to the penalty previously assessed and not timely paid.

(g) The commission shall develop and use a system to record and track the scope and severity of each violation of this chapter or a rule, standard, or order adopted under this chapter for the purpose of assessing an administrative penalty for the violation or taking some other enforcement action against the appropriate facility to deter future violations. The system:

(1) must be comparable to the system used by the Centers for Medicare and Medicaid Services to categorize the scope and severity of violations for nursing homes; and

(2) may be modified, as appropriate, to reflect changes in industry practice or changes made to the system used by the Centers for Medicare and Medicaid Services.

Added by Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 4.01, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 33, eff. September 1, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.371, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 15, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 836 (H.B. 2025), Sec. 21, eff. September 1, 2017.

Sec. 103.013. RIGHT TO CORRECT BEFORE IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The commission may not collect an administrative penalty from a day activity and health services facility under Section 103.012 if, not later than the 45th day after the date the facility receives notice under Section 103.014(c), the facility corrects the violation.

(b) Subsection (a) does not apply to:

(1) a violation that the commission determines:

(A) represents a pattern of violation that results in actual harm;

(B) is widespread in scope and results in actual harm;

(C) is widespread in scope, constitutes a potential for actual harm, and relates to:

(i) staffing, including staff training, ratio, and health;

(ii) administration of medication; or

(iii) emergency preparedness and response;

(D) constitutes an immediate threat to the health or safety of an elderly person or a person with a disability receiving services at a facility; or

(E) substantially limits the facility's capacity to provide care;

(2) a violation described by Sections 103.012(a)(2)-(7);

(3) a violation of Section 103.011; or

(4) a second or subsequent violation of Section 326.002, Health and Safety Code, that occurs before the second anniversary of the date of the first violation.

(c) A day activity and health services facility that corrects a violation must maintain the correction. If the facility fails to maintain the correction until at least the first anniversary after the date the correction was made, the commission may assess and collect an administrative penalty for the subsequent violation. An administrative penalty assessed under this subsection is equal to three times the amount of the original penalty assessed but not collected. The commission is not required to provide the facility with an opportunity under this section to correct the subsequent violation.

(d) In this section:

(1) "Actual harm" means a negative outcome that compromises the physical, mental, or emotional well-being of an elderly person or a person with a disability receiving services at a facility.

(2) "Immediate threat to the health or safety of an elderly person or a person with a disability" means a situation that causes, or is likely to cause, serious injury, harm, or impairment to or the death of an elderly person or a person with a disability receiving services at a facility.

(3) "Pattern of violation" means repeated, but not pervasive, failures of a facility to comply with this chapter or a rule, standard, or order adopted under this chapter that:

(A) result in a violation; and

(B) are found throughout the services provided by the

facility or that affect or involve the same elderly persons or persons with disabilities receiving services at the facility or the same facility employees.

(4) "Widespread in scope" means a violation of this chapter or a rule, standard, or order adopted under this chapter that:

(A) is pervasive throughout the services provided by the facility; or

(B) represents a systemic failure by the facility that affects or has the potential to affect a large portion of or all of the elderly persons or persons with disabilities receiving services at the facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 4.01, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 33, eff. September 1, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 16, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 836 (H.B. 2025), Sec. 22, eff. September 1, 2017.

Sec. 103.014. REPORT RECOMMENDING ADMINISTRATIVE PENALTY; NOTICE. (a) The department shall issue a preliminary report stating the facts on which the department concludes that a violation of this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter has occurred if the department has:

(1) examined the possible violation and facts surrounding the possible violation; and

(2) concluded that a violation has occurred.

(b) The report may recommend a penalty under Section 103.012 and the amount of the penalty.

(c) The department shall give written notice of the report to the person charged with the violation not later than the 10th day after the date on which the report is issued. The notice must include:

(1) a brief summary of the charges;

(2) a statement of the amount of penalty recommended;

(3) a statement of whether the violation is subject to correction under Section 103.013 and, if the violation is subject to correction under that section, a statement of:

(A) the date on which the day activity and health services facility must file a plan of correction with the department that the department shall review and may approve, if satisfactory; and

(B) the date on which the plan of correction must be completed to avoid assessment of the penalty; and

(4) a statement that the person charged has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(d) Not later than the 20th day after the date on which the notice under Subsection (c) is received, the person charged may:

(1) give to the department written notice that the person agrees with the department's report and consents to the recommended penalty; or

(2) make a written request for a hearing.

(e) If the violation is subject to correction under Section 103.013, the day activity and health services facility shall submit a plan of correction to the department for approval not later than the 10th day after the date on which the notice under Subsection (c) is received.

(f) If the violation is subject to correction under Section 103.013 and the person reports to the department that the violation has been corrected, the department shall inspect the correction or take any other step necessary to confirm the correction and shall notify the person that:

(1) the correction is satisfactory and a penalty will not be assessed; or

(2) the correction is not satisfactory and a penalty is recommended.

(g) Not later than the 20th day after the date on which a notice under Subsection (f)(2) is received, the person charged with the violation may:

(1) give to the department written notice that the person agrees with the department's report and consents to the recommended penalty; or

(2) make a written request for a hearing as provided under department rules.

(h) If the person charged with the violation consents to the penalty recommended by the department or does not timely respond to a notice sent under Subsection (c) or (f)(2), the department shall assess the recommended penalty.

(i) If the department assesses the recommended penalty, the department shall give written notice of the decision to the person charged with the violation and the person shall pay the penalty.

Added by Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 4.01, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 33, eff. September 1, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.372, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 17, eff. June 19, 2015.

Sec. 103.015. ADMINISTRATIVE PENALTY HEARING. (a) An administrative law judge shall order a hearing and give notice of the hearing if a person assessed a penalty under Section 103.013(c) requests a hearing.

(b) The hearing shall be held before an administrative law judge.

(c) The administrative law judge shall make findings of fact and conclusions of law regarding the occurrence of a violation of this chapter, a rule or order adopted under this chapter, or a term of a license issued under this chapter.

(d) Based on the findings of fact and conclusions of law, and the recommendation of the administrative law judge, the department by order shall find:

(1) a violation has occurred and assess an administrative penalty; or

(2) a violation has not occurred.

(e) Proceedings under this section are subject to Chapter 2001, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 4.01, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 33,

eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.373, eff. April 2, 2015.

Sec. 103.016. NOTICE AND PAYMENT OF ADMINISTRATIVE PENALTY; INTEREST; REFUND. (a) The department shall give notice of the findings made under Section 103.015(d) to the person charged with a violation. If the department finds that a violation has occurred, the department shall give to the person charged written notice of:

(1) the findings;

(2) the amount of the administrative penalty;

(3) the rate of interest payable with respect to the penalty and the date on which interest begins to accrue; and

(4) the person's right to judicial review of the department's order.

(b) Not later than the 30th day after the date on which the department's order is final, the person assessed the penalty shall:

(1) pay the full amount of the penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(c) Notwithstanding Subsection (b), the department may permit the person to pay a penalty in installments.

(d) If the person does not pay the penalty within the period provided by Subsection (b) or in accordance with Subsection (c), if applicable:

(1) the penalty is subject to interest; and

(2) the department may refer the matter to the attorney general for collection of the penalty and interest.

(e) Interest under Subsection (d)(1) accrues:

(1) at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank; and

(2) for the period beginning on the day after the date on which the penalty becomes due and ending on the date the penalty is paid.

(f) If the amount of the penalty is reduced or the assessment of a penalty is not upheld on judicial review, the department shall:

(1) remit to the person charged the appropriate amount of

any penalty payment plus accrued interest; or

(2) execute a release of the supersedeas bond if one has been posted.

(g) Accrued interest on the amount remitted by the department under Subsection (f)(1) shall be paid:

(1) at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank; and

(2) for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted to the person charged with the violation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 4.01, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 33, eff. September 1, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.374, eff. April 2, 2015.

CHAPTER 105. RESIDENTIAL FACILITIES FOR PERSONS WITH DISABILITIES OR WHO ARE ELDERLY

Sec. 105.001. DEFINITIONS. In this chapter:

(1) "Establishment" means a facility providing sleeping accommodations to two or more qualifying adult residents, at least 80 percent of whom are 65 years of age or older or are persons with disabilities, and offering, for a fee, one or more supportive services through contract with an agency licensed under Chapter 142, Health and Safety Code, or with another entity.

(2) "Qualifying adult resident" means an adult resident of a facility who is not related within the second degree by consanguinity or affinity to:

(A) a person who has an ownership interest in the facility; or

(B) at least one other resident of the facility.

(3) "Supportive services" means medical services, health-related services, or personal care services as defined by Section 247.002, Health and Safety Code.

Added by Acts 1999, 76th Leg., ch. 233, Sec. 5, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.376, eff. April 2, 2015.

Sec. 105.002. EXEMPT FACILITIES. The following facilities are exempt from the application of this chapter:

(1) housing in which all supportive services are arranged directly by the residents themselves and are provided by outside entities;

(2) nursing facilities licensed under Chapter 242, Health and Safety Code; and

(3) continuing care facilities regulated by the Texas Department of Insurance under Chapter 246, Health and Safety Code.

Added by Acts 1999, 76th Leg., ch. 233, Sec. 5, eff. Sept. 1, 1999.

Sec. 105.003. DISCLOSURE REQUIRED IN CONTRACT. An establishment that is not required to be licensed as an assisted living facility under Chapter 247, Health and Safety Code, shall execute a contract with each of its residents that contains, in addition to other required information, the following elements:

(1) the name, street address, and mailing address of the establishment;

(2) the name and mailing address of at least one person authorized to act on behalf of the owner or owners or management agent of the establishment;

(3) a statement describing the licensure status of the establishment;

(4) the name, mailing address, and telephone number of any provider, including any individual or entity, regardless of whether licensed, providing supportive services under a contract with the establishment;

(5) the term of the contract;

(6) a description of the services to be provided that are included in the base monthly rate to be paid by the resident;

(7) a description of any additional services available for an additional fee from a provider through a contract with the establishment;

(8) a provision requiring the establishment to provide

written notice of any change in fee schedules that outline the cost of additional services not later than the 31st day before the effective date of the change;

(9) a description of the process by which the contract may be modified, amended, or terminated;

(10) a description of the complaint resolution process available to residents;

(11) the name, street address, mailing address, and telephone number of the resident's designated representative, if any;

(12) a description of the billing and payment procedures and requirements;

(13) a statement ensuring the ability and right of residents to receive services from providers with whom the establishment does not have a contract; and

(14) a statement identifying the life safety and fire codes met by the building and a statement indicating whether those codes are comparable to the codes with which an assisted living facility licensed under Chapter 247, Health and Safety Code, must comply.

Added by Acts 1999, 76th Leg., ch. 233, Sec. 5, eff. Sept. 1, 1999.

TITLE 7. REHABILITATION OF INDIVIDUALS WITH DISABILITIES

CHAPTER 111. REHABILITATION SERVICES FOR CERTAIN INDIVIDUALS WITH DISABILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. PURPOSE. It is the policy of the State of Texas to provide rehabilitation and related services to eligible individuals with disabilities so that they may prepare for and engage in a gainful occupation or achieve maximum personal independence.

Acts 1979, 66th Leg., p. 2419, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 142, Sec. 2, eff. May 17, 1993.

Sec. 111.002. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(92), eff. April 2, 2015.

(2) "Commissioner" means the commissioner of assistive and rehabilitative services.

(2-a) "Department" means the Department of Assistive and Rehabilitative Services.

(2-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "Individual with a disability" means any individual, except one whose disability is of a visual nature, who has a physical or mental impairment which constitutes a substantial impediment to employment, or to achieving maximum personal independence, but which is of a nature that rehabilitation services may be expected to enable the individual to engage in a gainful occupation or enable the individual to achieve a greater level of self-care and independent living.

(4) "Substantial impediment to employment" means a physical or mental impairment in light of attendant medical, psychological, vocational, educational, or other related factors that impedes an individual's occupational performance by preventing the individual from obtaining, retaining, or preparing for a gainful occupation consistent with the individual's capacities and abilities.

(5) "Rehabilitation services" means any equipment, supplies, goods, or services necessary to enable an individual with a disability to engage in a gainful occupation or to achieve maximum personal independence. To enable an individual with a disability to engage in a gainful occupation or achieve maximum personal independence, the department may engage in or contract for activities, including but not limited to:

(A) evaluation of rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for services and the nature and scope of services to be provided;

(B) counseling and guidance;

(C) physical and mental restoration services necessary to correct or substantially modify a physical or mental condition that is stable or slowly progressive;

(D) training;

(E) maintenance for additional costs incurred while participating in rehabilitation services;

(F) transportation;

(G) placement in suitable employment;

(H) postemployment services necessary to maintain suitable employment;

(I) obtaining occupational licenses, including any license, permit, or other written authority required by a state, city, or other governmental unit to be obtained in order to enter an occupation or small business, and providing tools, equipment, initial stocks, goods, and supplies; and

(J) providing other equipment, supplies, services, or goods that can reasonably be expected to benefit an individual with a disability in terms of employment in a gainful occupation or achievement of maximum personal independence.

(6) "Vocational rehabilitation program" means a program that provides rehabilitation services required to enable an individual with a disability to engage in a gainful occupation.

(7) Repealed by Acts 2003, 78th Leg., ch. 198, Sec. 2.116(b); Acts 2003, 78th Leg., ch. 210, Sec. 2.

(8) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(92), eff. April 2, 2015.

Acts 1979, 66th Leg., p. 2419, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 338, ch. 77, Sec. 1, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 603, Sec. 23, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 1052, Sec. 2.09, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 142, Sec. 3, eff. May 17, 1993; Acts 1999, 76th Leg., ch. 393, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.116(b), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 210, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.378, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(92), eff. April 2, 2015.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 111.0161. ADVICE OF ADVISORY COMMITTEES. (a) Each advisory committee established by law or rule to advise the department under this chapter or Subchapter F, Chapter 117, shall report to and advise the commissioner and executive commissioner on the committee's activities and the results of the committee's work. For the purpose of performing its advisory functions, each committee shall work with the commissioner, the department's staff, and the

executive commissioner.

(b) The executive commissioner shall adopt rules to implement this section.

Added by Acts 1999, 76th Leg., ch. 393, Sec. 7, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.380, eff. April 2, 2015.

Sec. 111.018. GENERAL DUTIES OF EXECUTIVE COMMISSIONER AND COMMISSIONER RELATING TO REHABILITATION SERVICES FOR CERTAIN INDIVIDUALS WITH DISABILITIES. (a) The executive commissioner shall:

(1) adopt policies and rules to effectively carry out the purposes of this chapter and Subchapter F, Chapter 117; and

(2) supervise the commissioner's administration of this chapter and Subchapter F, Chapter 117.

(b) In carrying out his or her duties under this chapter and Subchapter F, Chapter 117, the commissioner shall, with the approval of the executive commissioner, implement policies addressing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations relating to this chapter or Subchapter F, Chapter 117, as necessary to carry out the purposes of this chapter and Subchapter F, Chapter 117.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(95), eff. April 2, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(95), eff. April 2, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(95), eff. April 2, 2015.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(95), eff. April 2, 2015.

(g) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(95), eff. April 2, 2015.

(h) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(95), eff. April 2, 2015.

Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, Sec. 1, eff. Sept. 1,

1979. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 6, eff. Sept. 1, 1985; Acts 1999, 76th Leg., ch. 393, Sec. 9, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.381, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.382, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(95), eff. April 2, 2015.

Sec. 111.019. PLANNING. The commissioner shall make long-range and intermediate plans for the scope and development of the program and make decisions regarding the allocation of resources in carrying out the plans.

Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1999, 76th Leg., ch. 393, Sec. 10, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.383, eff. April 2, 2015.

Sec. 111.0205. WORK INCENTIVES AND SUPPLEMENTAL SECURITY INCOME (SSI). The department shall employ staff at the department's central office to:

(1) train counselors to understand and use work incentives in relation to services under this chapter or Subchapter F, Chapter 117; and

(2) review cases to ensure that department clients receiving services under this chapter or Subchapter F, Chapter 117, are informed of the availability of and assisted in obtaining work incentives and Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.).

Added by Acts 1995, 74th Leg., ch. 655, Sec. 6.03, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.384, eff. April 2, 2015.

Sec. 111.021. REPORTS. (a) The commissioner shall prepare and submit to the executive commissioner annual reports of activities and expenditures under this chapter and Subchapter F, Chapter 117, and, prior to each regular session of the legislature, estimates of funds required for carrying out the purposes of this chapter and Subchapter F, Chapter 117.

(c) The department shall post on the Internet in an accessible format the reports required under this section and any other agency performance data relating to this chapter or Subchapter F, Chapter 117, required to be reported to this state or the federal government. If a report or performance data contains confidential information, the department shall remove the confidential information before posting the report or performance data.

Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 7, eff. Sept. 1, 1985; Acts 1999, 76th Leg., ch. 393, Sec. 11, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(122), eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.385, eff. April 2, 2015.

Sec. 111.022. DISBURSEMENT OF FUNDS. The department shall make certification for disbursement, in accordance with regulations, of funds available for carrying out the purposes of this chapter or Subchapter F, Chapter 117.

Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1999, 76th Leg., ch. 393, Sec. 12, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.386, eff. April 2, 2015.

Sec. 111.023. OTHER DUTIES. The executive commissioner shall take other action as necessary or appropriate to carry out the

purposes of this chapter or Subchapter F, Chapter 117.

Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1999, 76th Leg., ch. 393, Sec. 13, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.387, eff. April 2, 2015.

SUBCHAPTER C. POWERS AND DUTIES OF DEPARTMENT

Sec. 111.0505. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner by this chapter, or another law relating to rehabilitation services for individuals with disabilities, conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.15, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.389, eff. April 2, 2015.

Sec. 111.051. DEPARTMENT AS PRINCIPAL AUTHORITY. The department is the principal authority in the state on rehabilitation of individuals with disabilities. All other state agencies engaged in rehabilitation activities and related services to individuals with disabilities shall coordinate those activities and services with the department.

Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 142, Sec. 6, eff. May 17, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.390, eff. April 2, 2015.

Sec. 111.0511. SERVICE DELIVERY BY TEXAS WORKFORCE COMMISSION. The Texas Workforce Commission has primary responsibility for

providing vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, notwithstanding Section 111.051 and subject to receipt of any required federal approval to administer those services and programs. A power or duty under this chapter, including rulemaking authority, of the department, the commissioner, or the executive commissioner that is applicable to those services or programs is a power or duty of the Texas Workforce Commission with respect to those services or programs. All other state agencies engaged in vocational rehabilitation services or related services or programs shall coordinate those activities with the Texas Workforce Commission.

Added by Acts 2015, 84th Leg., R.S., Ch. 1138 (S.B. 208), Sec. 7, eff. September 1, 2016.

Sec. 111.052. GENERAL FUNCTIONS OF DEPARTMENT RELATING TO REHABILITATION SERVICES FOR CERTAIN INDIVIDUALS WITH DISABILITIES. (a) The department shall, to the extent of resources available and priorities established by the executive commissioner, provide rehabilitation services directly or through public or private resources to individuals determined by the department to be eligible for the services under a vocational rehabilitation program or other program established to provide rehabilitation services.

(b) In carrying out the purposes of this chapter and Subchapter F, Chapter 117, the department may:

(1) cooperate with other departments, agencies, political subdivisions, and institutions, both public and private, in providing the services authorized by this chapter and Subchapter F, Chapter 117, to eligible individuals, in studying the problems involved, and in planning, establishing, developing, and providing necessary or desirable programs, facilities, and services, including those jointly administered with state agencies;

(2) enter into reciprocal agreements with other states;

(3) establish or construct rehabilitation facilities and workshops, contract with or provide grants to agencies, organizations, or individuals as necessary to implement this chapter and Subchapter F, Chapter 117, make contracts or other arrangements with public and other nonprofit agencies, organizations, or institutions for the establishment of workshops and rehabilitation

facilities, and operate facilities for carrying out the purposes of this chapter and Subchapter F, Chapter 117;

(4) conduct research and compile statistics relating to the provision of services to or the need for services by individuals with disabilities;

(5) provide for the establishment, supervision, management, and control of small business enterprises to be operated by individuals with significant disabilities where their operation will be improved through the management and supervision of the department;

(6) contract with schools, hospitals, private industrial firms, and other agencies and with doctors, nurses, technicians, and other persons for training, physical restoration, transportation, and other rehabilitation services; and

(7) assess the statewide need for services necessary to prepare students with disabilities for a successful transition to employment, establish collaborative relationships with each school district with education service centers to the maximum extent possible within available resources, and develop strategies to assist vocational rehabilitation counselors in identifying and reaching students in need of transition planning.

Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 342, ch. 77, Sec. 2, eff. Jan. 1, 1984; Acts 1993, 73rd Leg., ch. 142, Sec. 7, eff. May 17, 1993; Acts 1999, 76th Leg., ch. 393, Sec. 17, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.116(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 210, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.391, eff. April 2, 2015.

Sec. 111.0525. COORDINATION WITH STATE AGENCIES. (a) Repealed by Acts 2003, 78th Leg., ch. 198, Sec. 2.116(b); Acts 2003, 78th Leg., ch. 210, Sec. 2.

(b) The department shall enter into an agreement with the Department of Aging and Disability Services and the Department of State Health Services to reduce duplication and fragmentation of employment services by defining each agency's role and responsibilities for shared client populations.

(c) The department shall establish a formal referral process with the Texas Workforce Commission to ensure that appropriate vocational rehabilitation clients are referred to and receive services provided by the Texas Workforce Commission or local workforce development boards.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 268, Sec. 32(f), eff. September 1, 2008.

Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.116(b), 2.132, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 210, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 13.10, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 4.08, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 268 (S.B. 10), Sec. 32(f), eff. September 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.392, eff. April 2, 2015.

Sec. 111.053. COOPERATION WITH THE FEDERAL GOVERNMENT. (a) The department shall make agreements, arrangements, or plans to cooperate with the federal government in carrying out the purposes of this chapter and Subchapter F, Chapter 117, or of any federal statutes pertaining to rehabilitation, and to this end may adopt methods of administration that are found by the federal government to be necessary, and that are not contrary to existing state laws, for the proper and efficient operation of the agreements, arrangements, or plans for rehabilitation.

(b) To the extent resources are made available by the federal government, the department may make agreements, arrangements, or plans to cooperate with the federal government in carrying out the purposes of any federal statute pertaining to the disability determination function under the Social Security Act and to this end shall adopt methods of administration that are found by the federal government to be necessary to the disability determination function and that are not contrary to existing state laws.

Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 343, ch. 77, Sec. 3, eff.

Jan. 1, 1984.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.393, eff. April 2, 2015.

Sec. 111.054. OBTAINING FEDERAL FUNDS. The department may comply with any requirements necessary to obtain federal funds relating to this chapter or Subchapter F, Chapter 117, in the maximum amount and most advantageous proportion possible.

Acts 1979, 66th Leg., p. 2423, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.394, eff. April 2, 2015.

Sec. 111.055. FINANCES. (a) All money paid to the department under this chapter or Subchapter F, Chapter 117, shall be deposited in the state treasury.
(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(100), eff. April 2, 2015.

Acts 1979, 66th Leg., p. 2423, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 10, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 584, Sec. 17, eff. Sept. 1, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.395, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(100), eff. April 2, 2015.

Sec. 111.0553. PROCUREMENT METHODS. (a) The executive commissioner shall adopt and the department shall implement in relation to this chapter and Subchapter F, Chapter 117, agency-wide procurement procedures to:
(1) ensure compliance with the best-value purchasing requirements of Section 2155.144(c), Government Code;
(2) document that a best-value review of vendors has

occurred;

(3) document the reasons for selecting a vendor;

(4) negotiate price discounts with high-volume vendors;

(5) consolidate purchases with other agencies, including the Department of State Health Services and the comptroller, to achieve best value; and

(6) provide effective public notification to potential vendors of planned department purchases.

(b) Nothing in this section shall be construed to limit the department's ability to procure goods and services from persons with disabilities.

Added by Acts 1999, 76th Leg., ch. 393, Sec. 21, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.96, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.396, eff. April 2, 2015.

Sec. 111.056. GIFTS AND DONATIONS. The department may receive and use gifts and donations for carrying out the purposes of this chapter and Subchapter F, Chapter 117. No person may receive payment for solicitation of any funds.

Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.397, eff. April 2, 2015.

Sec. 111.057. UNLAWFUL USE OF LISTS OF NAMES. (a) Except for purposes directly connected with the administration of health and human service programs and in accordance with regulations, it is unlawful for a person to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, names of, or any information directly or indirectly derived from records concerning persons applying for or receiving health and human services.

(b) The department is authorized to provide client and other

information to and receive client and other information from any state agency for the purpose of increasing and enhancing services to clients and improving agency operations under this chapter and Subchapter F, Chapter 117, except where federal law or regulations preclude such sharing.

(c) The executive commissioner shall adopt rules to carry out the purposes of this section.

Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 142, Sec. 9, eff. May 17, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.398, eff. April 2, 2015.

Sec. 111.059. SUBROGATION. (a) In furnishing a person rehabilitation services, including medical care services, under this chapter or Subchapter F, Chapter 117, the department is subrogated to the person's right of recovery from:

(1) personal insurance;

(2) another person for personal injury caused by the other person's negligence or wrongdoing; or

(3) any other source.

(b) The department's right of subrogation is limited to the cost of the services provided.

(c) The commissioner may totally or partially waive the department's right of subrogation when the commissioner finds that enforcement would tend to defeat the purpose of rehabilitation.

(d) The executive commissioner may adopt rules for the enforcement of the department's right of subrogation.

Added by Acts 1983, 68th Leg., p. 344, ch. 77, Sec. 4, eff. Jan. 1, 1984.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.399, eff. April 2, 2015.

Sec. 111.060. COMPREHENSIVE REHABILITATION ACCOUNT. (a) The comprehensive rehabilitation account is an account in the general

revenue fund. Money in the account is derived from court costs collected under Section 133.102, Local Government Code. Money in the account may be appropriated only to the department for the purposes provided by Section 111.052.

(b) The comptroller, on requisition by the department, shall draw a warrant on the account for the amount specified in that requisition for a use authorized in Section 111.052, except that the total of warrants issued during a state fiscal year may not exceed the amount appropriated for that fiscal year. At the end of each state fiscal year, the comptroller shall transfer to the general revenue fund any unexpended balance in the comprehensive rehabilitation account that exceeds $1.5 million.

(c) The court costs remitted to the comptroller and deposited in the general revenue fund pursuant to this section are dedicated to the department.

Added by Acts 1991, 72nd Leg., ch. 101, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 142, Sec. 11, eff. May 17, 1993; Acts 2003, 78th Leg., ch. 198, Sec. 2.117, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 25 (S.B. 187), Sec. 1, eff. May 9, 2006.

Acts 2005, 79th Leg., Ch. 25 (S.B. 187), Sec. 2, eff. May 9, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.400, eff. April 2, 2015.

CHAPTER 112. DEVELOPMENTAL DISABILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITIONS. In this chapter:

(1) "Council" means the Texas Council for Developmental Disabilities.

(2) "Designated state agency" means the executive agency designated by the governor to provide administrative support and fiscal management services to the council in accordance with this chapter and federal law.

(3) "Developmental disability" means a severe, chronic disability as defined by applicable federal developmental disability laws.

(4) "Applicable federal developmental disability laws" refers to the various Acts of Congress providing for assistance and services to persons with developmental disabilities and codified as 42 U.S.C. Section 15001 et seq.

(5) "Protection and advocacy system" means the system established in this state under the applicable federal developmental disabilities laws for the purpose of advocating for and protecting the rights of persons with developmental disabilities.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 11, 12, eff. Sept. 1, 1985; Acts 1999, 76th Leg., ch. 79, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.403, eff. April 2, 2015.

Sec. 112.002. PURPOSE AND LEGISLATIVE FINDINGS. (a) The purpose of this chapter is to establish a developmental disabilities program that assures compliance with applicable federal developmental disability laws.

(b) The legislature finds that persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for their disabilities within the funds available for those purposes and that the treatment, services, and habilitation for a person with developmental disabilities must be designed to maximize the developmental potential of the person and must be provided in the setting that is least restrictive of the person's personal liberty.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 13, eff. Sept. 1, 1985.

SUBCHAPTER B. TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES

Sec. 112.011. ESTABLISHMENT. The Texas Council for Developmental Disabilities is established.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1999, 76th Leg., ch. 79, Sec. 4, eff.

Sept. 1, 1999.

Sec. 112.0111. DEFINITION. In this subchapter, "executive director" means the executive director of the council.

Added by Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.

Sec. 112.012. MEMBERS. The members of the council shall be appointed by the governor in accordance with applicable federal developmental disability laws. The governor may appoint as many members to the council as is determined appropriate for the council to accomplish its purposes but must appoint, in total membership, an odd number of members to the council. Appointments to the council shall be made without regard to:

(1) the race, color, sex, religion, age, or national origin of the appointees; or

(2) the disability of the appointees, except as required by applicable federal developmental disability laws.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 28, eff. Aug. 26, 1985; Acts 1985, 69th Leg., ch. 603, Sec. 14, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 793, Sec. 22, eff. Sept. 1, 1985; Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1170, Sec. 9.01, eff. Sept. 1, 2003.

Sec. 112.013. TERMS. (a) Members of the council appointed by the governor serve for staggered terms of six years with the term of one-third or approximately one-third of the members expiring on February 1 of each odd-numbered year.

(b) A person may not serve on the council more than two consecutive six-year terms.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 2003, 78th Leg., ch. 1170, Sec. 9.02, eff. Sept. 1, 2003.

Sec. 112.014. VACANCIES. (a) A position on the council becomes vacant if:

(1) a member resigns from the council by providing written notice to the chair; or

(2) a member ceases to be a resident of this state.

(b) If a position on the council becomes vacant, the chair shall provide written notice to the governor requesting a new appointment to fill the remainder of the member's term.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1999, 76th Leg., ch. 79, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.404, eff. April 2, 2015.

Sec. 112.015. EXPENSES. (a) Council members appointed under Section 112.012 serve without salary but are entitled to reimbursement for actual expenses incurred in performing their duties, including travel, meals, lodging, and telephone long-distance charges.

(b) Members of the council who have a disability and who, because of the disability, require special aids or travel companions are entitled to reimbursement for those costs.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.

Sec. 112.016. OFFICERS. (a) The governor shall designate a member of the council to be the presiding officer.

(b) The presiding officer serves in that capacity at the will of the governor.

(c) A representative of a state agency may not serve as chair or vice-chair.

(d) The council shall meet quarterly in regular session and on call by the chair when necessary for the transaction of council business.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 15, eff. Sept. 1, 1985.

Sec. 112.0161. CONFLICTS OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the council and may not be a council employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of developmental disabilities; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of developmental disabilities.

(c) Unless otherwise required by applicable federal developmental disability laws, a person may not be a member of the council or act as the general counsel to the council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the council.

Added by Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.

Sec. 112.0162. REMOVAL OF COUNCIL MEMBER. (a) It is a ground for removal from the council that a member:

(1) does not have at the time of taking office the qualifications required by applicable federal developmental disability laws;

(2) is ineligible for membership under Section 112.0161;

(3) fails to discharge the member's duties for a

substantial part of the member's term; or

(4) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the council.

(b) The validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a council member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the council of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the council, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.

Sec. 112.0163. COUNCIL MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the council;

(2) the programs operated by the council;

(3) the role and functions of the designated state agency and council under this chapter and applicable federal developmental disability laws;

(4) the rules of the council, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the council;

(6) the results of the most recent formal audit of the council;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government

Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the council or the Texas Ethics Commission.

(c) A person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.

Sec. 112.017. BYLAWS. The council may adopt bylaws and policies consistent with this chapter and applicable state or federal law.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 16, eff. Sept. 1, 1985.

Sec. 112.018. DESIGNATED STATE AGENCY. (a) The governor shall designate, by executive order, a state agency to provide administrative support to the council and receive federal and state funds appropriated for the council. In accordance with federal law, the governor may select one of the following to serve as the designated state agency:

(1) the council;

(2) a state agency that does not provide or pay for services made available to persons with developmental disabilities;

(3) a state agency that provides or pays for services made available to persons with developmental disabilities if the state agency was designated by the governor under this section before June 30, 1994, and the governor has not changed the designation;

(4) a state office, including the office of the governor;

or

(5) a state planning office.

(b) The designated state agency shall receive, deposit, and disburse funds for the council in accordance with this chapter, applicable federal developmental disability laws, and the purposes and priorities established by the council in the state plan developed under Section 112.019.

(c) The designated state agency, in accordance with state law and procedures, shall provide for fiscal control and fund-accounting procedures necessary to assure the proper disbursement of and accounting for funds available to the council.

(d) Unless the council is serving as the designated state agency, the council shall enter into a memorandum of understanding with the designated state agency that delineates the roles and responsibilities of the designated state agency under this chapter.

(e) The designated state agency may adopt rules as necessary to implement the agency's duties under this chapter and applicable federal developmental disability laws.

(f) A designated state agency may not assign duties to staff of the council unless the council is serving as the designated state agency.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 17, eff. Sept. 1, 1985; Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.

Sec. 112.019. STATE PLAN FOR DEVELOPMENTAL DISABILITIES. (a) The council shall develop and submit the state plan for persons with developmental disabilities. The plan must conform to applicable federal developmental disability laws.

(b) Unless the council is serving as the designated state agency, the council shall consult with the designated state agency before submitting the state plan required by this section solely to:

(1) obtain appropriate assurances with respect to the plan as required by federal law; and

(2) ensure that the plan is consistent with state law.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 18, eff.

Sept. 1, 1985; Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.

Sec. 112.020. ADDITIONAL COUNCIL POWERS AND DUTIES. (a) In addition to powers and duties derived by the council from applicable federal developmental disability laws or other provisions of this chapter, the council shall:

(1) undertake at the request of the governor and the legislature activities appropriate to the achievement of legislative and executive functions relating to persons with developmental disabilities or other disabling conditions;

(2) submit to the governor, legislature, and other appropriate state and federal authorities periodic reports on the council's responsibilities and performance;

(3) develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the executive director and the staff of the council; and

(4) develop and implement policies that provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the jurisdiction of the council.

(b) The council may:

(1) adopt rules as necessary to implement the council's duties and responsibilities under this chapter and applicable federal developmental disability laws;

(2) approve and execute an annual budget for council activities under this chapter that is consistent with applicable federal developmental disability laws; and

(3) contract with or provide grants to agencies, organizations, or individuals as necessary to implement council activities under this chapter.

Added by Acts 1983, 68th Leg., p. 5272, ch. 970, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 603, Sec. 19, eff. Sept. 1, 1985; Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.

Sec. 112.0201. COMPLAINTS. (a) The council shall maintain a

file on each written complaint filed with the council. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the council;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the council closed the file without taking action other than to investigate the complaint.

(b) The council shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the council's policies and procedures relating to complaint investigation and resolution.

(c) The council, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.

Sec. 112.021. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS. The protection and advocacy system shall have access to records as required by the provisions of the applicable federal disability laws.

Added by Acts 1985, 69th Leg., ch. 603, Sec. 20, eff. Sept. 1, 1985.

Sec. 112.022. EXECUTIVE DIRECTOR. (a) The council shall hire an executive director in accordance with 42 U.S.C. Section 15025 and its subsequent amendments to carry out the policies and activities established by the council.

(b) The executive director shall hire and supervise necessary staff who will be responsible solely for carrying out activities designated by the council and consistent with:

(1) applicable federal developmental disability laws; and

(2) this chapter.

(c) The executive director or the executive director's designee shall provide to members of the council and to council employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.405, eff. April 2, 2015.

Sec. 112.0221. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the council to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the council's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the Texas Workforce Commission civil rights division for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.406, eff. April 2, 2015.

Sec. 112.023. SUNSET PROVISION. The Texas Council for

Developmental Disabilities is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this chapter expires September 1, 2027.

Added by Acts 1985, 69th Leg., ch. 729, Sec. 36, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 2.20(34), eff. Sept. 1, 1987. Renumbered from Sec. 112.021 by Acts 1987, 70th Leg., ch. 167, 5.01(a)(28), eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 4.10, eff. Nov. 12, 1991; Acts 1999, 76th Leg., ch. 79, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1227 (H.B. 1116), Sec. 2.03, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.05, eff. June 15, 2007.

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 2.11, eff. July 10, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 2.17, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 99 (H.B. 1679), Sec. 1, eff. May 23, 2015.

SUBCHAPTER C. PREVENTION OF DEVELOPMENTAL DISABILITIES

For expiration of Subsection (a), see Section 112.0421(c), Human Resources Code.

Sec. 112.041. PURPOSE AND POLICY. (a) The purpose of this Act is to minimize the economic and human losses in Texas caused by preventable disabilities through the establishment of a joint private-public initiative called the Office for the Prevention of Developmental Disabilities.

(b) The legislature finds there is a strong need for a unified, comprehensive prevention effort in the State of Texas. Many state agencies, as well as private organizations and local public agencies, are involved in prevention activities that can reduce the incidence and severity of developmental disabilities. However, a coordinated statewide plan that identifies and consolidates research findings and prevention activities has yet to be developed.

(c) The legislature further finds that by establishing a

mechanism by which prevention activities can be better coordinated and needed prevention programs can be initiated, the State of Texas will be making an important investment in Texas's future.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.

Sec. 112.042. DEFINITIONS. In this subchapter:

(1) "Commission" means the Health and Human Services Commission.

(1-a) "Developmental disability" means a severe, chronic disability that:

(A) is attributable to a mental or physical impairment or to a combination of a mental and physical impairment;

(B) is manifested before a person reaches the age of 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more major life activities, including:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic sufficiency; and

(E) reflects the person's needs for a combination and sequence of special interdisciplinary or generic care, treatment, or other lifelong or extended services that are individually planned and coordinated.

(1-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(2) "Executive committee" means the executive committee of the Office for the Prevention of Developmental Disabilities.

(3) "Office" means the Office for the Prevention of Developmental Disabilities.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.21(b), eff. September 1, 2015.

For expiration of this section, see Subsection (c).

Sec. 112.0421. APPLICABILITY AND EXPIRATION OF CERTAIN PROVISIONS. (a) Sections 112.041(a), 112.043, 112.045, 112.0451, 112.0452, 112.0453, 112.0454, 112.046, 112.047, 112.0471, and 112.0472 apply only until the date the executive commissioner begins to administer this subchapter and the commission assumes the duties and functions of the Office for the Prevention of Developmental Disabilities in accordance with Section 112.0431.

(b) On the date the provisions listed in Subsection (a) cease to apply, the executive committee under Section 112.045 and the board of advisors under Section 112.046 are abolished.

(c) This section and Sections 112.041(a), 112.043, 112.045, 112.0451, 112.0452, 112.0453, 112.0454, 112.046, 112.047, 112.0471, and 112.0472 expire on the last day of the period prescribed by Section 531.02001(2), Government Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.21(c), eff. September 1, 2015.

For expiration of this section, see Section 112.0421(c), Human Resources Code.

Sec. 112.043. OFFICE FOR THE PREVENTION OF DEVELOPMENTAL DISABILITIES; ADMINISTRATIVE ATTACHMENT. (a) The Office for the Prevention of Developmental Disabilities is administratively attached to the Health and Human Services Commission.

(b) The Health and Human Services Commission shall:

(1) provide administrative assistance, services, and materials to the office;

(2) accept, deposit, and disburse money made available to the office;

(3) accept gifts and grants on behalf of the office from any public or private entity;

(4) pay the salaries and benefits of the executive director and staff of the office;

(5) reimburse the travel expenses and other actual and necessary expenses of the executive committee, executive director, and staff of the office incurred in the performance of a function of

the office, as provided by the General Appropriations Act;

(6) apply for and receive on behalf of the office any appropriations, gifts, or other money from the state or federal government or any other public or private entity, subject to limitations and conditions prescribed by legislative appropriation;

(7) provide the office with adequate computer equipment and support; and

(8) provide the office with adequate office space and permit the executive committee to meet in facilities of the commission.

(c) The executive director and staff of the office are employees of the office and not employees of the Health and Human Services Commission.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 751, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.407, eff. April 2, 2015.

Sec. 112.0431. ADMINISTRATION OF SUBCHAPTER; CERTAIN REFERENCES. (a) Notwithstanding any other provision in this subchapter, the executive commissioner shall administer this subchapter beginning on the date specified in the transition plan under Section 531.0204, Government Code, and the commission shall perform the duties and functions of the Office for the Prevention of Developmental Disabilities in the organizational form the executive commissioner determines appropriate.

(b) Following the assumption of the administration of this subchapter by the executive commissioner and the duties and functions by the commission in accordance with Subsection (a):

(1) a reference in this subchapter to the office, the Office for the Prevention of Developmental Disabilities, or the executive committee of that office means the commission, the division or other organizational unit within the commission designated by the executive commissioner, or the executive commissioner, as appropriate; and

(2) a reference in any other law to the Office for the Prevention of Developmental Disabilities has the meaning assigned by

Subdivision (1).

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.21(c), eff. September 1, 2015.

Sec. 112.044. DUTIES. The office shall:

(1) educate the public and attempt to promote sound public policy regarding the prevention of developmental disabilities;

(2) identify, collect, and disseminate information and data concerning the causes, frequency of occurrence, and preventability of developmental disabilities;

(3) work with appropriate divisions within the commission, state agencies, and other entities to develop a coordinated long-range plan to effectively monitor and reduce the incidence or severity of developmental disabilities;

(4) promote and facilitate the identification, development, coordination, and delivery of needed prevention services;

(5) solicit, receive, and spend grants and donations from public, private, state, and federal sources;

(6) identify and encourage establishment of needed reporting systems to track the causes and frequencies of occurrence of developmental disabilities;

(7) develop, operate, and monitor programs created under Section 112.048 addressing the prevention of specific targeted developmental disabilities;

(8) monitor and assess the effectiveness of divisions within the commission and of state agencies in preventing developmental disabilities;

(9) recommend the role each division within the commission and each state agency should have with regard to prevention of developmental disabilities;

(10) facilitate coordination of state agency prevention services and activities within the commission and among appropriate state agencies; and

(11) encourage cooperative, comprehensive, and complementary planning among public, private, and volunteer individuals and organizations engaged in prevention activities, providing prevention services, or conducting related research.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.21(d), eff. September 1, 2015.

For expiration of this section, see Section 112.0421(c), Human Resources Code.

Sec. 112.045. EXECUTIVE COMMITTEE. (a) The executive committee is the governing body of the office.

(b) The executive committee is composed of nine members who have expertise in the field of developmental disabilities, of which three are appointed by the governor, three are appointed by the lieutenant governor, and three are appointed by the speaker of the house of representatives. Appointments to the executive committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(c) The members serve for staggered six-year terms, with the terms of three members expiring February 1 of each odd-numbered year. Executive committee members receive no compensation but are entitled to reimbursement of actual and necessary expenses incurred in the performance of their duties.

(d) The governor shall designate a member of the executive committee as the presiding officer of the executive committee to serve in that capacity at the will of the governor.

(e) The executive committee shall meet at least quarterly and shall adopt bylaws for the conduct of the meetings.

(f) Any actions taken by the executive committee must be approved by a majority vote of the members present.

(g) The executive committee shall establish policies and procedures to implement this subchapter.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 557, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 751, Sec. 2, eff. Sept. 1, 1999.

For expiration of this section, see Section 112.0421(c), Human Resources Code.

Sec. 112.0451. CONFLICT OF INTEREST. A person may not be a member of the executive committee or act as the general counsel to

the executive committee or the office if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the office.

Added by Acts 1999, 76th Leg., ch. 751, Sec. 3, eff. Sept. 1, 1999.

For expiration of this section, see Section 112.0421(c), Human Resources Code.

Sec. 112.0452. REMOVAL OF EXECUTIVE COMMITTEE MEMBER. (a) It is a ground for removal from the executive committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 112.045;

(2) does not maintain during service on the executive committee the qualifications required by Section 112.045;

(3) is ineligible for membership under Section 112.045 or 112.0451;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled executive committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the executive committee.

(b) The validity of an action of the executive committee is not affected by the fact that it is taken when a ground for removal of an executive committee member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the executive committee of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the executive committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1999, 76th Leg., ch. 751, Sec. 3, eff. Sept. 1, 1999.

For expiration of this section, see Section 112.0421(c), Human Resources Code.

Sec. 112.0453. EXECUTIVE COMMITTEE MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the executive committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the executive committee until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the office and the executive committee;

(2) the programs operated by the office;

(3) the role and functions of the office;

(4) the rules of the office with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the office;

(6) the results of the most recent formal audit of the office;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the office or the Texas Ethics Commission.

(c) A person appointed to the executive committee is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 751, Sec. 3, eff. Sept. 1, 1999.

For expiration of this section, see Section 112.0421(c), Human

Resources Code.

Sec. 112.0454. PUBLIC ACCESS. The executive committee shall develop and implement policies that provide the public with a reasonable opportunity to appear before the executive committee and to speak on any issue under the jurisdiction of the office.

Added by Acts 1999, 76th Leg., ch. 751, Sec. 3, eff. Sept. 1, 1999.

For expiration of this section, see Section 112.0421(c), Human Resources Code.

Sec. 112.046. BOARD OF ADVISORS. (a) The executive committee may appoint a board of advisors composed of the following persons:

(1) representatives of government agencies that are responsible for prevention services for specified targeted disabilities and that contract with the office to provide those services;

(2) representatives of consumer groups, foundations, or corporations that contract for or donate to the office for prevention services for specific targeted disabilities;

(3) private citizens who volunteer services or donate to the office for prevention services for specific targeted disabilities; and

(4) other persons whose assistance the executive committee considers necessary to implement the purposes of this subchapter.

(b) The board of advisors may serve on task forces, solicit donations and grants, and perform any other duties assigned by the executive committee.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.

For expiration of this section, see Section 112.0421(c), Human Resources Code.

Sec. 112.047. EXECUTIVE DIRECTOR. (a) The executive committee may hire an executive director to serve as the chief executive officer of the office and to perform the administrative duties of the office.

(b) The executive director serves at the will of the executive committee.

(c) The executive director may hire staff within guidelines established by the executive committee.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.

For expiration of this section, see Section 112.0421(c), Human Resources Code.

Sec. 112.0471. QUALIFICATIONS AND STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the executive committee and to employees of the office, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1999, 76th Leg., ch. 751, Sec. 3, eff. Sept. 1, 1999.

For expiration of this section, see Section 112.0421(c), Human Resources Code.

Sec. 112.0472. EQUAL EMPLOYMENT OPPORTUNITY POLICIES. (a) The executive director shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the office to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the office's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the Texas Workforce Commission civil rights division for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 1999, 76th Leg., ch. 751, Sec. 3, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.408, eff. April 2, 2015.

Sec. 112.048. PREVENTION PROGRAMS FOR TARGETED DEVELOPMENTAL DISABILITIES. (a) The executive committee shall establish guidelines for:

(1) selecting targeted disabilities;

(2) assessing prevention services needs; and

(3) reviewing plans, budgets, and operations for programs under this section.

(b) The executive committee shall plan and implement prevention programs for specifically targeted developmental disabilities.

(c) A program under this section:

(1) must include a plan designed to reduce the incidence of a specifically targeted disability;

(2) must include a budget for implementing a plan;

(3) must be funded through:

(A) contracts for services from participating agencies;

(B) grants and gifts from private persons and consumer and advocacy organizations; and

(C) foundation support; and

(4) must be approved by the executive committee.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.21(e), eff. September 1, 2015.

Sec. 112.049. EVALUATION. (a) The office shall identify or encourage the establishment of needed statistical bases for each targeted group against which the office can measure how effectively a program under Section 112.048 is reducing the frequency or severity of a targeted developmental disability.

(b) The executive committee shall regularly monitor and evaluate the results of programs under Section 112.048.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.21(e), eff. September 1, 2015.

Sec. 112.050. GRANTS AND OTHER FUNDING. (a) The executive committee may apply for and distribute private, state, and federal funds to implement prevention policies set by the executive committee.

(b) The executive committee shall establish criteria for application and review of funding requests and accountability standards for recipients. The executive committee may adjust its criteria as necessary to meet requirements for federal funding.

(c) The executive committee may not submit a legislative appropriation request for general revenue funds for purposes of this subchapter.

(d) In addition to funding under Subsection (a), the office may accept and solicit gifts, donations, and grants of money from public and private sources, including the federal government, local governments, and private entities, to assist in financing the duties and functions of the office. The commission shall support office fund-raising efforts authorized by this subsection. Funds raised under this subsection may only be spent in furtherance of a duty or function of the office or in accordance with rules applicable to the office.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.21(f), eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.21(g), eff. September 1, 2015.

Sec. 112.051. REPORTS TO LEGISLATURE. The office shall submit by February 1 of each odd-numbered year biennial reports to the legislature detailing findings of the office and the results of programs under Section 112.048 and recommending improvements in the delivery of developmental disability prevention services.

Added by Acts 1989, 71st Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1989.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.21(h), eff. September 1, 2015.

CHAPTER 114. AUTISM AND PERVASIVE DEVELOPMENTAL DISORDERS

For expiration of this section, see Section 114.0021, Human Resources Code.

Sec. 114.001. SHORT TITLE. This chapter may be cited as the Texas Council on Autism and Pervasive Developmental Disorders Act of 1987.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 2, eff. September 1, 2005.

Sec. 114.002. DEFINITIONS. In this chapter:

(1) "Autism and other pervasive developmental disorders" means a subclass of mental disorders characterized by distortions in the development of multiple basic psychological functions that are involved in the development of social skills and language, as defined by the Diagnostic and Statistical Manual (DSM-5), 5th Edition.

(1-a) "Commission" means the Health and Human Services Commission.

(2) "Council" means the Texas Council on Autism and Pervasive Developmental Disorders.

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

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 3, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 536 (S.B. 519), Sec. 1, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.22(b),

eff. September 1, 2015.

For expiration of this section, see Subsection (c).

Sec. 114.0021. APPLICABILITY AND EXPIRATION OF CERTAIN PROVISIONS. (a) Sections 114.001, 114.003, 114.004, 114.005, 114.007(a), and 114.010(d) apply only until the date the executive commissioner begins to administer this chapter and the commission assumes the duties and functions of the Texas Council on Autism and Pervasive Developmental Disorders in accordance with Section 114.0031.

(b) On the date the provisions listed in Subsection (a) cease to apply, the Texas Council on Autism and Pervasive Developmental Disorders is abolished.

(c) This section and Sections 114.001, 114.003, 114.004, 114.005, 114.007(a), and 114.010(d) expire on the last day of the period prescribed by Section 531.02001(1), Government Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.22(c), eff. September 1, 2015.

For expiration of this section, see Section 114.0021, Human Resources Code.

Sec. 114.003. COUNCIL. (a) The Texas Council on Autism and Pervasive Developmental Disorders is established.

(b) The council is composed of:

(1) seven public members, the majority of whom are family members of a person with autism or a pervasive developmental disorder, appointed by the governor with the advice and consent of the senate; and

(2) one representative from each of the following state agencies, to serve as ex officio members:

(A) Department of Aging and Disability Services;

(B) Department of State Health Services;

(C) Health and Human Services Commission;

(D) Texas Education Agency;

(E) Department of Assistive and Rehabilitative Services; and

(F) Department of Family and Protective Services.

(c) The commissioner or executive head of each state agency shall appoint as that agency's representative the person in the agency who is most familiar with and best informed about autism and other pervasive developmental disorders. An ex officio member serves in an advisory capacity only and may not:

(1) serve as chairperson; or

(2) vote.

(d) The public members appointed by the governor serve staggered two-year terms with the terms of three or four members expiring on February 1 of each year. The public members may be reappointed. A representative of a state agency serves at the pleasure of the commissioner or executive head of that agency. A public member is entitled to reimbursement of the travel expenses incurred by the public member while conducting the business of the council, as provided in the General Appropriations Act.

(e) The governor shall designate a public member of the council as the chairman of the council to serve in that capacity at the pleasure of the governor.

(f) The council shall meet at least quarterly and shall adopt rules for the conduct of its meetings.

(g) Any actions taken by the council must be approved by a majority vote of the public members present.

(h) The council shall establish policies and adopt rules to carry out its duties under this chapter.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.65, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 78, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 5, eff. September 1, 2005.

Sec. 114.0031. ADMINISTRATION OF CHAPTER; CERTAIN REFERENCES. (a) Notwithstanding any other provision in this chapter, the executive commissioner shall administer this chapter beginning on the date specified in the transition plan under Section 531.0204,

Government Code, and the commission shall perform the duties and functions of the Texas Council on Autism and Pervasive Developmental Disorders in the organizational form the executive commissioner determines appropriate.

(b) Following the assumption of the administration of this chapter by the executive commissioner and the duties and functions by the commission in accordance with Subsection (a):

(1) a reference in this chapter to the council, the Texas Council on Autism and Pervasive Developmental Disorders, or an agency represented on the council means the commission, the division or other organizational unit within the commission designated by the executive commissioner, or the executive commissioner, as appropriate; and

(2) a reference in any other law to the Texas Council on Autism and Pervasive Developmental Disorders has the meaning assigned by Subdivision (1).

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.22(c), eff. September 1, 2015.

For expiration of this section, see Section 114.0021, Human Resources Code.

Sec. 114.004. STAFF SUPPORT. The agencies represented on the council shall provide staff support to the council from among the agency staff who are responsible for coordinating services to persons with autism or other pervasive developmental disorders or to those persons' families. The council may require the employment of staff to carry out the responsibilities of the council. The executive commissioner of the Health and Human Services Commission shall determine which agency must employ staff for the council and what funding resources shall be used for the council.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 78, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 6, eff. September 1, 2005.

For expiration of this section, see Section 114.0021, Human Resources Code.

Sec. 114.005. ADVISORY TASK FORCE. (a) The council shall establish an advisory task force composed of professionals, advocacy groups, and family members of persons with autism or other pervasive developmental disorders. The council shall appoint as many members to the task force as the council considers necessary to assist the council in performing its duties.

(b) The chair of the council shall appoint the chair of the task force, and the task force shall meet and serve in accordance with council rules. The council may divide the task force into regional committees to assist the council in community level program planning and implementation.

(c) A member of the task force may be appointed or removed without cause by a majority vote of the public members of the council present at a council meeting.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 7, eff. September 1, 2005.

Sec. 114.006. STATE PLAN. (a) The council shall develop a state plan to provide services to persons with autism or other pervasive developmental disorders to ensure that:

(1) the needs of those persons and their families are addressed statewide and that all available resources are coordinated to meet those needs;

(2) within existing resources, the full range of services that are available through existing state agencies is offered to those persons throughout their lives to the maximum extent possible;

(3) personnel training needs are assessed statewide and strategies are developed to meet those needs;

(4) incentives are offered to private sources to encourage the sources to maintain present commitments and to assist in developing new programs; and

(5) a procedure for reviewing individual complaints about services provided under this chapter is implemented.

(b) The council shall make written recommendations on the implementation of this chapter. If the council considers a recommendation that will affect another state agency, the council shall seek the advice and assistance of the agency before taking action on the recommendation. On approval of the governing body of the agency, each agency affected by a council recommendation shall implement the recommendation. If an agency does not have sufficient funds to implement a recommendation, the agency shall request funds for that purpose in its next budget proposal.

(c) Repealed by Acts 2001, 77th Leg., ch. 78, Sec. 3, eff. Sept. 1, 2001.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 78, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.22(d), eff. September 1, 2015.

For expiration of Subsection (a), see Section 114.0021, Human Resources Code.

Sec. 114.007. DUTIES. (a) The council shall provide recommendations to the Health and Human Services Commission and other appropriate state agencies responsible for implementing this chapter, including recommendations relating to the use of funds appropriated to the commission or another health and human services agency to provide services to persons with autism or other pervasive developmental disorders.

(b) The council with input from people with autism and other pervasive developmental disorders, their families, and related advocacy organizations shall address contemporary issues affecting services available to persons with autism or other pervasive developmental disorders in this state, including:

(1) successful intervention and treatment strategies, including transitioning;

(2) personnel preparation and continuing education;

(3) referral, screening, and evaluation services;

(4) day care, respite care, or residential care services;

(5) vocational and adult training programs;

(6) public awareness strategies;
(7) contemporary research;
(8) early identification strategies;
(9) family counseling and case management; and
(10) recommendations for monitoring autism service programs.

(c) The council with input from people with autism and other pervasive developmental disorders, their families, and related advocacy organizations shall advise the legislature on legislation that is needed to develop further and to maintain a statewide system of quality intervention and treatment services for all persons with autism or other pervasive developmental disorders. The council may develop and recommend legislation to the legislature or comment on pending legislation that affects those persons.

(d) The council shall identify and monitor apparent gaps in services currently available from various state agencies for persons with autism or other pervasive developmental disorders and shall advocate improvements on behalf of those persons.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 8, eff. September 1, 2005.
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.22(e), eff. September 1, 2015.

Sec. 114.008. REPORT. (a) Not later than November 1 of each even-numbered year, the council shall:
(1) prepare a report summarizing requirements the council identifies and recommendations for providing additional or improved services to persons with autism or other pervasive developmental disorders; and
(2) deliver the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(b) The council shall develop a strategy for establishing new programs to meet the requirements identified through the council's review and assessment and from input from people with autism and related pervasive developmental disorders, their families, and

related advocacy organizations.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 9, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 73, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.22(f), eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.39, eff. September 1, 2019.

Sec. 114.009. PROGRAM GUIDELINES. The council shall develop specific program guidelines for:
(1) instructional or treatment options;
(2) frequency and duration of services;
(3) ratio of staff to affected persons;
(4) staff composition and qualifications;
(5) eligibility determination; and
(6) other program features designed to ensure the provision of quality services.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987.

For expiration of Subsection (d), see Section 114.0021, Human Resources Code.

Sec. 114.010. FUNDING REQUESTS FOR PROGRAMS. (a) A public or private service provider may apply for available funds to provide a program of intervention services for eligible persons with autism or other pervasive developmental disorders in areas of identified needs.
(b) To apply for funds, a person must submit a grant request to the council.
(c) The council shall adopt rules governing the submission and processing of funding requests.
(d) Funds may be appropriated from available resources to allow

the council to provide recommendations to the Health and Human Services Commission and other appropriate state agencies responsible for implementing this chapter, including recommendations relating to the use of funds appropriated to the commission or another health and human services agency to provide services to persons with autism or other pervasive developmental disorders.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 10, eff. September 1, 2005.

Sec. 114.011. APPROVAL CRITERIA. (a) The council shall review each request for program funding on a competitive basis and shall consider:

(1) the extent to which the program would meet identified needs;

(2) the cost of initiating the program, if applicable;

(3) whether other funding sources are available;

(4) the proposed cost of the services to the client or the client's family; and

(5) the assurance of quality services.

(b) The council may not approve a funding request for a new program unless the service provider agrees to:

(1) operate and maintain the program within the guidelines established by the council;

(2) develop for each person with autism or other pervasive developmental disorders an individualized developmental plan that:

(A) includes family participation and periodic review and reevaluation; and

(B) is based on a comprehensive developmental evaluation conducted by an interdisciplinary team;

(3) provide services to meet the unique needs of each person with autism or other pervasive developmental disorders as indicated by the person's individualized developmental plan; and

(4) develop a method in accordance with rules adopted by the council and approved by the council to respond to individual complaints relating to services provided by the program.

(c) The council shall develop with the Health and Human Services Commission and any agency designated by the commission procedures for allocating available funds to programs approved under this section.

(d) This chapter does not affect the existing authority of a state agency to provide services to a person with autism or other pervasive developmental disorders if the person meets the eligibility criteria established by this chapter. The council may modify the program standards if the council considers the modifications necessary for a particular program.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 838 (S.B. 882), Sec. 11, eff. September 1, 2005.

Sec. 114.012. FEES FOR SERVICES. (a) A service provider may charge a fee for services that is based on the client's or family's ability to pay. The fee must be used to offset the cost of providing or securing the services. If a service provider charges a fee, the provider must charge a separate fee for each type of service. In determining a client's or family's ability to pay for services, the provider must consider the availability of financial assistance or other benefits for which the client or family may be eligible.

(b) A state agency may charge a fee for services provided by the agency under this chapter that is based on the client's or family's ability to pay.

Added by Acts 1987, 70th Leg., ch. 956, Sec. 9.01, eff. Sept. 1, 1987.

Sec. 114.013. COORDINATION OF RESOURCES FOR INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS. (a) The commission shall coordinate resources for individuals with autism and other pervasive developmental disorders and their families. In coordinating those resources, the commission shall consult with appropriate state agencies.

(b) As part of coordinating resources under Subsection (a), the

commission shall:

(1) collect and distribute information and research regarding autism and other pervasive developmental disorders;

(2) conduct training and development activities for persons who may interact with an individual with autism or another pervasive developmental disorder in the course of their employment, including school, medical, and law enforcement personnel, and personnel of the Department of Family and Protective Services;

(3) coordinate with local entities that provide services to an individual with autism or another pervasive developmental disorder; and

(4) provide support for families affected by autism and other pervasive developmental disorders.

(c) The commission shall ensure that training and development activities under this section are:

(1) evidenced-based;

(2) applicable to the professional role of each type of personnel to be trained under Subsection (b)(2); and

(3) instructive regarding means of effectively communicating and engaging with individuals with limited social or verbal abilities.

(d) At least once every five years, in consultation with an institution of higher education, the commission shall revise the materials and methods for the training and development activities to be provided under Subsection (b)(2).

Added by Acts 2009, 81st Leg., R.S., Ch. 177 (H.B. 1574), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 1.22(g), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 368 (H.B. 1386), Sec. 1, eff. September 1, 2019.

CHAPTER 115. GOVERNOR'S COMMITTEE ON PEOPLE WITH DISABILITIES

Sec. 115.001. COMMITTEE; MISSION. (a) The Governor's Committee on People with Disabilities is within the office of the governor.

(b) The committee's mission is to further opportunities for

persons with disabilities to enjoy full and equal access to lives of independence, productivity, and self-determination.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1999, 76th Leg., ch. 37, Sec. 1, eff. Sept. 1, 1999.

Sec. 115.002. COMPOSITION. (a) The committee is composed of 12 members appointed by the governor and of nonvoting ex officio members.

(b) The appointed members are appointed for staggered terms of two years, with half the members' terms expiring February 1 of each odd-numbered year and half the members' terms expiring February 1 of each even-numbered year. At least seven of the appointed members must be persons with disabilities.

(c) The ex officio members are:

(1) the executive director of the Texas Workforce Commission;

(2) the commissioner of assistive and rehabilitative services; and

(3) other officials designated by the governor who serve with other state agencies that provide services to persons with disabilities.

(d) Except as provided by Subsection (b), appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 835, Sec. 22, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 37, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 817, Sec. 10.10, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.409, eff. April 2, 2015.

Sec. 115.0021. CONFLICT OF INTEREST. A person may not be a member of the committee or act as the general counsel to the committee if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of

the committee.

Added by Acts 1999, 76th Leg., ch. 37, Sec. 5, eff. Sept. 1, 1999.

Sec. 115.0022. TRAINING FOR COMMITTEE MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the committee until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the committee;

(2) the programs operated by the committee;

(3) the role and functions of the committee;

(4) any relevant rules of the committee;

(5) the current budget for the committee;

(6) the results of the most recent formal audit of the committee;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the committee or the Texas Ethics Commission.

(c) A person appointed to the committee is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 37, Sec. 5, eff. Sept. 1, 1999.

Sec. 115.0023. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the committee that a member:

(1) is ineligible for membership under Section 115.0021;

(2) cannot discharge the member's duties for a substantial part of the member's term; or

(3) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the committee of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1999, 76th Leg., ch. 37, Sec. 5, eff. Sept. 1, 1999.

Sec. 115.003. REIMBURSEMENT. Appointed members may not receive compensation for service on the committee but are entitled to actual and necessary expenses incurred in the performance of committee business, including attendance at committee meetings, telephone calls to conduct committee business, and attendance at functions to represent the committee officially. The payment of expenses is limited to available funds.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991.

Sec. 115.004. OFFICERS; MEETINGS; QUORUM. (a) The governor shall designate one member of the committee as the presiding officer of the committee to serve in that capacity at the pleasure of the governor. The committee may elect other officers from its members as the committee considers necessary.

(b) The committee shall meet quarterly as provided by committee rule and may meet at other times at the call of the presiding

officer.

(c) The committee is considered to be a governmental body subject to Chapter 551, Government Code.

(d) A majority of the appointed members of the committee constitutes a quorum.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(82), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 37, Sec. 3, eff. Sept. 1, 1999.

Sec. 115.0041. DIVISION OF RESPONSIBILITY. The committee shall develop and implement policies that clearly separate the policymaking responsibilities of the committee and the management responsibilities of the executive director and staff of the committee.

Added by Acts 1999, 76th Leg., ch. 37, Sec. 5, eff. Sept. 1, 1999.

Sec. 115.0042. PUBLIC HEARINGS. The committee shall develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on any issue under the jurisdiction of the committee.

Added by Acts 1999, 76th Leg., ch. 37, Sec. 5, eff. Sept. 1, 1999.

Sec. 115.005. SUNSET PROVISION. The Governor's Committee on People with Disabilities is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this chapter expires September 1, 2027.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 4.08, eff. Nov. 12, 1991; Acts 1999, 76th Leg., ch. 37, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1227 (H.B. 1116), Sec. 2.04, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.06, eff.

June 15, 2007.

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 2.12, eff. July 10, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 2.18, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 98 (H.B. 1678), Sec. 1, eff. September 1, 2015.

Sec. 115.006. STAFF; FUNDING. (a) The governor's office shall employ, subject to the approval of the committee, an executive director for the committee at a salary as determined by legislative appropriation.

(b) The governor's office shall provide other administrative support to the committee. The executive director of the committee shall coordinate the provision of the administrative support and shall supervise the staff.

(c) The committee shall be funded through the governor's office.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991.

Sec. 115.0061. STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the committee and to committee employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1999, 76th Leg., ch. 37, Sec. 5, eff. Sept. 1, 1999.

Sec. 115.007. RULES AND SUBCOMMITTEES. (a) The committee shall adopt rules and designate subcommittees and task forces as it considers advisable for the conduct of the committee's functions.

(b) The committee may appoint persons other than committee members to serve on its subcommittees and task forces as appropriate to obtain needed expertise and broaden representation from its constituencies. Those persons may not receive compensation for their

services but may be reimbursed for travel and lodging expenses.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991.

Sec. 115.008. GIFTS, GRANTS, AND DONATIONS. The committee may solicit and accept gifts, grants, and donations to support the committee or carry out the committee's functions.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991.

Sec. 115.009. FUNCTIONS. The committee shall:

(1) serve as a central source of information and education on the abilities, rights, problems, and needs of persons with disabilities and, as necessary, issue reports;

(2) provide information to and advise the governor and the governor's staff on matters relating to the full participation of persons with disabilities in all aspects of life;

(3) before the end of each even-numbered year, submit to the governor and to the legislature a report that includes any recommended changes in state laws relating to persons with disabilities;

(4) serve as the state's liaison agency in working with the Office of Disability Employment Policy and other entities involved in activities or concerns affecting persons with disabilities;

(5) develop and work with a statewide network of volunteer community-level committees to promote dissemination of information about and implementation of federal and state laws addressing rights and opportunities for persons with disabilities;

(6) provide information and technical assistance to public and private agencies and businesses to promote and facilitate implementation of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and other federal and state statutes relating to rights and opportunities of persons with disabilities;

(7) work with legislative committees and with state agencies on the development of laws and policies that affect persons with disabilities;

(8) promote the compilation and publication of state laws relating to persons with disabilities;

(9) issue awards and other forms of recognition to persons

and organizations making outstanding contributions to the employment of persons with disabilities and to public awareness of issues impacting persons with disabilities;

(10) identify each current long-range plan relating to persons with disabilities in this state created by a state agency, a committee of a state agency, or a nonprofit organization required by federal law to produce such a plan, and publish the link to the Internet website address for each long-range plan, if available, on the Internet website of the Governor's Committee on People with Disabilities; and

(11) review and analyze the long-range plans described by Subdivision (10) to identify gaps in state laws and services for persons with disabilities and make biennial recommendations in the committee's report required under Subdivision (3) to address identified gaps.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1999, 76th Leg., ch. 37, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.410, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 98 (H.B. 1678), Sec. 2, eff. September 1, 2015.

Sec. 115.010. GOVERNMENTAL COOPERATION. The agencies of state and local government shall cooperate with and assist the committee in the performance of its functions.

Added by Acts 1991, 72nd Leg., ch. 577, Sec. 1, eff. Sept. 1, 1991.

Sec. 115.011. COMPLAINTS. (a) The committee shall maintain a file on each written complaint filed with the committee. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the committee;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review of the

complaint; and

(6) an explanation of the reason the file was closed, if the committee closed the file without taking action other than to review the complaint.

(b) The committee, until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the review of the complaint.

Added by Acts 1999, 76th Leg., ch. 37, Sec. 5, eff. Sept. 1, 1999.

CHAPTER 117. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 117.001. DEFINITIONS. In this chapter:

(1) "Caseworker" means a department employee who manages a client's case under a direct services program and provides direct services to the client under the program.

(1-a) "Center for independent living" has the meaning assigned by Section 702 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 796a).

(1-b) "Commission" means the Health and Human Services Commission.

(2) "Commissioner" means the commissioner of assistive and rehabilitative services.

(3) "Council" means the Assistive and Rehabilitative Services Council.

(4) "Department" means the Department of Assistive and Rehabilitative Services.

(4-a) "Direct services" means services provided to a client by a department employee, including counseling, facilitating the purchase of services from a source other than the department, and purchasing equipment and other items and providing other services necessary for the client to successfully complete a department program.

(4-b) "Direct services program" means a program operated by the department through which direct services are provided.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.13, eff. Dec. 29,

2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 775 (H.B. 2463), Sec. 1, eff. September 1, 2015.

Sec. 117.003. SUNSET PROVISION. Unless the commission is continued in existence as provided by Chapter 325, Government Code, after the review required by Section 531.004, Government Code, this chapter expires on the date the commission is abolished under that section.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.13, eff. Dec. 29, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.07, eff. June 15, 2007.
Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 2.13, eff. July 10, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 2.19, eff. June 17, 2011.
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 4.05, eff. September 1, 2015.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 117.033. CRIMINAL HISTORY RECORD INFORMATION. (a) The department may obtain criminal history record information from the Texas Department of Criminal Justice and from the Texas Department of Public Safety if the criminal history records relate to:

(1) an applicant selected for employment with the department;

(2) an applicant for services of the department; or

(3) a client of the department.

(b) The Texas Department of Criminal Justice and the Texas Department of Public Safety upon request shall supply to the department criminal history record information relating to applicants selected for employment with the department, applicants for services of the department, or clients of the department. The department shall treat all criminal history record information as privileged and

confidential and for department use only.

Added by Acts 1979, 66th Leg., p. 2435, ch. 842, art. 2, Sec. 7, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 142, Sec. 10, eff. May 17, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.118, eff. September 1, 2009.
Transferred, redesignated and amended from Human Resources Code, Section 111.058 by Acts 2013, 83rd Leg., R.S., Ch. 391 (S.B. 128), Sec. 2, eff. June 14, 2013.

Sec. 117.034. CRIMINAL HISTORY RECORD INFORMATION: APPLICANTS FOR EMPLOYMENT. The executive commissioner by rule shall establish criteria for denying a person's application for employment based on criminal history record information obtained pursuant to Section 411.117, Government Code.

Added by Acts 1999, 76th Leg., ch. 393, Sec. 22, eff. Sept. 1, 1999.
Transferred, redesignated and amended from Human Resources Code, Section 111.0581 by Acts 2013, 83rd Leg., R.S., Ch. 391 (S.B. 128), Sec. 2, eff. June 14, 2013.

SUBCHAPTER C. PERSONNEL

SUBCHAPTER D. POWERS AND DUTIES OF DEPARTMENT

Sec. 117.071. GENERAL POWERS AND DUTIES OF DEPARTMENT. The department is responsible for administering human services programs to provide early childhood intervention services and rehabilitation and related services to persons who are blind, deaf, or hard of hearing. The department is also responsible for providing and coordinating programs for the rehabilitation of persons with disabilities so that those persons may prepare for and engage in a gainful occupation or achieve maximum personal independence.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.13, eff. Dec. 29, 2003.

Sec. 117.0713. SERVICE DELIVERY BY TEXAS WORKFORCE COMMISSION.

The Texas Workforce Commission has primary responsibility for providing vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, notwithstanding Section 117.071 and subject to receipt of any required federal approval to administer those services and programs. A power or duty under this chapter, including rulemaking authority, of the department, the commissioner, or the executive commissioner that is applicable to those services or programs is a power or duty of the Texas Workforce Commission with respect to those services or programs.

Added by Acts 2015, 84th Leg., R.S., Ch. 1138 (S.B. 208), Sec. 8, eff. September 1, 2016.

Sec. 117.073. RULES. The executive commissioner may adopt rules reasonably necessary for the department to administer this chapter, consistent with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.13, eff. Dec. 29, 2003.

Sec. 117.074. RATES FOR MEDICAL SERVICES. (a) The executive commissioner by rule shall adopt standards governing the determination of rates paid for medical services provided under this chapter. The rules must provide for an annual reevaluation of the rates.

(b) The executive commissioner shall establish a schedule of rates based on the standards adopted under Subsection (a). In adopting the rate schedule, the executive commissioner shall:

(1) compare the proposed rate schedule to other cost-based and resource-based rates for medical services, including rates paid under the Medicaid and Medicare programs; and

(2) for any rate adopted that exceeds the Medicaid or Medicare rate for the same or a similar service, document the reasons why the adopted rate reflects consideration of the best value, provider availability, and consumer choice.

(c) The executive commissioner shall provide notice to

interested persons and allow those persons to present comments before adopting the standards and schedule of rates under Subsections (a) and (b).

Added by Acts 2005, 79th Leg., Ch. 211 (H.B. 1912), Sec. 1, eff. September 1, 2005.

Sec. 117.076. INFORMATION REGARDING VELOCARDIOFACIAL SYNDROME. (a) The commission shall ensure that each health and human services agency that provides intervention services to young children is provided with information developed by the commission regarding velocardiofacial syndrome.

(b) Each health and human services agency described by Subsection (a) shall provide the information regarding velocardiofacial syndrome to appropriate health care coordinators and therapists and to parents of a child who is known by the agency to have at least two of the following conditions:

(1) hypotonicity;

(2) communication delay;

(3) articulation disorder;

(4) resonance disorder;

(5) nasal regurgitation during feeding as an infant with no history of a cleft palate;

(6) recurrent ear infections as well as diagnosis of cardiac anomaly, feeding disorder, cleft palate, or submucosal cleft palate; or

(7) fine motor or gross motor skills delay.

(c) The commission shall develop the information required under Subsection (a) using medically accurate, peer-reviewed literature. The information must include:

(1) an explanation of velocardiofacial syndrome symptoms, diagnosis, and treatment options;

(2) information on relevant state agency and nonprofit resources, parent support groups, and available Medicaid waiver programs; and

(3) a recommendation for follow-up with a health care provider for evaluation of the underlying etiology and an explanation that the existence of any of the conditions listed in Subsection (b) will not necessarily result in a diagnosis of velocardiofacial

syndrome.

(d) The executive commissioner may adopt rules as necessary to implement this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 818 (S.B. 1612), Sec. 1, eff. September 1, 2009.

Sec. 117.077. DATA ANALYSIS IN FAMILY COST SHARE PROVISIONS IN EARLY CHILDHOOD INTERVENTION PROGRAM. (a) In this section, "cost-effective" means the family cost share revenue generated is greater than total administrative costs.

(b) The department shall collect data, including data on administrative costs and adjusted family income, sufficient to evaluate:

(1) the cost-effectiveness of the family cost share provisions of the early childhood intervention program; and

(2) changes necessary to improve the cost-effectiveness of the program.

(c) The department shall:

(1) as necessary, modify the Texas Kids Intervention Data System to accept adjusted family income data submitted by early childhood intervention program providers; and

(2) require all providers to enter adjusted family income data into the system.

(d) The department shall use the data collected under this section to evaluate the cost-effectiveness of existing family cost share provisions in the early childhood intervention program and consider changes that may improve the cost-effectiveness of the program, including the adoption of a family cost share provision described by Section 117.078(a).

(e) The department shall implement any changes considered under Subsection (d) that the department determines will make the family cost share provisions of the early childhood intervention program more cost-effective, if the changes will not make access to early childhood intervention services cost prohibitive for families. If none of the considered changes is determined to make the program more cost-effective, or if the department determines that the changes will make access to early childhood intervention services cost prohibitive for families, the department may decline to implement the changes.

(f) The department shall evaluate existing family cost share provisions and consider and implement changes, if appropriate, to the early childhood intervention program as required by this section:

(1) on a periodic basis established by the department; and

(2) at other times at the request of the Legislative Budget Board.

Added by Acts 2013, 83rd Leg., R.S., Ch. 468 (S.B. 1060), Sec. 1, eff. September 1, 2013.

Sec. 117.078. FAMILY COST SHARE PROVISION IN EARLY CHILDHOOD INTERVENTION PROGRAM. (a) The department shall consider implementing a family cost share provision under which the amount a family pays to participate in the early childhood intervention program is based on the amount of service the family receives under the program.

(b) A family cost share provision implemented by the department under Subsection (a) must establish a maximum amount to be paid by a family participating in the early childhood intervention program that is based on the family's size and adjusted gross income, with families in higher income brackets required to pay more under the provision than those families paid before the provision's implementation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 468 (S.B. 1060), Sec. 1, eff. September 1, 2013.

Sec. 117.080. PROVISION OF INDEPENDENT LIVING SERVICES. (a) The department shall ensure that all services provided under the independent living services program that the department operates under Title VII of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 796 et seq.) are directly provided by centers for independent living, except as provided by Subsection (b), and are not directly provided by the department.

(b) If an area of the state does not have a center for independent living, or no center for independent living in that area is able to provide certain necessary services under the independent living services program, the department shall seek to identify a center for independent living that is willing and able to contract

with a nonprofit organization or other person to provide the independent living services in the area under the program. If no center for independent living is willing and able to contract with another organization or other person, the department may directly contract with an organization or other person who is not a center for independent living to provide the independent living services in the area under the program.

(c) The department shall evaluate the independent living services provided by a center for independent living and shall provide necessary training or technical assistance to help the center for independent living expand its capacity to provide a full range of independent living services.

(d) The department shall monitor the performance of each center for independent living in providing independent living services, including how the center for independent living monitors the performance of the organizations and other persons with whom it contracts to provide independent living services.

(e) The executive commissioner shall adopt rules to implement this section that include:

(1) an equitable and transparent methodology for allocating funds to centers for independent living under the independent living services program;

(2) requirements applicable to the department in contracting with centers for independent living to provide independent living services under the program;

(3) requirements applicable to centers for independent living in contracting with organizations and other persons to provide independent living services under the program;

(4) requirements applicable to the department in contracting with organizations or other persons who are not centers for independent living to provide independent living services under the program;

(5) a process for the department to monitor independent living services contracts;

(6) guidelines on the department's role in providing technical assistance and training to centers for independent living as necessary; and

(7) expectations for department employees to refer persons who contact the department seeking independent living services to centers for independent living.

Added by Acts 2015, 84th Leg., R.S., Ch. 775 (H.B. 2463), Sec. 2, eff. September 1, 2015.

Sec. 117.081. COMPREHENSIVE REHABILITATION SERVICES PROGRAM. The department shall operate a comprehensive rehabilitation services program to provide comprehensive rehabilitation services to persons with traumatic brain or spinal cord injuries. The executive commissioner shall adopt rules for the program that include:

(1) a system of organization for the delivery of the comprehensive rehabilitation services;

(2) eligibility requirements for the comprehensive rehabilitation services;

(3) the types of services that may be provided to a client under the program; and

(4) requirements for client participation in the costs of the comprehensive rehabilitation services.

Added by Acts 2015, 84th Leg., R.S., Ch. 775 (H.B. 2463), Sec. 2, eff. September 1, 2015.

Sec. 117.082. CHILDREN'S AUTISM PROGRAM. The department shall operate a children's autism program to provide services to children with autism spectrum disorders. The executive commissioner shall adopt rules for the program that include:

(1) a system of organization for the delivery of the autism services;

(2) eligibility requirements for the autism services;

(3) the types of services that may be provided to a client under the program; and

(4) requirements for participation by the client's family in the costs of the autism services.

Added by Acts 2015, 84th Leg., R.S., Ch. 775 (H.B. 2463), Sec. 2, eff. September 1, 2015.

SUBCHAPTER D-1. ADMINISTRATION OF DIRECT SERVICES PROGRAMS IN GENERAL

Sec. 117.091. DIRECT SERVICES PROGRAM CASEWORKER GUIDELINES.

(a) The department shall use program data and best practices to establish and maintain guidelines that provide direction for caseworkers' decisions in all of the department's direct services programs. The guidelines:

(1) must categorize direct services program cases based on the types of services provided and, for each category, include provisions addressing:

(A) the recommended length of time a case in that category should last; and

(B) the recommended total expenditures for a case in that category;

(2) must include provisions for creating intermediate goals for a client receiving services through a direct services program that will allow:

(A) the caseworker to monitor the client's progress; and

(B) the caseworker's supervisor to evaluate how the client's case is advancing;

(3) must include criteria for caseworkers to use in evaluating progress on the intermediate goals described in Subdivision (2); and

(4) may include other provisions designed to assist caseworkers and their supervisors to achieve successful outcomes for clients.

(b) A caseworker may exceed the recommended guidelines described in Subsection (a)(1) in a direct services program case but must obtain the approval of the caseworker's supervisor after documenting the need to exceed the guidelines.

(c) The guidelines established under this section are not intended to limit the provision of appropriate or necessary services to a client.

(d) The department shall provide the guidelines established under this section to caseworkers in a format that allows caseworkers to easily access the information.

Added by Acts 2015, 84th Leg., R.S., Ch. 775 (H.B. 2463), Sec. 3, eff. September 1, 2015.

Sec. 117.092. DIRECT SERVICES PROGRAM CASE REVIEW SYSTEM. (a)

The department shall establish and maintain a single, uniform case review system for all direct services programs.

(b) The case review system must:

(1) include risk assessment tools that account for the different risks involved in each direct services program;

(2) require that case reviews:

(A) be used to consistently evaluate each direct services program across all regions, with the goal of evaluating at least 10 percent of all cases in each program and region annually;

(B) focus on areas of highest risk and prioritize the review of the following cases:

(i) except as provided by Subparagraph (ii), cases in which direct services have been provided for more than two years;

(ii) cases in the Blind Children's Vocational Discovery and Development Program in which direct services have been provided for more than five years; and

(iii) cases that are significantly outside the expenditure guidelines for that type of case;

(C) be used to evaluate a caseworker's eligibility determinations and decisions to close a case before a service plan is developed or without the client reaching the client's goal; and

(D) focus on the quality of a caseworker's decision-making and compliance with program requirements; and

(3) require a caseworker's supervisor to use the reviews of a caseworker's cases in conducting the caseworker's performance evaluation and in providing informal guidance to the caseworker to improve the caseworker's performance.

Added by Acts 2015, 84th Leg., R.S., Ch. 775 (H.B. 2463), Sec. 3, eff. September 1, 2015.

Sec. 117.093. DIRECT SERVICES PROGRAM MONITORING. (a) Department personnel not employed to perform functions directly under a direct services program must be designated to monitor those programs from a statewide perspective. The designated personnel shall collect, monitor, and analyze data relating to direct services programs and report outcomes and trends to program managers and, as necessary, the commissioner or other appropriate executive management.

(b) The monitoring function under Subsection (a) must include monitoring of:

(1) performance data from all regions and all direct services programs to identify trends; and

(2) case review data to ensure compliance with the case review system under Section 117.092.

(c) Personnel designated to perform the monitoring function required by this section shall work with direct services program staff to develop objective and detailed outcome measures for the programs.

(d) The department may conduct internal peer reviews of the department's field offices at regular intervals to assess the field offices' compliance with federal regulations and department policies and to compare each field office's compliance with the compliance of the other field offices. The department may use personnel designated to perform the monitoring function required by this section to facilitate the internal peer reviews.

Added by Acts 2015, 84th Leg., R.S., Ch. 775 (H.B. 2463), Sec. 3, eff. September 1, 2015.

TITLE 8. RIGHTS AND RESPONSIBILITIES OF PERSONS WITH DISABILITIES

CHAPTER 121. PARTICIPATION IN SOCIAL AND ECONOMIC ACTIVITIES

Sec. 121.001. STATE POLICY. The policy of the state is to encourage and enable persons with disabilities to participate fully in the social and economic life of the state, to achieve maximum personal independence, to become gainfully employed, and to otherwise fully enjoy and use all public facilities available within the state.

Acts 1979, 66th Leg., p. 2425, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 649, Sec. 2, eff. Sept. 1, 1997.

Sec. 121.0014. VISION STATEMENT. (a) The Health and Human Services Commission, each health and human services agency, and each state agency that administers a workforce development program shall adopt the following statement of vision:

The State of Texas shall ensure that all Texans with disabilities have the opportunity and support necessary to

work in individualized, competitive employment in the community and to have choices about their work and careers.

(b) In this section, "health and human services agency" means an agency listed by Section 531.001(4), Government Code.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 6.02(a), eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.415, eff. April 2, 2015.

Sec. 121.002. DEFINITIONS. In this chapter:

(1) "Assistance animal" and "service animal" mean a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability.

(2) "Harass" means any conduct that:

(A) is directed at an assistance animal that impedes or interferes with, or is intended to impede or interfere with, the animal's performance of its duties; or

(B) places a person with a disability who is using an assistance animal, or a trainer who is training an assistance animal, in danger of injury.

(3) "Housing accommodations" means all or part of real property that is used or occupied or is intended, arranged, or designed to be used or occupied as the home, residence, or sleeping place of one or more human beings, except a single-family residence whose occupants rent, lease, or furnish for compensation only one room.

(4) "Person with a disability" means a person who has:

(A) a mental or physical disability;

(B) an intellectual or developmental disability;

(C) a hearing impairment;

(D) deafness;

(E) a speech impairment;

(F) a visual impairment;

(G) post-traumatic stress disorder; or

(H) any health impairment that requires special ambulatory devices or services.

(5) "Public facility" includes a street, highway, sidewalk,

walkway, common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or any other public conveyance or mode of transportation; a hotel, motel, or other place of lodging; a public building maintained by any unit or subdivision of government; a retail business, commercial establishment, or office building to which the general public is invited; a college dormitory or other educational facility; a restaurant or other place where food is offered for sale to the public; and any other place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

(6) "White cane" means a cane or walking stick that is metallic or white in color, or white tipped with a contrasting color, and that is carried by a blind person to assist the blind person in traveling from place to place.

Acts 1979, 66th Leg., p. 2425, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, Sec. 1, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 278, Sec. 1, eff. June 5, 1985; Acts 1995, 74th Leg., ch. 890, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 649, Sec. 3, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 2, eff. January 1, 2014.

Sec. 121.003. DISCRIMINATION PROHIBITED. (a) Persons with disabilities have the same right as persons without disabilities to the full use and enjoyment of any public facility in the state.

(b) No common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability because of the person's disability, nor may a person with a disability be required to pay an additional fare because of his or her use of a service animal, wheelchair, crutches, or other device used to assist a person with a disability in travel.

(c) No person with a disability may be denied admittance to any public facility in the state because of the person's disability. No person with a disability may be denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of

assistance.

(d) The discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility, and a failure to:

(1) comply with Chapter 469, Government Code;

(2) make reasonable accommodations in policies, practices, and procedures; or

(3) provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.

(e) Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their disabilities or use of assistance animals or other devices for assistance in travel, would fall within the designated class.

(f) It is the policy of the state that persons with disabilities be employed by the state, by political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as persons without disabilities, unless it is shown that there is no reasonable accommodation that would enable a person with a disability to perform the essential elements of a job.

(g) Persons with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(h) A person with a total or partial disability who has or obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section, and may not be required to pay extra compensation or make a deposit for the animal but is liable for damages done to the premises by the animal except for reasonable wear and tear.

(i) A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.

(j) A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with,

kill, or injure in any way, an assistance animal.

(k) Except as provided by Subsection (l), a person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability.

(l) If a person's disability is not readily apparent, for purposes of admittance to a public facility with a service animal, a staff member or manager of the facility may inquire about:

(1) whether the service animal is required because the person has a disability; and

(2) what type of work or task the service animal is trained to perform.

Acts 1979, 66th Leg., p. 2426, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, Sec. 2, eff. Aug. 31, 1981; Acts 1983, 68th Leg., 1st C.S., p. 57, ch. 7, Sec. 10.03(c), eff. Sept. 23, 1983; Acts 1985, 69th Leg., ch. 278, Sec. 2, eff. June 5, 1985; Acts 1989, 71st Leg., ch. 249, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 890, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 649, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 261, Sec. 1, eff. May 22, 2001; Acts 2003, 78th Leg., ch. 710, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 3, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.416, eff. April 2, 2015.

Sec. 121.004. PENALTIES FOR AND DAMAGES RESULTING FROM DISCRIMINATION. (a) A person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates a provision of Section 121.003 commits an offense. An offense under this subsection is a misdemeanor punishable by:

(1) a fine of not more than $300; and

(2) 30 hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another

entity or organization at the discretion of the court, to be completed in not more than one year.

(b) In addition to the penalty provided in Subsection (a), a person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates the provisions of Section 121.003 is deemed to have deprived a person with a disability of his or her civil liberties. Subject to Section 121.0041, if applicable, the person with a disability deprived of his or her civil liberties may maintain an action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least $300 to the person with a disability.

Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 890, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 649, Sec. 5, eff. Sept. 1, 1997. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 4, eff. January 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 342 (H.B. 1463), Sec. 1, eff. September 1, 2017.

Sec. 121.0041. PROCEDURES FOR CERTAIN ACTIONS; OPPORTUNITY TO CURE. (a) In this section:

(1) "Claimant" means a person filing or intending to file an action under Section 121.004(b).

(2) "Respondent" means the person against whom a claimant files or intends to file an action under Section 121.004(b).

(b) This section applies only to an action under Section 121.004(b) alleging a failure to comply with applicable design, construction, technical, or similar standards required under Chapter 469, Government Code, or other applicable state or federal laws that require compliance with specified design, construction, technical, or similar standards, including Internet website accessibility guidelines, to accommodate persons with disabilities.

(c) Not later than the 60th day before the date an action to which this section applies is filed, the claimant must give written notice of the claim to the respondent. The notice may be given in a manner prescribed for service of process in a civil action. The

written notice:

(1) must state:

(A) the name of the individual alleging a failure to comply with applicable design, construction, technical, or similar standards;

(B) in reasonable detail, each alleged violation; and

(C) the date, place, and manner in which the claimant discovered the alleged violation; and

(2) may not demand a sum of damages, request settlement, or offer to settle the claim without a determination of whether a condition stated in the notice is excused by law or may be remedied.

(d) A respondent who has received a written notice under Subsection (c) may correct the alleged violation before the earliest date on which the claimant may file the action.

(e) A respondent who has corrected an alleged violation shall provide a notice of the correction to the claimant that describes each correction and the manner in which the correction addresses the alleged violation. If the respondent concludes that an alleged violation has not occurred and that a correction is not necessary, the respondent shall provide the claimant an explanation of the respondent's conclusion. The notice of correction or explanation may be given in a manner prescribed for service of process in a civil action.

(f) If a claimant files an action to which this section applies, the claimant must establish by a preponderance of the evidence that the respondent has not corrected one or more of the alleged violations stated in the written notice provided under Subsection (c).

(g) If an action is filed, the respondent may file a plea in abatement and request an evidentiary hearing on the plea. The court shall abate the action for a period not to exceed 60 days after the date of the hearing if the court finds by a preponderance of the evidence that:

(1) the respondent initiated action to correct the alleged violation during the time allowed under Subsection (d);

(2) the respondent could not complete the corrections within that time; and

(3) the corrections will be completed by the end of the period of abatement.

(h) If a respondent has provided the notice of correction or

has completed corrections during a period of abatement under Subsection (g):

(1) the claimant may file a motion to dismiss the action without prejudice; or

(2) the respondent may file a motion for summary judgment in accordance with the Texas Rules of Civil Procedure.

Added by Acts 2017, 85th Leg., R.S., Ch. 342 (H.B. 1463), Sec. 2, eff. September 1, 2017.

Sec. 121.005. RESPONSIBILITIES OF PERSONS WITH DISABILITIES. (a) A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

(b) A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, Sec. 3, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 278, Sec. 3, eff. June 5, 1985; Acts 1997, 75th Leg., ch. 649, Sec. 6, eff. Sept. 1, 1997.

Sec. 121.006. PENALTIES FOR IMPROPER USE OF ASSISTANCE ANIMALS. (a) A person who uses a service animal with a harness or leash of the type commonly used by persons with disabilities who use trained animals, in order to represent that his or her animal is a specially trained service animal when training has not in fact been provided, is guilty of a misdemeanor and on conviction shall be punished by:

(1) a fine of not more than $300; and

(2) 30 hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be

completed in not more than one year.

(b) A person who habitually abuses or neglects to feed or otherwise neglects to properly care for his or her assistance animal is subject to seizure of the animal under Subchapter B, Chapter 821, Health and Safety Code.

Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3311, ch. 865, Sec. 4, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 278, Sec. 4, eff. June 5, 1985; Acts 1997, 75th Leg., ch. 649, Sec. 7, eff. Sept. 1, 1997. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 5, eff. January 1, 2014.

Sec. 121.008. DISSEMINATION OF INFORMATION RELATING TO PERSONS WITH DISABILITIES. (a) To ensure maximum public awareness of the policies set forth in this chapter, the governor shall issue a proclamation each year taking suitable public notice of October 15 as White Cane Safety and Service Animal Recognition Day. The proclamation must contain appropriate comment about the significance of various devices and animals used by persons with disabilities to assist them in traveling, and must call to the attention of the public the provisions of this chapter and of other laws relating to the safety and well-being of this state's citizens with disabilities.

(b) The comptroller, the secretary of state, and other state agencies that regularly mail forms or information to significant numbers of public facilities and businesses operating within the state shall cooperate with state agencies responsible for the rehabilitation of persons with disabilities by sending information about this chapter to those to whom regular mailings are sent. The information, which must be sent at the request of state agencies responsible for the rehabilitation of persons with disabilities and at least once each year, may be included in regular mailings or sent separately. If sent separately, the cost of mailing is borne by the state rehabilitation agency or agencies requesting the mailing and, regardless of whether sent separately or as part of a regular mailing, the cost of preparing information about this chapter is borne by the state rehabilitation agency or agencies requesting distribution of this information.

Acts 1979, 66th Leg., p. 2428, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 649, Sec. 9, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 6, eff. January 1, 2014.

Sec. 121.009. CONSTRUCTION OF CHAPTER. The provisions of this chapter must be construed in a manner compatible with other state laws relating to persons with disabilities.

Acts 1979, 66th Leg., p. 2428, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 649, Sec. 10, eff. Sept. 1, 1997.

Sec. 121.010. TESTING ADULTS WITH DISABILITIES. (a) A test that evaluates an adult with a disability for a job position in business, government, or industry, or a test to determine that person's educational level, must measure individual abilities and not specific disabilities.

(b) If an examiner knows that an adult examinee has a disability, the examiner may use an alternate form of testing. The alternate form of testing may assess the aptitude of the examinee by using that person's primary learning mode.

(c) The examiner may use as an alternate form of testing any procedure or adaption that will help ensure the best performance possible by an adult with a disability, including oral or visual administration of the test, oral or manual response to the test, the use of readers, tape recorders, interpreters, large print, or braille text, the removal of time constraints, and multiple testing sessions.

(d) An examiner shall select and administer a test to an examinee who has a disability that impairs sensory, manual, or speaking skills so that the test accurately reflects the factor the test is intended to measure and does not reflect the examinee's impaired sensory, manual, or speaking skills.

(e) An examiner may not use a test that has a disproportionate, adverse effect on an adult with a disability or a class of adults with disabilities unless:

(1) the test has been validated as a predictor of success in the program or activity for which the adult with a disability is applying; and

(2) alternate tests or alternative forms of testing that have a less disproportionate, adverse effect do not exist or are not available.

Added by Acts 1981, 67th Leg., p. 2482, ch. 645, Sec. 1, eff. Aug. 31, 1981. Amended by Acts 1997, 75th Leg., ch. 649, Sec. 11, eff. Sept. 1, 1997.

Sec. 121.011. ACCESSIBILITY OF EXAMINATION OR COURSE OFFERED BY PRIVATE ENTITY. (a) A private entity that offers an examination or a course related to applications, certification, credentialing, or licensing for secondary or postsecondary education, a profession, or a trade shall:

(1) offer the examination or course in a place and manner that is accessible to persons with disabilities or make alternative accessible arrangements for persons with disabilities;

(2) offer the examination or course to persons with disabilities:

(A) as often as the entity offers the examination or course to persons without disabilities;

(B) at a location that is as convenient as the location at which the entity offers the examination or course to persons without disabilities; and

(C) at a time that is as appropriate as the time when the entity offers the examination or course to persons without disabilities; and

(3) make auxiliary test guides and other resources available in alternative formats.

(b) A private entity that offers an examination or a course described by Subsection (a) may require persons with disabilities to provide reasonable documentation of their disabilities and reasonable advance notice of any necessary modifications or aids. The deadline for advance notice may not be earlier than the application deadline for the examination or course. The entity may not refuse a request for modifications or aids from a person with a disability on the grounds that the person, because of the person's disability, would

not meet other requirements of the profession or occupation for which the course or examination is given.

Added by Acts 1997, 75th Leg., ch. 649, Sec. 12, eff. Sept. 1, 1997.

CHAPTER 122. PURCHASING FROM PEOPLE WITH DISABILITIES

Sec. 122.001. PURPOSE. The purpose of this chapter is to further the state's policy of encouraging and assisting persons with disabilities to achieve maximum personal independence by engaging in useful and productive employment activities and, in addition, to provide state agencies, departments, and institutions and political subdivisions of the state with a method for achieving conformity with requirements of nondiscrimination and affirmative action in employment matters related to persons with disabilities.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Sec. 122.0012. SUNSET PROVISION. (a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 6.03, eff. June 10, 2019.

(b) The Texas Workforce Commission's authority to administer and oversee the program administered under this chapter is subject to Chapter 325, Government Code (Texas Sunset Act). Notwithstanding any other law, that authority expires September 1, 2027, unless continued in existence as provided by Chapter 325, Government Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 21, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 4.10, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 6.03, eff. June 10, 2019.

Sec. 122.002. DEFINITIONS. In this chapter:

(1) "Central nonprofit agency" means an agency designated as a central nonprofit agency under contract under Section 122.019.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(103), eff. April 2, 2015.

(3) "Community rehabilitation program" means a government or nonprofit private program operated under criteria established by the council and under which persons with severe disabilities produce products or perform services for compensation.

(4) Repealed by Acts 2015, 84th Leg., R.S., Ch. 672 , Sec. 27(1), eff. September 1, 2015.

(5) "Disability" means a mental or physical impairment, including blindness, that impedes a person who is seeking, entering, or maintaining gainful employment.

(6) "Workforce commission" means the Texas Workforce Commission.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 132, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(103), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 27(1), eff. September 1, 2015.

Sec. 122.0057. ADVISORY COMMITTEE. (a) The workforce commission shall establish an advisory committee to assist the workforce commission in establishing:

(1) performance goals for the program administered under this chapter; and

(2) criteria for certifying a community rehabilitation program for participation in the program administered under this chapter.

(b) The advisory committee consists of 13 members appointed by the workforce commission as follows:

(1) four representatives from community rehabilitation programs that participate in the program administered under this chapter;

(2) four representatives from organizations that advocate for persons with disabilities;

(3) the executive commissioner of the health and human services commission or designee; and

(4) four persons with disabilities, of whom two are employed by a community rehabilitation program that participates in the program administered under this chapter.

(c) Members of the advisory committee serve at the will of the workforce commission.

(d) The workforce commission shall appoint a presiding officer from among the advisory committee members.

(e) The members of the advisory committee serve staggered four-year terms, with the terms of either six or seven members expiring February 1 of each odd-numbered year. A member may not serve more than two terms.

(f) A vacancy on the committee shall be filled in the same manner as the original appointment for that position.

(g) The advisory committee shall meet semiannually.

(h) The advisory committee shall:

(1) establish specific objectives for the program administered under this chapter that are appropriate given the program's status as one of several employment-related services this state offers to persons with disabilities;

(2) develop performance measures that may be used by the workforce commission to evaluate whether the program is meeting the objectives established under Subdivision (1); and

(3) recommend criteria for certifying community rehabilitation programs for participation in the program.

(i) In developing the performance measures under Subsection (h), the advisory committee must consider the following factors as applicable to the program administered under this chapter:

(1) the percentage of total sales revenue attributable to the program:

(A) paid in wages to persons with disabilities; and

(B) spent on direct training and professional development services for persons with disabilities;

(2) the average hourly wage earned by a person participating in the program;

(3) the average annual salary earned by a person participating in the program;

(4) the number of persons with disabilities participating in the program paid less than minimum wage;

(5) the average number of hours worked each week by a person with a disability who participates in the program;

(6) the percentage of persons with disabilities who participate in the program and who are placed into competitive positions, including competitive management or administrative positions within community rehabilitation programs; and

(7) the percentage of work performed by persons with disabilities who participate in the program that is purely repackaging labor.

(j) The advisory committee shall meet at the call of the presiding officer at least once each fiscal year to review and, if necessary, recommend changes to program objectives, performance measures, and criteria established under Subsection (h).

(k) The advisory committee shall provide input to the workforce commission in adopting rules applicable to the program administered under this chapter relating to the employment-first policies described by Sections 531.02447 and 531.02448, Government Code.

(l) The workforce commission shall provide administrative support to the advisory committee.

(m) The advisory committee is not subject to Chapter 2110, Government Code.

Added by Acts 2001, 77th Leg., ch. 1304, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.418, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 5, eff. September 1, 2015.

Sec. 122.0058. APPLICATION OF OPEN MEETINGS LAW, OPEN RECORDS LAW, AND ADMINISTRATIVE PROCEDURE LAW TO ADVISORY COMMITTEE. The advisory committee established under Section 122.0057 is subject to the requirements of the open meetings law, Chapter 551, Government Code, the open records law, Chapter 552, Government Code, and Chapter 2001, Government Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 6, eff. September 1, 2015.

Sec. 122.007. FAIR MARKET PRICE; PURCHASING PROCEDURES. (a) The workforce commission shall determine the fair market price of all products and services manufactured or provided by persons with disabilities and offered for sale to the various agencies and departments of the state and its political subdivisions by a community rehabilitation program participating in the program administered under this chapter. The workforce commission shall ensure that the products and services offered for sale offer the best value for the state or a political subdivision. The comptroller shall provide the workforce commission with the information and resources necessary for the workforce commission to comply with this subsection.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 672 , Sec. 27(7), eff. September 1, 2015.

(c) The workforce commission shall revise the prices periodically to reflect changing market conditions.

(d) Before offering for sale products and services manufactured or provided by persons with disabilities to state agencies and political subdivisions, the workforce commission shall test the goods and services in accordance with Section 2155.069, Government Code, to the extent necessary to ensure quality. The workforce commission may enter into a contract with a private or public entity to assist with testing. The comptroller shall make awards under this section based on proposed goods and services meeting formal state specifications developed by the comptroller or meeting commercial specifications approved by the comptroller.

(e) Requisitions for products and services required by state agencies are processed by the comptroller according to rules established by the comptroller.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1206, Sec. 25, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.419, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 7, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 27(7), eff. September 1, 2015.

For expiration of this section, see Subsection (h).

Sec. 122.0075. MINIMUM WAGE PLAN. (a) This section applies to a community rehabilitation program that:

(1) is participating in the program administered under this chapter; and

(2) pays workers with disabilities employed by the program wages that are less than the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

(b) The workforce commission shall assist:

(1) a community rehabilitation program in developing a plan to increase the wages paid to its workers with disabilities to the federal minimum wage not later than September 1, 2022, for work relating to any products or services purchased from the community rehabilitation program through the program administered under this chapter; and

(2) a community rehabilitation program by providing:

(A) information about certified benefits counselors to ensure that workers are informed about work incentives and the potential impact the increase in wages may have on a worker's eligibility for any federal or state benefit program; and

(B) a referral to a certified benefits counselor to any worker with a disability who requests a referral.

(c) Each community rehabilitation program shall, to the maximum extent possible, ensure that each worker with a disability remains employed by the program after the program increases the wages paid to those employees in accordance with the plan developed under Subsection (b).

(d) If a community rehabilitation program is unable to employ all workers with a disability after the program increases the wages paid to those employees to the federal minimum wage, the community rehabilitation program shall work with the workforce commission and any other governmental entity to seek and obtain any job training and employment services that may be suitable for those former employees to find other employment that pays at least the federal minimum wage.

(e) In addition to the assistance described by Subsection (d), the workforce commission may, at the worker's request, assist a worker with a disability not retained by a community rehabilitation program to secure employment in a position that pays at least the federal minimum wage.

(f) On request of a community rehabilitation program, the

workforce commission may extend the period for compliance with the program participation requirements of Section 122.0076 for not more than 12 months if the community rehabilitation program:

(1) requests the extension not later than March 1, 2022;

(2) has demonstrated to the commission that an extension would be in the best interest of the program's employees with disabilities;

(3) has worked with the commission to develop a transition plan and made meaningful progress toward meeting the program participation requirements of Section 122.0076; and

(4) submits a revised transition plan to the commission detailing how an extension will allow the program to meet the program participation requirements of Section 122.0076.

(g) The workforce commission shall make a decision on a request for an extension under Subsection (f) not later than May 1, 2022. The commission may not grant more than one extension to a community rehabilitation program.

(h) This section expires September 1, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 35 (S.B. 753), Sec. 1, eff. September 1, 2019.

For expiration of Subsections (d) and (e), see Subsection (e).

Sec. 122.0076. WAGE REQUIREMENTS. (a) A community rehabilitation program may not participate in the program administered under this chapter unless each worker with a disability employed by the program is paid at least the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206), for any work relating to any products or services purchased from the community rehabilitation program through the program administered under this chapter.

(b) The workforce commission may exempt the community rehabilitation program from the requirements of this section with respect to a worker with a disability if the workforce commission determines, based on the worker's circumstances, that requiring the program to pay the worker at the federal minimum wage would result in the program not being able to retain the worker with a disability, the worker would not have success obtaining work with a different employer, and the worker, based on the worker's circumstances, would

not be able to obtain employment at a higher wage than the program would be able to pay the worker notwithstanding the requirements of this section.

(c) To the extent of a conflict between this section and Chapter 62, Labor Code, this section controls.

(d) This section does not apply to a community rehabilitation program's eligibility to participate in the program administered under this chapter before the later of:

(1) September 1, 2022; or

(2) the date an extension granted under Section 122.0075(f) expires.

(e) This subsection and Subsection (d) expire September 1, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 35 (S.B. 753), Sec. 1, eff. September 1, 2019.

Sec. 122.008. PROCUREMENT AT DETERMINED PRICE. A suitable product or service that meets applicable specifications established by the state or its political subdivisions and that is available within the time specified must be procured from a community rehabilitation program at the price determined by the workforce commission to be the fair market price under Section 122.007.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 8, eff. September 1, 2015.

Sec. 122.009. RECORDS. The records of the workforce commission and of a central nonprofit agency shall, to the extent that the records pertain specifically to state purchases of the products and services of persons with disabilities, be made available upon request to the inspection of representatives of the state auditor, the governor's budget office, or the Legislative Budget Board. The inspection of the records shall be conducted with due regard to the privacy rights of persons with disabilities. A document that is available for inspection under this subsection is an open record for purposes of Chapter 552, Government Code.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.420, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 9, eff. September 1, 2015.

Sec. 122.0095. AGENCY COMPLIANCE; NONPROGRAM PURCHASING REPORT. (a) Each state agency that purchases products or services through a program under this chapter shall:

(1) designate an agency employee to ensure that the agency complies with this chapter; and

(2) report to the comptroller and the workforce commission the purchase of products or services available from a central nonprofit agency or community rehabilitation program under this chapter, but purchased from another business that is not a central nonprofit agency or community rehabilitation program under this chapter.

(b) A report under this section may be based on a sampling of purchases by the agency in an audit conducted after the purchases.

(c) Information in the report under this section shall be included with the exception reports provided under Section 122.016.

(d) The comptroller shall post the reports required by Subsection (a)(2) on the comptroller's website.

(e) The workforce commission shall review and analyze the information contained in the reports under this section and Sections 122.012 and 122.016. The comptroller shall assist the workforce commission in reviewing and analyzing the reports in order to improve state agency compliance with this chapter.

Added by Acts 2001, 77th Leg., ch. 1304, Sec. 4, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 132, Sec. 7, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.421, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 10, eff. September 1, 2015.

Sec. 122.010. COOPERATION WITH DEPARTMENT OF CRIMINAL JUSTICE. The workforce commission may cooperate with the Texas Department of Criminal Justice to accomplish the purposes of this chapter and to contribute to the economy of state government. The workforce commission and the department may enter into contractual agreements, cooperative working relationships, or other arrangements necessary for effective coordination and the realization of the objectives of both entities.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.119, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 11, eff. September 1, 2015.

Sec. 122.011. CORRELATION WITH RELATED FEDERAL PROGRAMS. The workforce commission may adopt procedures, practices, and standards used for federal programs similar to the state program established in this chapter.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 12, eff. September 1, 2015.

Sec. 122.012. DUTIES OF COMPTROLLER; INTERAGENCY COOPERATION. (a) The comptroller shall cooperate with, and provide any necessary support to, the workforce commission in accordance with legislative appropriation.

(b) State agencies responsible for the provision of rehabilitation and related services to persons with disabilities shall cooperate with the workforce commission in the operation of the program. The Department of Assistive and Rehabilitative Services and other state human services agencies responsible for assisting persons with disabilities may, through written agreements or interagency contracts, provide space, storage, logistical support, consultation, expert services, communications services, or financial assistance with respect to the program administered under this chapter.

(c) The comptroller or a state agency may not assume the marketing or fiscal responsibility for the expense of marketing the products and services of persons with disabilities under the program.

(d) The comptroller shall include the programs administered under this chapter in the comptroller's procurement policy manuals.

(e) After any audit or review the comptroller conducts with regard to state agency compliance with purchasing laws and procedures, the comptroller shall report to the workforce commission a state agency that is not complying with this chapter.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1304, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 132, Sec. 8, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.422, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 13, eff. September 1, 2015.

Sec. 122.013. RULES. (a) The workforce commission shall adopt rules for the implementation, extension, administration, or improvement of the program authorized by this chapter in accordance with Chapter 2001, Government Code.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 672 , Sec. 27(8), eff. September 1, 2015.

(c) The workforce commission shall adopt rules to:

(1) address possible conflicts of interest for central nonprofit agencies and community rehabilitation programs;

(2) establish a process for the certification of community rehabilitation programs;

(3) establish a minimum percentage of disabled labor an organization must employ to be considered a community rehabilitation program under this chapter; and

(4) define the terms "value-added" and "direct labor" for products manufactured and services provided that are offered for sale under this chapter.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1304, Sec. 6, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.423, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 14, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 27(8), eff. September 1, 2015.

Sec. 122.014. PRODUCT SPECIFICATIONS. Except as otherwise provided by this section, a product manufactured for sale through the comptroller to any office, department, institution, or agency of the state under this chapter shall be manufactured or produced according to specifications developed by the comptroller. If the comptroller has not adopted specifications for a particular product, the production shall be based on commercial or federal specifications in current use by industry for the manufacture of the product for sale to the state.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.424, eff. April 2, 2015.

Sec. 122.015. DETERMINATIONS OF FAIR MARKET VALUE. (a) In determining the fair market value of products or services offered for sale under this chapter, the workforce commission shall give due consideration to the following type of factors:

(1) to the extent applicable, the amounts being paid for similar articles in similar quantities by federal agencies purchasing the products or services under the authorized federal program of like effect to the state program authorized by this chapter;

(2) the amounts which private business would pay for similar products or services in similar quantities if purchasing from a reputable corporation engaged in the business of selling similar products or services;

(3) to the extent applicable, the amount paid by the state in any recent purchases of similar products or services in similar quantities, making due allowance for general inflationary or deflationary trends;

(4) the actual cost of manufacturing the product or performing a service at a community rehabilitation program offering employment services on or off premises to persons with disabilities, with adequate weight to be given to legal and moral imperatives to pay workers with disabilities equitable wages; and

(5) the usual, customary, and reasonable costs of manufacturing, marketing, and distribution.

(b) The actual cost of manufacturing a product or performing a service consists of costs directly associated with a contract and includes costs for labor, raw materials used in the production of the product, storage, and delivery. Actual costs do not include a cost associated with an individual's preparation to perform the work activity.

(c) The fair market value of a product or service, determined after consideration of relevant factors of the foregoing type, may not be excessive or unreasonable.

(d) The comptroller shall provide the workforce commission with the information and resources necessary for the workforce commission to comply with this section.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 15, eff. September 1, 2015.

Sec. 122.016. EXCEPTIONS. (a) Exceptions from the operation of the mandatory provisions of Section 122.014 may be made in any case where:

(1) under the rules of the comptroller, the product or service so produced or provided does not meet the reasonable requirements of the office, department, institution, or agency; or

(2) the requisitions made cannot be reasonably complied with through provision of products or services produced by persons with disabilities.

(b) Each month, the comptroller shall provide the workforce commission with a list of all items purchased under the exception provided by Subsection (a). The workforce commission shall adopt the form in which the list is to be provided and may require the list to include the date of requisition, the type of product or service

requested, the reason for purchase under the exception, and any other information that the workforce commission considers relevant to a determination of why the product or service was not purchased in accordance with Section 122.014.

(c) No office, department, institution, or agency may evade the intent of this section by slight variations from standards adopted by the comptroller, when the products or services produced or provided by persons with disabilities, in accordance with established standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.425, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 16, eff. September 1, 2015.

Sec. 122.017. PROCUREMENT FOR POLITICAL SUBDIVISIONS. A product manufactured for sale to a political subdivision of this state or an office or department thereof shall be manufactured or produced according to specifications developed by the purchaser. A political subdivision of this state may purchase products or services for its use from private businesses through its authorized purchasing procedures, but may substitute equivalent products or services produced by persons with disabilities under the provisions of this chapter. Nothing in this chapter shall be construed to require a nonprofit agency for persons with disabilities to engage in competitive bidding.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.

Sec. 122.018. POLITICAL SUBDIVISIONS EXCLUDED. There are excluded from the mandatory application of this chapter the political subdivisions of the state that are not covered by Title V of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sections 791 through 794f). This chapter does not prohibit a political subdivision from acting as a willing buyer outside a bid system.

Added by Acts 1983, 68th Leg., p. 2953, ch. 504, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.426, eff. April 2, 2015.

Sec. 122.019. CENTRAL NONPROFIT AGENCY. (a) The workforce commission may select and contract with one or more central nonprofit agencies through a request for proposals for a period not to exceed five years. Once the selection process is completed, the workforce commission may contract with a central nonprofit agency to:

(1) recruit and assist community rehabilitation programs in developing and submitting applications for the selection of suitable products and services;

(2) facilitate the distribution of orders among community rehabilitation programs;

(3) manage and coordinate the day-to-day operation of the program, including the general administration of contracts with community rehabilitation programs;

(4) promote increased supported employment opportunities for persons with disabilities; and

(5) recruit and assist qualified nonprofit organizations that are managed by members of racial minorities, women, or persons with disabilities and that are in the process of qualifying as community rehabilitation programs.

(b) The services of a central nonprofit agency may include marketing and marketing support services, such as:

(1) assistance to community rehabilitation programs regarding solicitation and negotiation of contracts;

(2) direct marketing of products and services to consumers;

(3) research and development of products and services;

(4) public relations activities to promote the program;

(5) customer relations;

(6) education and training;

(7) accounting services related to purchase orders, invoices, and payments to community rehabilitation programs; and

(8) other duties designated by the workforce commission.

(c) Each year, the workforce commission shall review services

provided by a central nonprofit agency and the revenues required to accomplish the program to determine whether each agency's performance complies with contractual specifications. Not later than the 60th day before the review, the workforce commission shall publish in the Texas Register a request for comment on the services of a central nonprofit agency that participates in community rehabilitation programs.

(d) At least once during each five-year period, the workforce commission may review and renegotiate the contract with a central nonprofit agency. Not later than the 60th day before the date the workforce commission adopts or renews a contract, the workforce commission shall publish notice of the proposed contract in the Texas Register.

(e) The workforce commission shall determine the best method to structure the maximum management fee rate charged by a central nonprofit agency for its services. The management fee rate must be reviewed on an annual basis.

(f) A percentage of the management fee described by Subsection (e) shall be paid to the workforce commission and is subject to Section 122.023. The percentage shall be set by the workforce commission in the amount necessary to reimburse the general revenue fund for direct and reasonable costs incurred by the comptroller and the workforce commission in administering the comptroller's and workforce commission's duties under this chapter, including any costs associated with providing support to the advisory committee.

(g) The workforce commission may terminate a contract with a central nonprofit agency if:

(1) the workforce commission finds substantial evidence of the central nonprofit agency's noncompliance with contractual obligations; and

(2) the workforce commission has provided at least 30 days' notice to the central nonprofit agency of the termination of the contract.

(h) The workforce commission may request an audit by the state auditor of:

(1) the management fee set by a central nonprofit agency; or

(2) the financial condition of a central nonprofit agency.

(i) A person may not operate a community rehabilitation program and at the same time contract with the workforce commission as a

central nonprofit agency.

Amended by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1304, Sec. 7, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.427, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 17, eff. September 1, 2015.

Sec. 122.020. CONSUMER INFORMATION; COMPLAINTS. (a) The workforce commission shall prepare information of consumer interest describing the activities of the workforce commission under this chapter and describing the workforce commission's procedures by which consumer complaints are filed with and resolved by the workforce commission under this chapter. The workforce commission shall make the information available to the general public and appropriate state agencies.

(b) The workforce commission shall keep an information file about each complaint filed with the workforce commission. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the workforce commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the workforce commission closed the file without taking action other than to investigate the complaint.

(c) If a written complaint is filed with the workforce commission, the workforce commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(d) The workforce commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a

copy of the workforce commission's policies and procedures relating to complaint investigation and resolution.

Added by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 132, Sec. 9, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 18, eff. September 1, 2015.

Sec. 122.0205. ALTERNATIVE DISPUTE RESOLUTION. (a) A dispute between the workforce commission and a central nonprofit agency or a community rehabilitation program shall first be submitted to alternative dispute resolution.

(b) This section does not constitute authorization to sue and does not modify the remedies available under other law.

(c) This section does not limit the workforce commission's ability to request opinions from the attorney general.

Added by Acts 2001, 77th Leg., ch. 1304, Sec. 8, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 19, eff. September 1, 2015.

Sec. 122.0215. ACCESS TO INFORMATION AND RECORDS; INSPECTION. (a) The workforce commission may access financial or other information and records from a central nonprofit agency or a community rehabilitation program if the workforce commission determines the information and records are necessary for the effective administration of this chapter and rules adopted under this chapter.

(b) Information and records must be obtained under Subsection (a) in recognition of the privacy interest of persons employed by central nonprofit agencies or community rehabilitation programs. The information and records may not be released or made public on subpoena or otherwise, except that release may be made:

(1) for statistical purposes, but only if a person is not identified;

(2) with the consent of each person identified in the information released; or

(3) regarding a compensation package of any central nonprofit agency employee or subcontractor if determined by the workforce commission to be relevant to the administration of this chapter.

(c) The workforce commission shall adopt rules establishing procedures to ensure that the information and records maintained by the workforce commission under this chapter are kept confidential and protected from release to unauthorized persons.

(d) The workforce commission or a central nonprofit agency at the workforce commission's direction may inspect a community rehabilitation program for compliance with certification criteria established under Section 122.013(c).

Added by Acts 2001, 77th Leg., ch. 1304, Sec. 9, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 132, Sec. 11, 12, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 20, eff. September 1, 2015.

Sec. 122.022. REPORTS. (a) The workforce commission shall include in the commission's supplemental annual report to the governor and the legislature under Section 301.065(c), Labor Code, a financial report in the form prescribed by Section 2101.011, Government Code, relating to the workforce commission's activities under this chapter.

(b) As part of the report filed under Subsection (a), the workforce commission shall provide:

(1) the number of persons with disabilities, according to their type of disability, who are employed in community rehabilitation programs participating in the programs established by this chapter or who are employed by businesses or workshops that receive supportive employment from community rehabilitation programs;

(2) the amount of annual wages paid to a person participating in the program;

(3) a summary of the sale of products offered by a community rehabilitation program;

(4) a list of products and services offered by a community rehabilitation program;

(5) the geographic distribution of the community rehabilitation programs;

(6) the number of workers without disabilities who are employed in community rehabilitation programs under this chapter; and

(7) the average and range of weekly earnings for workers with disabilities and workers without disabilities who are employed in community rehabilitation programs under this chapter.

Added by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 693, Sec. 14, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1304, Sec. 10, eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 74, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.428, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 21, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 266 (S.B. 1413), Sec. 1, eff. September 1, 2019.

Sec. 122.023. FUNDS. All money paid to the workforce commission under this chapter is subject to Subchapter F, Chapter 404, Government Code.

Added by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 22, eff. September 1, 2015.

Sec. 122.024. STRATEGIC PLAN; FINAL OPERATING PLAN. The workforce commission shall prepare a strategic plan and a final operating plan relating to the workforce commission's activities under this chapter as required by Subchapter E, Chapter 2054, Government Code.

Added by Acts 1995, 74th Leg., ch. 460, Sec. 1, eff. Sept. 1, 1995. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 23, eff.

September 1, 2015.

Sec. 122.026. APPLICATION OF OTHER LAW. Chapters 252, 262, and 271, Local Government Code, do not supersede this chapter.

Added by Acts 1995, 74th Leg., ch. 746, Sec. 10, eff. Aug. 28, 1995. Renumbered from Human Resources Code Sec. 122.020 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(62), eff. Sept. 1, 1997.

Sec. 122.028. PROGRAM PROMOTION. The workforce commission shall establish procedures for the promotion of the program administered under this chapter.

Added by Acts 2003, 78th Leg., ch. 132, Sec. 14, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 24, eff. September 1, 2015.

Sec. 122.029. DUTIES OF STATE AUDITOR. (a) As part of an audit of a state agency authorized under Section 2161.123, Government Code, the state auditor shall:

(1) conduct an audit of a state agency for compliance with this chapter; and

(2) report to the workforce commission a state agency that is not complying with this chapter.

(b) If the state auditor reports to the workforce commission that a state agency is not complying with this chapter, the workforce commission shall assist the agency in complying.

Added by Acts 2003, 78th Leg., ch. 132, Sec. 15, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 25, eff. September 1, 2015.

Sec. 122.030. MANAGEMENT FEE RATE; REVIEW PROCESS. (a) The workforce commission shall develop a formal review process for the annual review conducted under Section 122.019(e). The review process

must include:

(1) notice to affected parties, including community rehabilitation programs;

(2) solicitation of public comment; and

(3) documentation provided by a central nonprofit agency in support of a proposed management fee rate change.

(b) Before making a decision relating to the management fee rate, the workforce commission shall consider:

(1) any public comment received;

(2) documentation provided by a central nonprofit agency; and

(3) any documentation provided by a community rehabilitation program or the public.

(c) The workforce commission shall adopt rules to implement this section.

Added by Acts 2003, 78th Leg., ch. 132, Sec. 16, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 26, eff. September 1, 2015.

CHAPTER 123. COMMUNITY HOMES FOR PERSONS WITH DISABILITIES

Sec. 123.001. SHORT TITLE. This chapter may be cited as the Community Homes for Persons With Disabilities Act.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.430, eff. April 2, 2015.

Sec. 123.002. DEFINITION. In this chapter, "person with a disability" means a person whose ability to care for himself or herself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:

(1) an orthopedic, visual, speech, or hearing impairment;

(2) Alzheimer's disease;

(3) pre-senile dementia;

(4) cerebral palsy;

(5) epilepsy;
(6) muscular dystrophy;
(7) multiple sclerosis;
(8) cancer;
(9) heart disease;
(10) diabetes;
(11) an intellectual disability;
(12) autism; or
(13) mental illness.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.431, eff. April 2, 2015.

Sec. 123.003. ZONING AND RESTRICTION DISCRIMINATION AGAINST COMMUNITY HOMES PROHIBITED. (a) The use and operation of a community home that meets the qualifications imposed under this chapter is a use by right that is authorized in any district zoned as residential.

(b) A restriction, reservation, exception, or other provision in an instrument created or amended on or after September 1, 1985, that relates to the transfer, sale, lease, or use of property may not prohibit the use of the property as a community home.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.004. QUALIFICATION AS COMMUNITY HOME. To qualify as a community home, an entity must comply with Sections 123.005 through 123.008 and be:

(1) a community-based residential home operated by:

(A) the Department of Aging and Disability Services;

(B) a community center organized under Subchapter A, Chapter 534, Health and Safety Code, that provides services to persons with disabilities;

(C) an entity subject to the Texas Nonprofit Corporation Law as described by Section 1.008(d), Business

Organizations Code; or

(D) an entity certified by the Department of Aging and Disability Services as a provider under the ICF-IID medical assistance program; or

(2) an assisted living facility licensed under Chapter 247, Health and Safety Code, provided that the exterior structure retains compatibility with the surrounding residential dwellings.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 491, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 233, Sec. 6, eff. Sept. 1, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.432, eff. April 2, 2015.

Sec. 123.005. REQUIRED SERVICES. A community home shall provide the following services to persons with disabilities who reside in the home:

(1) food and shelter;

(2) personal guidance;

(3) care;

(4) habilitation services; and

(5) supervision.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.006. LIMITATION ON NUMBER OF RESIDENTS. (a) Not more than six persons with disabilities and two supervisors may reside in a community home at the same time.

(b) The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.007. LICENSING REQUIREMENTS. A community home must

meet all applicable licensing requirements.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.008. LOCATION REQUIREMENT. A community home may not be established within one-half mile of an existing community home.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.009. LIMITATION ON NUMBER OF MOTOR VEHICLES. Except as otherwise provided by municipal ordinance, the residents of a community home may not keep for the use of the residents of the home, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.010. ENSURING SAFETY OF RESIDENTS. The Department of Aging and Disability Services shall make every reasonable effort to ensure the safety of residents of a community home operated by or under the regulatory jurisdiction of the department and the residents of a neighborhood that is affected by the location of the community home.

Added by Acts 1993, 73rd Leg., ch. 646, Sec. 14, eff. Aug. 30, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.433, eff. April 2, 2015.

TITLE 9. HEALTH AND HUMAN SERVICES
CHAPTER 131. HEALTH AND HUMAN SERVICES OFFICE OF COMMUNITY TRANSPORTATION SERVICES

Sec. 131.001. OFFICE. The Health and Human Services Office of

Community Transportation Services is in the Health and Human Services Commission.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 7.01(a), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 526, Sec. 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1460, Sec. 6.01, eff. Sept. 1, 1999.

Sec. 131.002. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of health and human services.

(2) "Health and human services agency" has the meaning assigned by Section 531.001, Government Code.

(3) "Office" means the Health and Human Services Office of Community Transportation Services.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 6.01, eff. Sept. 1, 1999.

Sec. 131.003. POWERS AND DUTIES. (a) The office, with assistance from the commissioner, shall:

(1) collect data on health and human services client transportation needs, services, and expenditures;

(2) create a statewide coordination plan regarding a system of transportation for clients of health and human services agencies that provides for coordinated, community-based services, including the designation of local transportation coordinators;

(3) establish a standardized system of reporting and accounting to be used by all health and human services agencies providing client transportation, and ensure that information reported under that system is available through the Texas Information and Referral Network;

(4) maximize federal funds for client transportation through the use of available state funds for matching purposes and the possible use of oil overcharge money and planning funds available through the federal department of transportation;

(5) evaluate the effectiveness of pooling client transportation resources for capital acquisition and the joint purchase of liability insurance;

(6) assist state agencies in coordinating transportation resources;

(7) ensure coordination between the office and the Texas Department of Transportation with regard to the use of funds received by the department under 49 U.S.C. Section 1612(b)(1);

(8) examine the feasibility of consolidating all funding for health and human services client transportation and creating a transportation system through which clients of a state or local agency or program could be matched with the most cost-effective and appropriate transportation services for their needs, including, to the extent practicable, use of private, nonprofit entities that provide services at little or no cost beyond reimbursement for insurance, fuel, mileage, or other expenses that might deter the entities from otherwise providing services;

(9) evaluate the use of existing computer software for use at the local level in client transportation services; and

(10) review the feasibility of taking medical care to those in need, including the use of mobile clinics, and review the possibility of using federal highway funds for those transportation needs.

(b) The office shall coordinate with the Health and Human Services Commission and health and human services agencies in implementing the goals listed in Section 531.022(c), Government Code. The office shall report its findings and proposals to the governor, the Legislative Budget Board, the secretary of state, and the commissioner not later than September 1 of each even-numbered year.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 7.01(a), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 526, Sec. 3, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 693, Sec. 15, eff. Sept. 1, 1995. Renumbered from Sec. 131.002 and amended by Acts 1999, 76th Leg., ch. 1460, Sec. 6.01, eff. Sept. 1, 1999.

Sec. 131.004. OFFICE STAFF. The commissioner shall employ staff needed to carry out the duties of the office.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 7.01(a), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 526, Sec. 3, eff. Sept. 1, 1995. Renumbered from Sec. 131.003 and amended by Acts 1999, 76th Leg., ch. 1460, Sec. 6.01, eff. Sept. 1, 1999.

Sec. 131.005. REPORTING AND ACCOUNTING SYSTEM. Each health and human services agency that provides, purchases, or otherwise funds transportation services for clients shall:

(1) comply with the standardized system of reporting and accounting established by the office under Section 131.003(a)(3); and

(2) make any changes to agency data collection systems that are necessary to enable the agency to comply with the standardized system.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 6.01, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 18, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 20, eff. June 17, 2011.

Sec. 131.006. IMPLEMENTATION OF STATEWIDE COORDINATION PLAN. In order to implement the statewide coordination plan created by the office under Section 131.003(a)(2), the office shall:

(1) review rules, policies, contracts, grants, and funding mechanisms relating to transportation services of each health and human services agency that provides, purchases, or otherwise funds transportation services for clients to determine whether the rules, policies, contracts, grants, and funding mechanisms are consistent with the plan; and

(2) make recommendations for revisions to rules, policies, contracts, grants, and funding mechanisms determined under Subdivision (1) to be inconsistent with the plan.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 6.01, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. 71), Sec. 19, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 21, eff. June 17, 2011.

Sec. 131.007. ADVISORY COMMITTEE ON COORDINATED TRANSPORTATION. The office may create an advisory committee consisting of representatives of state agencies, transportation agencies, and nonprofit consumer groups.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 6.01, eff. Sept. 1, 1999.

Sec. 131.008. MEMORANDUM OF UNDERSTANDING. (a) The Health and Human Services Commission and the Texas Department of Transportation shall enter into a memorandum of understanding relating to functions performed by each agency that relate to the duties of the office.

(b) The agencies shall include provisions in the memorandum of understanding necessary to ensure that the agencies do not have duplicative authority, responsibilities, or activities in the area of transportation services for clients of health and human services agencies. Specifically, the memorandum of understanding must include the following provisions:

(1) an acknowledgement that the data collection and analysis activities of the office and the Health and Human Services Commission are comprehensive in scope, with the goal of developing a statewide coordination plan for the provision of transportation services for clients of health and human services agencies;

(2) an acknowledgement that the data collection and analysis activities of the Texas Department of Transportation are focused on providing more accurate social service contracting information to transit providers;

(3) a requirement that the Texas Department of Transportation participate and assist in the collection of information about transportation service funding from local social service providers and make any database with that information available to the Health and Human Services Commission; and

(4) a requirement that the Health and Human Services Commission:

(A) develop standardized reporting methods for health and human services agencies and social service providers to use when reporting information about transportation services, funding, contracting, and all other information needed to develop a statewide coordination plan for transportation services; and

(B) make the information collected under Paragraph (A) available to the Texas Department of Transportation.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 6.01, eff. Sept. 1, 1999.

CHAPTER 132. FACILITATION OF DELIVERY OF HEALTH AND HUMAN SERVICES

Sec. 132.001. GOVERNOR'S AGENDA. (a) The governor shall establish an agenda that addresses needed adjustments in federal legislation, agency rules and regulations, programs, and policies that affect:

(1) health and human services delivery;

(2) client and provider eligibility;

(3) administration; and

(4) funding.

(b) The governor shall develop and amend the agenda in conjunction and cooperation with federal and state elected officials, state agency staff, the executive commissioner of the Health and Human Services Commission, and the executive director of the Texas Workforce Commission.

(c) The agenda must include:

(1) a list of specific issues of federal law or policy identified and ranked by health and human services agencies;

(2) impact statements concerning the needed adjustments to federal law or policy;

(3) a discussion of fiscal matters concerning each ranked issue; and

(4) specific recommendations for changes in federal law or policy.

(d) The governor shall submit the agenda to the Texas congressional delegation and to the Office of State-Federal Relations and shall annually amend the agenda and rank agenda items. The agenda must identify issues of federal law, rules and regulations, or programs of common concern to different state agencies and programs.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 8.114(a), eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.434, eff. April 2, 2015.

Sec. 132.002. EXPANSION OF CLIENT ELIGIBILITY SCREENING AND DETERMINATION. (a) Based on a cost-benefit analysis, the Health and Human Services Commission, where feasible, shall relocate an employee with the ability to certify eligibility for financial and medical programs to an office or facility that would enhance client access.

(b) Based on a cost-benefit analysis, the Health and Human Services Commission shall coordinate the expansion and use of integrated eligibility screening instruments and the relocation of state employees on a timetable determined by the commission.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 8.114(a), eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.434, eff. April 2, 2015.

Sec. 132.003. LOCATION OF OFFICES AND FACILITIES. (a) As leases on office space expire, the Health and Human Services Commission shall determine the needs for space and the location of offices of the health and human services agencies to enable the commission to achieve a cost-effective, one-stop or service center method of service delivery.

(b) In this section, "health and human services agencies" includes the:

(1) Department of Aging and Disability Services;

(2) Department of State Health Services;

(3) Department of Family and Protective Services;

(4) Department of Assistive and Rehabilitative Services; and

(5) Health and Human Services Commission.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 8.114(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 21.06, 21.07(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 53, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.434, eff. April 2, 2015.

CHAPTER 136. TEXAS COMMUNITY HEALTH CENTER REVOLVING LOAN PROGRAM

Sec. 136.001. PURPOSE. The legislature finds that:

(1) community health centers play a significant role in the delivery of medical care and related services to the residents of this state who cannot afford health insurance;

(2) community health centers are a cost-effective way to provide primary and preventive health care to populations lacking quality health care by reducing hospitalizations and the inappropriate use of emergency rooms;

(3) the financing sources available for the capital needs of community health centers, such as buildings and equipment, are inadequate; and

(4) increasing community health centers' access to capital would benefit residents of this state in poor and underserved communities and foreign-born residents who are uninsured, by providing greater access to primary care and preventive health services and by targeting the common health problems of these residents.

Added by Acts 2001, 77th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2001.

Sec. 136.002. DEFINITIONS. In this chapter:

(1) "Community health center" means a nonprofit corporation in this state that:

(A) provides required primary health services, including:

(i) basic health services;

(ii) referrals to providers of medical services;

(iii) patient case management services;

(iv) outreach; and

(v) patient education; and

(B) has a governing board that:

(i) is composed of individuals, a majority of whom are being served by the community health centers; and

(ii) represents the individuals being served by the community health center.

(2) "Commission" means the Health and Human Services Commission.

(3) "Development corporation" means a nonprofit corporation that:

(A) provides revolving loan funds to community health centers;

(B) accepts gifts and grants;

(C) seeks funding from various government and private sources; and

(D) associates with a broad-based organization serving community health centers.

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

(4) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(105), eff. April 2, 2015.

(5) "Program" means the loan program authorized by this chapter.

Added by Acts 2001, 77th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.436, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(105), eff. April 2, 2015.

Sec. 136.003. GIFTS AND GRANTS. The commission may accept gifts and grants for the use and benefit of the program.

Added by Acts 2001, 77th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.437, eff. April 2, 2015.

Sec. 136.004. DEVELOPMENT CORPORATION. The commission shall contract with and award money to a development corporation to carry out the purposes of this chapter.

Added by Acts 2001, 77th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2001.

Sec. 136.005. INVESTMENT COMMITTEE. (a) Before contracting with a development corporation, the commission shall require the development corporation to establish an investment committee to approve loan requests of community health centers.

(b) The investment committee must consist of seven members as follows:

(1) at least two members with lending experience;

(2) at least two members who receive health care services from a community health center; and

(3) at least one member who represents the Texas Association of Community Health Centers, Inc.

Added by Acts 2001, 77th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2001.

Sec. 136.006. LOANS TO COMMUNITY HEALTH CENTERS. (a) The development corporation may make a loan to a community health center only with the approval of the investment committee.

(b) The development corporation shall use at least 60 percent of the money received under the program for loans to community health centers in existence for at least one year before the loan date.

(c) A loan made by the development corporation may be subordinated debt.

(d) The development corporation may make a loan under the program through a partnership or joint investment with one or more financial institutions or federal or state programs.

(e) Payments on community health center loans shall be made to the development corporation. The development corporation shall use the loan payment money received from community health centers to make new loans as provided by this chapter.

Added by Acts 2001, 77th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2001.

Sec. 136.007. SELF-FUNDING. The commission shall develop the program as a revolving loan program that will become self-funding over the life of the program.

Added by Acts 2001, 77th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.438, eff.

April 2, 2015.

Sec. 136.008. INCOME FROM LOAN. All income received on a loan made with money received under the program is the property of the development corporation. Income received on a loan includes the payment of interest by a borrower and the administrative fees assessed by the development corporation.

Added by Acts 2001, 77th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2001.

Sec. 136.009. RULES. (a) The executive commissioner shall adopt rules to administer this chapter, including rules that require:

(1) the commission to review the lending and servicing practices of a development corporation to ensure the practices conform to generally accepted accounting principles;

(2) an eligible community health center to enter into an agreement with the development corporation that states the terms of the loan made to the center;

(3) the development corporation to provide to the commission semiannual reports giving details of the status of each loan made under the program;

(4) the development corporation to require annual audits of community health centers receiving loans under the program; and

(5) the commission to provide oversight of the development corporation as necessary to qualify the development corporation for loan guarantees from federal and state programs.

(b) Under rules adopted by the executive commissioner, the development corporation may:

(1) make grants to eligible community health centers from money other than money that was derived from a legislative appropriation; or

(2) seek money from state or federal agencies or private sources to supplement and complement the money received under the program.

(c) The executive commissioner may adopt other rules as necessary to accomplish the purposes of this chapter.

Added by Acts 2001, 77th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.439, eff. April 2, 2015.

TITLE 10. JUVENILE BOARDS, JUVENILE PROBATION DEPARTMENTS, AND FAMILY SERVICES OFFICES

SUBTITLE A. JUVENILE PROBATION SERVICES

CHAPTER 142. JUVENILE PROBATION DEPARTMENTS AND PERSONNEL

Sec. 142.001. DEFINITION. In this chapter, "juvenile probation services" means:

(1) services provided by or under the direction of a juvenile probation officer in response to an order issued by a juvenile court and under the court's direction, including:

(A) protective services;

(B) prevention of delinquent conduct and conduct indicating a need for supervision;

(C) diversion;

(D) deferred prosecution;

(E) foster care;

(F) counseling;

(G) supervision; and

(H) diagnostic, correctional, and educational services; and

(2) services provided by a juvenile probation department that are related to the operation of a preadjudication or post-adjudication juvenile facility.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1394, Sec. 7, eff. Sept. 1, 1997.

Sec. 142.002. APPOINTMENT OF PERSONNEL AND SALARY. (a) A juvenile board may, with the advice and consent of the commissioners court, employ probation officers and administrative, supervisory, stenographic, and other clerical personnel necessary to provide juvenile probation services according to the standards established by the Texas Juvenile Justice Department and the local need as determined by the juvenile board.

(b) The juvenile board may, with the advice and consent of the

commissioners court, designate the titles of the employees and set their salaries.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 123, eff. September 1, 2015.

Sec. 142.003. AUTHORITY TO CONTRACT FOR JUVENILE PROBATION SERVICES. (a) In a county that does not have a sufficient number of juvenile probation cases to justify a juvenile probation department, the juvenile board or juvenile judge may contract with:

(1) the county adult probation department to provide juvenile probation services; or

(2) surrounding counties to form a multicounty juvenile probation department.

(b) A juvenile board may contract with the Texas Juvenile Justice Department for juvenile probation services.

(c) A juvenile board may contract with another political subdivision of the state or a private vendor for juvenile probation services.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1997, 75th Leg., ch. 1394, Sec. 8, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 124, eff. September 1, 2015.

Sec. 142.004. JUVENILE PROBATION PERSONNEL. (a) A juvenile probation officer or an employee of a juvenile probation community service restitution program is not liable for damages arising from an act or failure to act in connection with manual labor performed by a child who has been placed on informal adjustment or who has been adjudicated a delinquent child or a child in need of supervision and the labor was performed as a condition to probation ordered under Section 54.04(d)(1), Family Code, and the act or failure to act was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of

others.

(b) Juvenile probation personnel employed by a political subdivision of the state are state employees for the purposes of Chapter 104, Civil Practice and Remedies Code.

(c) A juvenile probation officer or an employee of a juvenile probation community service restitution program is not liable for damages arising from an act or failure to act by a juvenile probation officer or an employee of a juvenile probation community service restitution program in connection with manual labor performed as a condition of probation ordered under Section 54.04(d)(1), Family Code, if the act or failure to act:

(1) was performed in an official capacity; and

(2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

Added by Acts 1989, 71st Leg., ch. 1100, Sec. 6.02(a), eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 900, Sec. 4, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 201, Sec. 6, eff. Aug. 30, 1993.

Sec. 142.005. ADMINISTRATION OF MEDICATION; IMMUNITY FROM LIABILITY. (a) On the adoption of policies concerning the administration of medication to juveniles by authorized employees, the juvenile board and any authorized employee of a program or facility operated by the juvenile board are not liable for damages arising from the administration of medication to a juvenile if:

(1) the program or facility administrator has received a written request to administer the medication from the parent, legal guardian, or other person having legal control over the juvenile; and

(2) when administering prescription medication, the medication appears to be in the original container and to be properly labeled.

(b) This section does not apply to:

(1) damages arising from the administration of medication that is not in accordance with the prescription issued by a medical practitioner; or

(2) an act or omission of a person administering medication if the act or omission is:

(A) reckless or intentional;

(B) done wilfully, wantonly, or with gross negligence; or

(C) done with conscious indifference or reckless disregard for the safety of others.

Added by Acts 2001, 77th Leg., ch. 1297, Sec. 63, eff. Sept. 1, 2001.

Sec. 142.006. AUTHORIZATION TO CARRY FIREARM. (a) A juvenile probation officer may carry a firearm in the course of the officer's official duties if:

(1) the juvenile probation officer possesses a certificate of firearms proficiency issued by the Texas Commission on Law Enforcement under Section 1701.259, Occupations Code;

(2) the chief juvenile probation officer of the juvenile probation department that employs the juvenile probation officer authorizes the juvenile probation officer to carry a firearm in the course of the officer's official duties; and

(3) the juvenile probation officer has been employed for at least one year by the juvenile probation department described by Subdivision (2).

(b) A juvenile probation officer is disqualified from being authorized to carry a firearm under this section if the officer has been designated a perpetrator in a Texas Juvenile Justice Department abuse, neglect, or exploitation investigation.

(c) This section does not affect the sovereign immunity of the state, an agency of the state, or a political subdivision of the state.

Added by Acts 2009, 81st Leg., R.S., Ch. 794 (S.B. 1237), Sec. 3, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.002(12), eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.41, eff. May 18, 2013.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 125, eff. September 1, 2015.

Sec. 142.007. POST-DISCHARGE SERVICES. (a) For purposes of this section, "post-discharge services" means community-based services offered after a child is discharged from probation to support the child's vocational, educational, behavioral, or other goals and to provide continuity for the child as the child transitions out of juvenile probation services. The term includes:

(1) behavioral health services;
(2) mental health services;
(3) substance abuse services;
(4) mentoring;
(5) job training; and
(6) educational services.

(b) Provided that existing resources are available, a juvenile board or juvenile probation department may provide post-discharge services to a child for not more than six months after the date the child is discharged from probation, regardless of the age of the child on that date.

(c) A juvenile board or juvenile probation department may not require a child to participate in post-discharge services.

Added by Acts 2017, 85th Leg., R.S., Ch. 435 (S.B. 1548), Sec. 1, eff. September 1, 2017.

SUBTITLE B. JUVENILE BOARDS AND FAMILY SERVICES OFFICES
CHAPTER 150. MISCELLANEOUS LOCAL GOVERNMENTAL AUTHORITY REGARDING HEALTH AND HUMAN SERVICES

Sec. 150.001. AUTHORITY OF HOME-RULE MUNICIPALITY TO PROVIDE FACILITIES FOR ORGANIZATIONS SERVING THE INDIGENT. (a) In this section, "human services" includes the provision of housing, food, clothing, and day care services.

(b) A home-rule municipality may provide publicly owned facilities for use by organizations that provide human services to the indigent.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 86(a), eff. Aug. 28, 1989. Renumbered from Sec. 151.001 by Acts 1989, 71st Leg., ch. 352, Sec. 4, eff. Sept. 1, 1989.

Sec. 150.002. AUTHORITY OF HOME-RULE MUNICIPALITY TO PROVIDE

SERVICES TO THE INDIGENT. A home-rule municipality may provide human services to the indigent. If the services are provided by contract, the amount of the contract may not exceed 50 percent of the annual budget of the organization that provides the services under the contract.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 86(a), eff. Aug. 28, 1989. Renumbered from Sec. 151.002 by Acts 1989, 71st Leg., ch. 352, Sec. 4, eff. Sept. 1, 1989.

CHAPTER 152. JUVENILE BOARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 152.0001. APPLICATION OF SUBCHAPTER. (a) This subchapter applies to each juvenile board created under this chapter. If a provision of this subchapter conflicts with a specific provision for a particular juvenile board, the specific provision controls.

(b) A statement in this chapter that a general provision of this subchapter does not apply to a specific juvenile board does not affect the application of other laws on the same subject that may affect the board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.00011. DEFINITION. In this chapter, "post-adjudication secure correctional facility" means a facility operated by or under contract with a juvenile board or local juvenile probation department under Section 152.0016.

Added by Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 8, eff. September 1, 2015.

Sec. 152.0002. BOARD MEETINGS. The juvenile board shall hold regular quarterly meetings on dates set by the board and special meetings at the call of the chairman.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0003. COMPENSATION. The compensation authorized under this chapter for a judge serving on a juvenile board is in addition to all other compensation provided or allowed by law for a judge. Notwithstanding any other law, the combined salary from all state and local sources of a district judge serving on a juvenile board may not exceed an amount that is $5,000 less than the salary provided by the state for a justice of a court of appeals other than the chief justice.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., 2nd C.S., Ch. 3 (H.B. 11), Sec. 7, eff. December 1, 2005.

Sec. 152.0004. GENERAL EXPENSES. The commissioners court shall pay the salaries of juvenile probation personnel and other expenses certified as necessary by the juvenile board chairman from the general funds of the county.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0005. EXPENSES OF BOARD MEMBERS AND JUVENILE COURT. (a) The commissioners court shall reimburse a juvenile board member for the member's reasonable and necessary job-related expenses. Reimbursable expenses include travel, lodging, training, and educational activities.

(b) The commissioners court shall reimburse each juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings relating to juvenile matters.

(c) All expenses are paid from the general fund or any other fund of the county.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0006. FISCAL OFFICER. The juvenile board shall designate a person as the board's fiscal officer.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0007. DUTIES. (a) The juvenile board shall:

(1) establish a juvenile probation department and employ a chief probation officer who meets the standards set by the Texas Juvenile Justice Department; and

(2) adopt a budget and establish policies, including financial policies, for juvenile services within the jurisdiction of the board.

(b) The board may establish guidelines for the initial assessment of a child by the juvenile probation department. The guidelines shall provide a means for assessing a child's mental health status, family background, and level of education. The guidelines shall assist the probation department in determining whether a comprehensive psychological evaluation of the child should be conducted. The board shall require that probation department personnel use assessment information compiled by the child's school, if the information is available, before conducting a comprehensive psychological evaluation of the child. The board may adopt all or part of the Texas Juvenile Justice Department's minimum standards for assessment under Section 221.002 in complying with this subsection.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1995, 74th Leg., ch. 262, Sec. 73, eff. Jan. 1, 1996; Acts 2001, 77th Leg., ch. 1297, Sec. 64, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.016, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 126, eff. September 1, 2015.

Sec. 152.0008. PERSONNEL. (a) The chief juvenile probation officer may, within the budget adopted by the board, employ:

(1) assistant officers who meet the standards set by the Texas Juvenile Justice Department; and

(2) other necessary personnel.

(b) Juvenile probation officers serve at the pleasure of the appointing authority.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2001, 77th Leg., ch. 1297, Sec. 65, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 127, eff. September 1, 2015.

Sec. 152.0009. TRANSPORTATION. (a) This section applies only in a county with a population of 190,000 or less.

(b) The commissioners court may provide each juvenile probation officer with an automobile for use on official business and provide an allowance for operating the automobile.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0010. ADVISORY COUNCIL. (a) A juvenile board may appoint an advisory council consisting of the number of citizen members determined appropriate by the board. To the extent available in the county, the advisory council may include:

(1) a prosecuting attorney as defined by Section 51.02, Family Code;

(2) a mental health professional;

(3) a medical health professional; and

(4) a representative of the education community.

(b) Council members serve terms as specified by the board.

(c) The juvenile board shall fill any vacancies on the advisory council.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1995, 74th Leg., ch. 262, Sec. 74, eff. Jan. 1, 1996; Acts 2001, 77th Leg., ch. 1297, Sec. 66, eff. Sept. 1, 2001.

Sec. 152.0011. LOCAL YOUTH BOOT CAMPS; CONTRACTS WITH PRIVATE VENDORS. (a) The juvenile board or local juvenile probation department may establish a youth boot camp and employ necessary personnel to operate the camp.

(b) The juvenile board or local juvenile probation department may contract with a private vendor for the financing, construction,

operation, maintenance, or management of a youth boot camp.

(c) If a juvenile board or its designee determines that a child is not complying with the rules of conduct promulgated by the board or is medically or psychologically unsuitable for the program, the board shall terminate the child's participation in the program and request the sentencing court to reassume custody of the child.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 75, eff. Jan. 1, 1996.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.017, eff. September 1, 2011.

Sec. 152.0012. BUDGET. The juvenile board shall prepare a budget for the juvenile probation department and the other facilities and programs under the jurisdiction of the juvenile board. The commissioners court shall review and consider only the amount of county funds derived from county taxes, fees, and other county sources in the budget. The commissioners court may not review any part of the budget derived from state funds.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 76, eff. Jan. 1, 1996.

Sec. 152.0013. IMMUNITY FROM LIABILITY. (a) A member of a juvenile board is not liable for damages arising from an act or omission committed while performing duties as a board member.

(b) This section does not apply if the act or omission is:

(1) reckless or intentional;

(2) done wilfully, wantonly, or with gross negligence; or

(3) done with conscious indifference or reckless disregard for the safety of others.

Added by Acts 2001, 77th Leg., ch. 1297, Sec. 67, eff. Sept. 1, 2001.

Sec. 152.0014. INDEMNIFICATION BY STATE. The state shall indemnify a juvenile board member in the same manner and under the same conditions that it indemnifies an officer of a state agency under Chapter 104, Civil Practice and Remedies Code.

Added by Acts 2001, 77th Leg., ch. 709, Sec. 1, eff. Sept. 1, 2001. Renumbered from Human Resources Code Sec. 152.013 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(101), eff. Sept. 1, 2003.

Sec. 152.00145. DIVERSION AND DETENTION POLICY FOR CERTAIN JUVENILES. A juvenile board shall establish policies that prioritize:

(1) the diversion of children younger than 12 years of age from referral to a prosecuting attorney under Chapter 53, Family Code; and

(2) the limitation of detention of children younger than 12 years of age to circumstances of last resort.

Added by Acts 2017, 85th Leg., R.S., Ch. 698 (H.B. 1204), Sec. 3, eff. September 1, 2017.

Sec. 152.0015. PRETRIAL DETENTION POLICY FOR CERTAIN JUVENILES. A juvenile board shall establish a policy that specifies whether a person who has been transferred for criminal prosecution under Section 54.02, Family Code, and is younger than 17 years of age may be detained in a juvenile facility pending trial as provided by Section 51.12, Family Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1087 (S.B. 1209), Sec. 3, eff. September 1, 2011.

Sec. 152.00161. TERMINATION OF CONTROL. (a) Except as provided by Subsections (b) and (c), if a person is committed to a post-adjudication secure correctional facility under a determinate sentence under Section 54.04011(c)(2), Family Code, the juvenile board or local juvenile probation department may not discharge the person from custody.

(b) The juvenile board or local juvenile probation department shall discharge without a court hearing a person committed to the department for a determinate sentence under Section 54.04011(c)(2), Family Code, who has not been transferred to the Texas Department of Criminal Justice under a court order on the date that the time spent by the person in detention in connection with the committing case

plus the time spent in the custody of the juvenile board or local juvenile probation department under the order of commitment equals the period of the sentence.

(c) The juvenile board or local juvenile probation department shall transfer to the Texas Department of Criminal Justice a person who is the subject of an order under Section 152.0016(j) transferring the person to the custody of the Texas Department of Criminal Justice for the completion of the person's sentence.

(d) Except as provided by Subsection (e), the juvenile board or local juvenile probation department shall discharge from its custody a person not already discharged on the person's 19th birthday.

(e) The juvenile board or local juvenile probation department shall transfer a person who has been sentenced under a determinate sentence to commitment under Section 54.04011(c)(2), Family Code, or who has been returned to the juvenile board or local juvenile probation department under Section 54.11(i)(1), Family Code, to the custody of the Texas Department of Criminal Justice on the person's 19th birthday, if the person has not already been discharged or transferred, to serve the remainder of the person's sentence on parole as provided by Section 508.156, Government Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 10, eff. September 1, 2015.

Sec. 152.00162. DETERMINATE SENTENCE PAROLE. (a) Not later than the 90th day before the date the juvenile board or local juvenile probation department transfers a person to the custody of the Texas Department of Criminal Justice for release on parole supervision under Section 152.0016(g) or 152.00161(e), the juvenile board or local juvenile probation department shall submit to the Texas Department of Criminal Justice all pertinent information relating to the person, including:

(1) the juvenile court judgment;

(2) the circumstances of the person's offense;

(3) the person's previous social history and juvenile court records;

(4) the person's physical and mental health record;

(5) a record of the person's conduct, employment history, and attitude while committed to the department;

(6) a record of the sentence time served by the person at the juvenile board or local juvenile probation department as a result of a commitment under Section 54.04011(c)(2), Family Code, and in a juvenile detention facility in connection with the conduct for which the person was adjudicated; and

(7) any written comments or information provided by the juvenile board or local juvenile probation department, local officials, family members of the person, victims of the offense, or the general public.

(b) The juvenile board or local juvenile probation department shall provide instruction for parole officers of the Texas Department of Criminal Justice relating to juvenile programs provided by the juvenile board or local juvenile probation department. The juvenile boards and local juvenile probation departments and the Texas Department of Criminal Justice shall enter into a memorandum of understanding relating to the administration of this subsection.

(c) The Texas Department of Criminal Justice shall grant credit for sentence time served by a person in the custody of a juvenile board or local juvenile probation department and in a juvenile detention facility, as recorded by the board or department under Subsection (a)(6), in computing the person's eligibility for parole and discharge from the Texas Department of Criminal Justice.

Added by Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 10, eff. September 1, 2015.

Sec. 152.00163. CHILD WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY. (a) A juvenile board or local juvenile probation department shall accept a child with a mental illness or an intellectual disability who is committed to the custody of the board or department.

(b) Unless a child is committed to the custody of a juvenile board or local juvenile probation department under a determinate sentence under Section 54.04011(c)(2), Family Code, the juvenile board or local juvenile probation department shall discharge a child with a mental illness or an intellectual disability from its custody if:

(1) the child has completed the minimum length of stay for the child's committing offense; and

(2) the juvenile board or local juvenile probation department determines that the child is unable to progress in the rehabilitation programs provided by the juvenile board or local juvenile probation department because of the child's mental illness or intellectual disability.

(c) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of mental illness is not receiving court-ordered mental health services, the child's discharge is effective on the earlier of:

(1) the date the court enters an order regarding an application for mental health services filed under Section 152.00164(b); or

(2) the 30th day after the date the application is filed.

(d) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of mental illness is receiving court-ordered mental health services, the child's discharge is effective immediately. If the child is receiving mental health services outside the child's home county, the juvenile board or local juvenile probation department shall notify the mental health authority located in that county of the discharge not later than the 30th day after the date that the child's discharge is effective.

(e) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of an intellectual disability is not receiving intellectual disability services, the child's discharge is effective on the 30th day after the date that the referral is made under Section 152.00164(c).

(f) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of an intellectual disability is receiving intellectual disability services, the child's discharge is effective immediately.

(g) If a child with a mental illness or an intellectual disability is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b), the child is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments under Chapter 614, Health and Safety Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 10, eff. September 1, 2015.

Sec. 152.00164. EXAMINATION BEFORE DISCHARGE. (a) A juvenile board or local juvenile probation department shall establish a system that identifies children with mental illnesses or intellectual disabilities who are in the custody of the juvenile board or local juvenile probation department.

(b) Before a child who is identified as having a mental illness is discharged from the custody of the juvenile board or local juvenile probation department under Section 152.00163(b), the juvenile board or local juvenile probation department shall arrange for a psychiatrist to examine the child. The juvenile board or local juvenile probation department shall refer a child requiring outpatient psychiatric treatment to the appropriate mental health authority. For a child requiring inpatient psychiatric treatment, the juvenile board or local juvenile probation department shall file a sworn application for court-ordered mental health services, as provided in Subchapter C, Chapter 574, Health and Safety Code, if:

(1) the child is not receiving court-ordered mental health services; and

(2) the psychiatrist who examined the child determines that the child has a mental illness and the child meets at least one of the criteria listed in Section 574.034 or 574.0345, Health and Safety Code.

(c) Before a child who is identified as having an intellectual disability under Chapter 593, Health and Safety Code, is discharged from the custody of a juvenile board or local juvenile probation department under Section 152.00163(b), the department shall refer the child for intellectual disability services if the child is not receiving intellectual disability services.

Added by Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 10, eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 582 (S.B. 362), Sec. 24, eff. September 1, 2019.

Sec. 152.00165. TRANSFER OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) A juvenile board or local juvenile probation department may petition the juvenile court that entered the order of commitment for a child for the initiation of mental health commitment proceedings if the child is committed to the custody of the juvenile board or local juvenile probation department under a determinate sentence under Section 54.04011(c)(2), Family Code.

(b) A petition made by a juvenile board or local juvenile probation department shall be treated as a motion under Section 55.11, Family Code, and the juvenile court shall proceed in accordance with Subchapter B, Chapter 55, Family Code.

(c) A juvenile board or local juvenile probation department shall cooperate with the juvenile court in any proceeding under this section.

(d) The juvenile court shall credit to the term of the child's commitment to a juvenile board or local juvenile probation department any time the child is committed to an inpatient mental health facility.

(e) A child committed to an inpatient mental health facility as a result of a petition filed under this section may not be released from the facility on a pass or furlough.

(f) If the term of an order committing a child to an inpatient mental health facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered, the inpatient mental health facility shall notify the juvenile court that entered the order of commitment committing the child to a juvenile board or local juvenile probation department. The juvenile court may transfer the child to the custody of the juvenile board or local juvenile probation department, transfer the child to the Texas Department of Criminal Justice, or release the child under supervision, as appropriate.

Added by Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 10, eff. September 1, 2015.

Sec. 152.0017. TRAFFICKED PERSONS PROGRAM. (a) A juvenile board may establish a trafficked persons program under this section

for the assistance, treatment, and rehabilitation of children who:

(1) are alleged to have engaged in or adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision; and

(2) may be victims of conduct that constitutes an offense under Section 20A.02, Penal Code.

(b) A program established under this section must:

(1) if applicable, allow for the integration of services available to a child pursuant to proceedings under Title 3, Family Code, and Subtitle E, Title 5, Family Code;

(2) if applicable, allow for the referral to a facility that can address issues associated with human trafficking; and

(3) require a child participating in the program to periodically appear in court for monitoring and compliance purposes.

Added by Acts 2013, 83rd Leg., R.S., Ch. 186 (S.B. 92), Sec. 7, eff. September 1, 2013.
Redesignated from Human Resources Code, Section 152.0016 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(36), eff. September 1, 2015.

SUBCHAPTER B. CREATION OF JUVENILE BOARD IN CERTAIN COUNTIES

Sec. 152.0031. APPLICATION OF SUBCHAPTER. Except as otherwise provided by this chapter, this subchapter does not apply to a county that is served by a juvenile board created under Subchapter C or D.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 198 (S.B. 1886), Sec. 1, eff. May 28, 2011.

Sec. 152.0032. COMPOSITION OF JUVENILE BOARD. (a) The juvenile board is composed of the county judge, the district judges in the county, and the judges of any statutory courts designated as a juvenile court in the county.

(b) Notwithstanding Subsection (a), the juvenile board of Jim Wells County is composed of the judges of the county and district courts in the county. The board must have not fewer than three nor more than five members. The judges of the county and district courts

in the county may appoint an appropriate number of public members to serve on the board if necessary to satisfy this requirement. Notwithstanding Section 152.0034(b), a public member serves without compensation. The chairman of the board shall determine the number of public members to be appointed to the board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1236 (H.B. 2502), Sec. 1, eff. June 15, 2007.

Sec. 152.0033. CHAIRMAN. The juvenile board shall select one of its members to act as chairman.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0034. COMPENSATION OF BOARD MEMBERS. (a) Service on a juvenile board by a judge is an additional duty of office.
(b) The commissioners court may reasonably compensate each member of the juvenile board for the member's additional duties.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0035. EXPENSES OF BOARD MEMBERS. The county shall reimburse a juvenile board member for the member's actual and necessary expenses incurred in performing official duties on the board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0036. JOINT OPERATION. (a) The juvenile boards of two or more counties that are adjacent to or in close proximity to each other may agree to operate together.
(b) Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0037. FUNDS. (a) The board may accept state aid and grants or gifts from other political subdivisions of the state or associations for the sole purpose of financing adequate and effective probation programs.

(b) A municipality may grant and allocate money to the county government or to the juvenile board to support and maintain juvenile programs if the municipality's governing body approves the expenditure.

(c) Funds received under this section shall be administered and kept separately from other county funds.

(d) This subchapter does not prohibit a program of local enrichment of juvenile services funded by any source.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0038. SALARIES AND EXPENSES. (a) The juvenile board shall pay the salaries of juvenile probation department personnel and other expenses required to provide adequate services to children from the juvenile board fund to the extent of the state aid received in the fund.

(b) The county shall pay other salaries and expenses essential to provide adequate services to children in an amount set by the juvenile board with the advice and consent of the county commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0039. TRANSPORTATION. The juvenile board shall provide the juvenile probation officers with transportation or an automobile allowance for use of a personal automobile on official business.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0040. APPLICATION OF GENERAL JUVENILE BOARD PROVISIONS. Sections 152.0002, 152.0004, 152.0005, and 152.0009 do

not apply to a juvenile board operating under this subchapter.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER C. COUNTY JUVENILE BOARD IN COUNTIES WITH A FAMILY DISTRICT COURT

Sec. 152.0051. COMPOSITION OF JUVENILE BOARD. The juvenile board of a county that has a family district court is composed of:

(1) the county judge;

(2) the judge of each family district court;

(3) the judge of each other district court in the county; and

(4) the judge of each other court in the county that has jurisdiction over juvenile matters.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0052. CHAIRMAN. The members of the juvenile board shall select a family district court judge to serve as chairman of the board unless the county has only one family district court judge.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0053. COMPENSATION. The commissioners court may compensate each juvenile board member for the member's duties performed on the juvenile board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0054. PROVISION OF PHYSICAL FACILITIES. The commissioners court shall provide the physical facilities necessary to operate the juvenile board on the board's recommendation.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0055. EFFECT ON CERTAIN JUVENILE BOARDS. This

subchapter does not affect the composition or organization of a juvenile board existing on September 1, 1977.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. PROVISIONS APPLICABLE TO SPECIFIC COUNTIES

Sec. 152.0071. ANDERSON COUNTY. (a) The juvenile board of Anderson County is composed of the county judge, the district judges in Anderson County, and the criminal district attorney of Anderson County. The commissioners court by order may add to the board the judge of the county court at law in Anderson County.

(b) The judge of the juvenile court is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional compensation set by the commissioners court at not less than $50 nor more than $250 a month for the added duties imposed on the members.

(d) The commissioners court shall pay the additional compensation and expenses of the juvenile probation officer from the general fund or any other available fund of the county.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Anderson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0081. ANDREWS COUNTY. (a) The Andrews County Juvenile Board is composed of the county judge, the district judges in Andrews County, and the county attorney of Andrews County.

(b) The judge of the juvenile court is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board chairman additional compensation of $1,200 for the added duties imposed on the chairman. The commissioners court may pay the other members of the board additional compensation of not more than $1,200. The additional compensation shall be paid in equal monthly installments from the general fund or any other fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Andrews County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0091. ANGELINA COUNTY. (a) The Angelina County Juvenile Board is composed of the county judge, the judges of the statutory county courts, and the district judges in Angelina County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation in an amount determined by the commissioners court for the added duties imposed on the members. The combined yearly salary from state and county sources received by each judge may not exceed an amount equal to $1,000 less than the combined yearly salary from state and county sources received by each justice of the court of appeals of the court of appeals district in which Angelina County is located. The additional compensation is paid in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Angelina County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0101. ARANSAS COUNTY. (a) The juvenile board of Aransas County is composed of the county judge, the district judges in Aransas County, and the judge of the county court at law.

(b) The commissioners court may pay the juvenile board members additional annual compensation in an amount set by the commissioners court for the added duties imposed on the members. The additional compensation may not be lower than the amount paid to the judges on September 1, 1981.

(c) The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Aransas County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2003, 78th Leg., ch. 998, Sec. 2, eff. Sept. 1, 2003.

Sec. 152.0131. ATASCOSA COUNTY. (a) The juvenile board of Atascosa County is composed of the county judge, the district judges in Atascosa County, and the judge of the County Court at Law of Atascosa County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $4,800 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Atascosa County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.03, eff. September 1, 2015.

Sec. 152.0141. AUSTIN COUNTY. (a) The juvenile board of Austin County is composed of the county judge, the judges of the statutory county courts, and a judge of a district court in Austin County as determined by the commissioners court.

(b) The commissioners court may pay the juvenile board members additional annual compensation of not more than $1,200 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(c) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Austin County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0151. BAILEY COUNTY. (a) The juvenile board of Bailey and Parmer counties is composed of the county judge, the district judges in the counties, and the judge of each statutory court designated as a juvenile court in the counties.

(b) The juvenile board shall elect one of its members as chairman.

(c) The commissioners courts of the counties shall pay the

members of the juvenile board an annual salary set by the commissioners court at not more than $1,800, payable in equal monthly installments from the general fund of the counties. The counties shall apportion and pay the salary according to the ratio used to pay the expenses of the 287th Judicial District.

(d) The counties shall apportion and pay the juvenile board costs, other than the judges' salaries, according to the ratio used to pay the expenses of the 287th Judicial District, unless the counties agree to use a different method of allocating costs.

(e) The chief juvenile probation officer may set the salaries and allowances of juvenile probation personnel with the approval of the board.

(f) Section 152.0005(b) does not apply to the juvenile board in Bailey and Parmer counties.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0161. BANDERA COUNTY. (a) The juvenile board of Bandera County is composed of the county judge and the district judges in Bandera County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $600 nor more than $1,200, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Bandera County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0181. BAYLOR COUNTY. (a) Baylor County is included in the 50th Judicial District Juvenile Board. The juvenile board is composed of the judge of the 50th Judicial District and the county judge of each county in the judicial district. The juvenile court judge may designate two public members to serve on the board without compensation and for a period determined by the juvenile court judge.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each calendar year.

(c) The commissioners courts of the counties shall pay the

judges who are members of the juvenile board additional annual compensation of not more than $6,000 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the counties.

(d) If approved by the juvenile board, the commissioners court shall reimburse the juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings related to juvenile problems. The counties shall prorate the expenses allowed for the members of the juvenile board and for the juvenile court judge.

(e) The commissioners courts shall provide the necessary funds to pay the salaries of the juvenile probation personnel in the amount set by the juvenile board.

(f) The commissioners court shall pay the expenses of the juvenile probation officers that are certified as necessary by the juvenile board chairman from the general fund and in the amount set by the juvenile board.

(g) Sections 152.0004 and 152.0005(b) do not apply to the 50th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0191. BEE COUNTY. (a) The juvenile board of Bee County is composed of the county judge and the district judges in Bee County.

(b) The commissioners court may pay the juvenile board members additional annual compensation in an amount set by the commissioners court for the added duties imposed on the members. The additional compensation may not be lower than the amount paid to the judges on September 1, 1981.

(c) The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Bee County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0201. BELL COUNTY. (a) The Bell County Juvenile Board is composed of the county judge, the district judges in Bell

County, and the judge of each county court at law in the county.

(b) The county judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary in an amount set by the commissioners court as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Bell County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1149, Sec. 1, eff. Aug. 30, 1999.

Sec. 152.0211. BEXAR COUNTY. (a) The juvenile board of Bexar County is composed of the county judge and the district judges in Bexar County.

(b) The commissioners court shall pay the county judge additional annual compensation of $4,500. The county commissioners court shall pay the district judges on the board an additional annual salary of $1,500. The additional compensation paid to the county and district judges shall be paid in equal monthly installments from the general fund of the county.

(c) The juvenile board shall hold meetings at least once every three months in accordance with board rules.

(d) The board shall keep records as required by law and board rules.

(e) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(f) The commissioners court shall provide the juvenile probation officers with:

(1) automobiles and their maintenance and operation expenses for use in official duties; or

(2) an automobile allowance for the use of a personal automobile on official business in the amount determined to be necessary by the commissioners court.

(g) The commissioners court shall provide the necessary funds

to pay the salaries and expenses of the juvenile probation personnel.

(h) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Bexar County.

(i) The board may apply for, accept, hold in trust, spend, and otherwise use a gift, grant, or donation of land or money or other personal property from a governmental entity, corporation, individual, or other source for the benefit of the juvenile justice system.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1059 (H.B. 4700), Sec. 1, eff. June 19, 2009.

Sec. 152.0212. BEXAR COUNTY INSTITUTIONS. (a) The juvenile board of Bexar County shall appoint a person to supervise the county facilities under the jurisdiction of the juvenile board. The supervisor may be the county probation officer. The supervisor shall direct the policies and conduct of each institution.

(b) The juvenile board shall also appoint the head of each facility. The facility head may hire employees that the juvenile board determines are necessary.

(c) The facilities supervisor or employees under the supervisor's control shall supervise each child committed to a county institution until the child becomes of age. The supervisor or employees shall submit periodic reports to the juvenile board as required for the board's approval or action.

(d) The commissioners court shall provide the necessary funds to operate each institution.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0213. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN BEXAR COUNTY. (a) The juvenile board of Bexar County may designate the district clerk or the juvenile probation officer to collect and disburse court-ordered child or spousal support payments that are required by court order to be made to the county. The person designated to receive the payments shall disburse the payments in the manner the court believes to be in the best interest of the

spouse or child.

(b) If the juvenile board designates the juvenile probation officer to receive the payments, the officer shall work in the court as an officer of the court. The officer shall obtain a surety bond in an amount determined by the commissioners court from a solvent surety company authorized to make the bonds in this state and approved by the commissioners court. The bond shall be conditioned on the faithful performance of the officer's duties and on the proper accounting of the money entrusted to the officer. The county shall pay the premium for the bond from the general fund of the county.

(c) The juvenile officer shall keep an accurate and complete record of money received and disbursed under this section. The record is open for public inspection. The county auditor shall inspect and examine the records and audit the accounts quarterly. The auditor shall report the results of the audit to the juvenile board and include any recommendations the auditor may have.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0221. BLANCO COUNTY. (a) The Blanco County Juvenile Board is composed of the county judge and the district judges in Blanco County.

(b) The judge of the 33rd District Court is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not more than $1,200 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Blanco County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 18, eff. September 1, 2005.

Sec. 152.0231. BORDEN COUNTY. (a) Borden County is included in the 132nd Judicial District Juvenile Board. The juvenile board is

composed of the county judge and the district judges in Borden and Scurry counties.

(b) The juvenile board shall elect one of its members as chairman.

(c) The commissioners courts of the counties shall pay the members of the juvenile board annual supplemental compensation of $2,400 from the general fund or any other available fund of the counties.

(d) The juvenile board shall hold regular meetings on dates set by the board and special meetings at the call of the chairman.

(e) The commissioners courts may reimburse a juvenile board member for the member's reasonable and necessary job-related expenses. Reimbursable expenses include travel, lodging, training, and educational activities.

(f) The juvenile board shall pay the salaries of juvenile probation personnel and other expenses the chairman certifies as essential to provide services to children from the juvenile board fund to the extent of the state aid received in the fund.

(g) The juvenile board shall designate the treasurer or auditor of Borden County or Scurry County to serve as the board's fiscal officer.

(h) The juvenile board shall appoint an advisory council composed of one person from each county.

(i) Sections 152.0002, 152.0003, 152.0004, 152.0005(a) and (b), 152.0006, and 152.0008(a) do not apply to the 132nd Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0241. BOSQUE COUNTY. (a) Bosque County is included in the Bosque, Comanche, and Hamilton counties juvenile board. The juvenile board is composed of:

(1) the county judge in Bosque County;

(2) the county judge in Comanche County;

(3) the county judge in Hamilton County;

(4) the 220th Judicial District judge; and

(5) the judge of the County Court at Law of Bosque County.

(b) The 220th Judicial District judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court of Bosque County shall pay the county judge in Bosque County and the 220th Judicial District judge additional annual compensation set by the commissioners court at not less than the amount paid to a board member under this section on October 1, 1998. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Bosque County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 336, Sec. 1, eff. May 29, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 239 (S.B. 2229), Sec. 2, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 10(b), eff. October 1, 2009.

Sec. 152.0251. BOWIE COUNTY. (a) The Bowie County Juvenile Board is composed of the county judge, the district judges, and the judge of each statutory county court in Bowie County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The county commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200. The additional compensation is for the added duties imposed on the members and shall be paid in equal monthly installments from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the funds necessary to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the Bowie County Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 152.0252 by Acts 1989, 71st Leg., ch. 592, Sec. 2(c), eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 429, Sec. 1, eff. Sept. 1, 2001.

Sec. 152.0261. BRAZORIA COUNTY. (a) The juvenile board of Brazoria County is composed of the county judge, the district judges in Brazoria County, and the judge of each county court at law.

(b) The commissioners court shall pay the board members annual additional compensation in an amount set by the commissioners court. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Brazoria County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0262. COMPENSATION OF JUVENILE JUDGE IN BRAZORIA COUNTY. (a) The Commissioners Court of Brazoria County may pay the juvenile judge additional annual compensation of not more than $1,500 for serving as the judge of the juvenile court.

(b) The compensation is in addition to all other compensation paid or authorized to be paid to the judge who serves as the juvenile judge.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0263. BRAZORIA COUNTY CHILD SUPPORT OFFICE. (a) The judges of the district courts in Brazoria County may establish a child support office in the county juvenile office to collect and disburse child support payments that are required by court order to be made to the office. The office shall disburse the payments in the manner the court believes to be in the best interest of the parties in the case.

(b) The judges of the district courts in a county served by an office may appoint an administrator and other assistants to serve two-year terms. The administrator shall obtain a surety bond in an amount determined by the county auditor from a solvent surety company authorized to make the bonds in this state and approved by the county auditor. The bond shall be conditioned on the faithful performance of the administrator's duties and on the proper accounting of the money entrusted to the administrator. The county shall pay the premium for the bond from the general fund of the county, the child

support fund, or any other available fund.

(c) The judges shall determine the duties of the administrator and assistants and set their salaries. The salaries are payable in equal monthly installments from the general fund of the county, the child support fund, or any other available fund. The judges must approve a claim for expenses made by the administrator or an assistant or a claim for administrative expenses in operating the child support office, including a claim for payment of equipment and supplies.

(d) The office shall keep an accurate and complete record of money received and disbursed under this section. The record is open for public inspection. The county auditor or other authorized county officer or employee shall inspect and examine the records and audit the accounts quarterly. The auditor shall report the results of the audit to the judges and include any recommendations the auditor may have.

(e) The child support office may serve one or more of Fort Bend, Matagorda, and Wharton counties. If a child support office serves more than one county, the judges of the district courts in the counties shall determine the location of the office. The officers and employees of the county in which the office is located shall perform the duties prescribed by this section. The counties shall pay the salaries, bond premium, and other expenses in accordance with the ratio that the population of each county bears to the total population of all of the counties served by the office.

(f) The commissioners courts shall pay the district court judges $75 a month for performing the duties prescribed by this section. The compensation shall be paid from the general fund of the county and is in addition to any other compensation the judges receive.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0264. BRAZORIA COUNTY CHILD SUPPORT SERVICE FEE. (a) The Brazoria County child support office shall assess a monthly fee of not more than $10 for collecting and disbursing child support payments that are required by court order to be made to the office. The fee is payable annually and in advance.

(b) The payor of the support shall pay the fee unless the payor

is a member of the armed services and the monthly child support payments exceed the amount the court orders the person to pay, in which case the payee shall pay the service fee for as long as the payor is a member of the armed services and the support payments exceed the amount the court orders the person to pay.

(c) The first fee payment is due on the date that the payor is ordered to begin the child support payments. If the payee must pay the fee, the first fee payment is due on the date that the payee receives the original support payment. Subsequent annual fees are due on the anniversary of the date of the original fee payment.

(d) A person who refuses or fails to pay the fee on the date due or in the amount ordered is subject to an action for contempt of court.

(e) Fees collected under this section shall be paid to the county treasurer on the last day of each calendar month. The county treasurer shall deposit the fees to the credit of the child support fund. The judges of the district courts in a county served by the office shall administer the fund, with the approval of the commissioners court, to assist in paying the salaries and expenses of the child support office.

(f) An accurate and complete record of money received under this section shall be kept. The county auditor or other authorized person shall audit the child support fund regularly. An annual report of the receipts and expenditures of the fund shall be made to the commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 12.04(a), eff. Aug. 26, 1991.

Sec. 152.0271. BRAZOS COUNTY. (a) The Brazos County Juvenile Board is composed of the county judge, the district judges in Brazos County, the judge of each county court at law, and one public member appointed by the judges.

(b) The public member serves a two-year term.

(c) The county judge is the chairman of the board.

(d) The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not less than $600 nor more than $1,200. The commissioners court shall

pay the public member of the board an annual salary set by the commissioners court at not more than $600. The salaries shall be paid in equal monthly installments from the general fund or any other fund of the county.

(e) The chief juvenile probation officer may set the salaries and allowances of juvenile probation personnel with the approval of the board.

(f) Section 152.0005(b) does not apply to the juvenile board of Brazos County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 514, Sec. 1, eff. June 15, 1991.

Sec. 152.0281. BREWSTER COUNTY. (a) The Brewster County Juvenile Board is composed of the county judge and the district judges in Brewster County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 nor more than $3,600 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Brewster County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0291. BRISCOE COUNTY. (a) Briscoe County is included in the 110th Judicial District Juvenile Board. The juvenile board is composed of the county judges, the district judges in Briscoe, Dickens, Floyd, and Motley counties and the judge of any juvenile court in the counties.

(b) The juvenile board shall elect one of its members as chairman.

(c) The juvenile board shall hold regular meetings on dates set by the board and special meetings at the call of the chairman.

(d) The members of the juvenile board do not receive compensation for serving on the board. The commissioners courts may

reimburse a juvenile board member for the member's reasonable and necessary job-related expenses. Reimbursable expenses include travel, lodging, training, and educational activities.

(e) The juvenile board shall pay the salaries of juvenile probation personnel and other expenses the chairman certifies as essential to provide services to children from the juvenile board fund to the extent of the state aid received in the fund.

(f) The juvenile board shall designate the treasurer or auditor of Briscoe, Dickens, Floyd, or Motley County to serve as the board's fiscal officer.

(g) The juvenile board shall appoint an advisory council composed of one person from each county.

(h) Sections 152.0002, 152.0003, 152.0004, 152.0005(a), 152.0005(b), 152.0006, and 152.0008(a) do not apply to the 110th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0301. BROOKS COUNTY. (a) The juvenile board of Brooks County is composed of the judges of the county and district courts in the county. The board must have not fewer than three nor more than five members. The judges of the county and district courts in the county may appoint an appropriate number of public members to serve on the board without compensation if necessary to satisfy this requirement. The chairman of the board shall determine the number of public members to be appointed to the board.

(b) The county judge is the chairman of the board.

(c) The board shall hold biannual meetings on dates set by the board and special meetings at the call of the chairman.

(d) Service on a juvenile board by a judge is an additional duty of office. The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not more than $6,000, payable in equal monthly installments from the general fund or any other available fund of the county.

(e) The county shall reimburse a juvenile board member for the member's actual and necessary expenses incurred in performing the member's duties.

(f) The juvenile board shall ensure that the chief juvenile officer and fiscal officer:

(1) keep the financial and statistical records and submit reports to the Texas Juvenile Justice Department as prescribed by Section 221.007; and

(2) submit periodic financial and statistical reports to the county commissioners court.

(g) The chief juvenile probation officer shall appoint an appropriate number of qualified juvenile probation officers, assistants, and support personnel with the approval of the board as necessary to perform his duties. The chief juvenile probation officer and the personnel appointed under this section may be removed at any time by the appointing authority or by the juvenile board. The chief juvenile probation officer shall recommend to the juvenile board the salaries of and allowances for juvenile probation officers, assistants, and support personnel. The juvenile board shall provide the chief juvenile probation officer and his assistants with transportation or an automobile allowance for use of a personal automobile on official business.

(h) A claim for expenses from a person in the juvenile probation department must be made to the board chairman. The chairman shall certify to the fiscal officer the expenses to be paid from state funds and shall certify to the commissioners court the expenses to be paid from county funds.

(i) The chairman of the board shall certify to the commissioners court an annual request for the expenditure of county funds. The commissioners court shall act on the request in the same manner as it acts on a request from another county office.

(j) The board may accept state aid and grants and gifts from other political subdivisions of the state or associations for the purpose of financing adequate and effective juvenile programs. A municipality may grant and allocate money to the juvenile board to support and maintain effective juvenile services if the municipality's governing body approves the expenditure. Funds received under this subsection shall be administered and kept separately from other public funds. This section does not affect a program of local enrichment of juvenile services funded by a service.

(k) The juvenile board shall appoint an advisory council of not more than five persons.

(l) Sections 152.0002, 152.0004, 152.0005, 152.0008, and 152.0009 do not apply to the juvenile board of Brooks County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.018, eff. September 1, 2011.

Sec. 152.0331. BURNET COUNTY. (a) The Burnet County Juvenile Board is composed of the county judge and the district judges in Burnet County.

(b) The judge of the 33rd District Court is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not more than $1,200 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Burnet County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 19, eff. September 1, 2005.

Sec. 152.0341. CALDWELL COUNTY. (a) The juvenile board of Caldwell County is composed of the county judge, the judges of the statutory county courts, and the judge of a judicial district in Caldwell County as determined by the commissioners court.

(b) The commissioners court may pay the juvenile board members additional annual compensation in an amount set by the commissioners court for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(c) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Caldwell County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 72, Sec. 1, eff. May 9, 1991.

Sec. 152.0351. CALHOUN COUNTY. (a) The juvenile board of Calhoun County is composed of the county judge, the district judges in Calhoun County, and the judge of each county court at law.

(b) The commissioners court may pay the juvenile board members reasonable additional annual compensation in an amount set by the commissioners court as compensation for the added duties imposed on the members. The compensation may not be lower than the compensation paid to a member on August 29, 1977. The compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Calhoun County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0371. CAMERON COUNTY. (a) The juvenile board of Cameron County is composed of the county judge, the district judges in Cameron County, and the judge of each county court at law.

(b) The commissioners court shall pay the members of the juvenile board additional annual compensation of $4,500, payable in equal monthly installments from the general fund of the county. The commissioners court shall pay the members an additional $75 per month for performing the additional duties prescribed by Sections 152.0372 and 152.0373.

(c) The juvenile board shall hold meetings at least once every three months in accordance with board rules.

(d) The board shall keep records as required by law and board rules.

(e) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(f) The juvenile board may require a juvenile probation officer or facility superintendent to obtain a surety or personal bond in an amount determined by the board and conditioned on the faithful performance of the person's duties.

(g) The juvenile board may suspend or remove a juvenile probation officer at any time for good cause. The chief probation officer, with the approval of the board, may suspend or remove an assistant probation officer for good cause after the assistant is notified and afforded an opportunity to appear before the board.

(h) Sections 152.0002, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Cameron County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1108, Sec. 2, eff. Sept. 1, 1989.

Sec. 152.0372. CAMERON COUNTY INSTITUTIONS. (a) The juvenile board of Cameron County controls and supervises each county facility used for the detention of juveniles.

(b) The juvenile board by majority vote may adopt any order or regulation necessary to the welfare of juveniles in a county facility. The chief juvenile probation officer shall enter each order or regulation in a book kept for that purpose and shall certify the order or regulation and deliver a copy to each facility superintendent or person in charge of a facility. The superintendent or other person and each juvenile probation officer shall comply with the order or regulation.

(c) The juvenile board may require the superintendent or person in charge of a facility to submit to the board reports containing information required by the board.

(d) The district attorney of Cameron County shall assign an attorney in the district attorney's office to represent the juvenile board and probation officers in protecting the rights of children in abandonment cases and proceedings.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0373. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN CAMERON COUNTY. (a) The juvenile board of Cameron County may require a juvenile probation officer to collect and disburse child support payments that are required by court order to be made to a court in the county.

(b) The juvenile probation officer shall keep a record of money received and disbursed in a well-bound book subject to public inspection in the probation office. The county auditor shall audit the records.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0381. CAMP COUNTY. (a) Camp County is included in the Camp, Marion, Morris, and Titus Counties Juvenile Board. The juvenile board is composed of the county judges, the district judges in Camp, Marion, Morris, and Titus counties, and the judge of each statutory court in those counties designated as a juvenile court.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The juvenile board shall hold regular bimonthly meetings on dates set by the board and special meetings at the call of the chairman.

(d) The commissioners courts of the counties shall pay the juvenile board members an annual salary set by the commissioners courts at not less than $1,800 for the added duties imposed on them. The salary shall be paid in equal monthly installments from the general fund or any other available fund of the counties. Each county shall pay an equal portion of the salaries.

(e) The juvenile board shall provide each juvenile probation officer with an automobile or an automobile allowance for use of a personal automobile on official business.

(f) The juvenile board shall pay the salaries of juvenile probation personnel and other expenses required to provide adequate services to children from the juvenile board fund to the extent of the state aid received in the fund. The counties shall pay equally the other salaries and expenses essential to provide adequate services to children in an amount set by the juvenile board.

(g) The board may accept state aid and grants or gifts from other political subdivisions of the state or associations for the sole purpose of financing adequate and effective probation programs.

(h) Sections 152.0002, 152.0004, 152.0005, and 152.0009 do not apply to the Camp, Marion, Morris, and Titus Counties Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0391. CARSON COUNTY. (a) The Carson County Juvenile Board is composed of the county judge and the district judges in Carson County.

(b) The juvenile court judge is the chairman of the board and

its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional monthly compensation set by the commissioners court at not less than $50 nor more than $150 for the added duties imposed on the members. The additional compensation shall be paid from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Carson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0401. CASS COUNTY. (a) The Cass County Juvenile Board is composed of the county judge, the judge of the County Court at Law of Cass County, and the district judges in Cass County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $600 nor more than $1,800 for the added duties imposed on them. The compensation shall be paid in equal monthly installments from the general fund of the county.

(d) The juvenile board shall provide each juvenile probation officer with transportation or an automobile allowance for use of a personal automobile on official business.

(e) The juvenile board shall pay the salaries of juvenile probation personnel and other expenses required to provide adequate services to children from the juvenile board fund to the extent of the state aid received in the fund. The commissioners court shall pay the other salaries and expenses essential to provide adequate services to children in an amount set by the juvenile board.

(f) The commissioners court shall pay the expenses of the juvenile probation officers that are certified as necessary by the juvenile board chairman from the general fund and in the amount set by the juvenile board.

(g) The board may accept state aid and grants or gifts from other political subdivisions of the state or associations for the

sole purpose of financing adequate and effective probation programs. A municipality may grant and allocate money to the county or to the juvenile board to support and maintain juvenile programs if the municipality's governing body approves the expenditure. Funds received under this subsection shall be administered and kept separately from other county funds.

(h) This section does not prohibit a program of local enrichment of juvenile services funded by any source.

(i) Sections 152.0004 and 152.0009 do not apply to the juvenile board of Cass County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 868 (H.B. 1500), Sec. 1, eff. June 15, 2007.

Sec. 152.0411. CASTRO COUNTY. (a) The juvenile board of Castro and Swisher counties is composed of the county judges, the district judges in Castro and Swisher counties, and the judge of any statutory court designated as a juvenile court in the counties.

(b) The juvenile board shall elect one of its members as chairman.

(c) The commissioners courts of the counties shall pay the members of the juvenile board an annual salary set by the commissioners court at not less than $1,200, payable in equal monthly installments from the general fund of the counties. The counties shall apportion and pay the salary according to the method determined by the counties.

(d) The counties shall apportion and pay the juvenile board costs, other than the judge's salaries, according to the method determined by the counties.

(e) The commissioners courts shall pay the salaries and expenses of juvenile probation personnel and other expenses the chairman certifies as essential to provide services to children from the general funds or any other available funds of the counties.

(f) A member of the juvenile board is not liable in civil damages or for criminal prosecution for an action taken by the juvenile board.

(g) The juvenile board shall appoint an advisory council

composed of five citizens from different parts of Castro and Swisher counties.

(h) Sections 152.0004 and 152.0005(b) do not apply to the juvenile board in Castro and Swisher counties.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1993, 73rd Leg., ch. 454, Sec. 1, eff. Aug. 30, 1993.

Sec. 152.0421. CHAMBERS COUNTY. (a) The Chambers County Juvenile Board is composed of the county judge, the district judges in Chambers County, and the judge of any statutory county court designated as a juvenile court.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each calendar year.

(c) Service on the juvenile board is an additional duty of office. The commissioners court may pay the members of the juvenile board additional annual compensation in an amount set by the commissioners court for the added duties imposed on the members. The compensation is payable in equal monthly installments out of the general fund of the county.

(d) If approved by the juvenile board, the commissioners court shall reimburse the juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings relating to juvenile problems.

(e) The commissioners court shall provide the funds for the salaries of the juvenile probation officers in the amount set by the juvenile board.

(f) The commissioners court shall pay the expenses of the juvenile probation officers certified as necessary by the juvenile board chairman from the general fund of the county and in the amount set by the juvenile board.

(g) Sections 152.0004 and 152.0005(b) do not apply to the juvenile board of Chambers County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0431. CHEROKEE COUNTY. (a) The Cherokee County Juvenile Board is composed of the county judge and the district judges in Cherokee County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation in an amount determined by the commissioners court for the added duties imposed on the members. The combined yearly salary from state and county sources received by each judge may not exceed an amount equal to $1,000 less than the combined yearly salary from state and county sources received by each justice of the court of appeals of the court of appeals district in which Cherokee County is located. The additional compensation is payable in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Cherokee County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1077, Sec. 2, eff. Sept. 1, 1989.

Sec. 152.0441. CHILDRESS COUNTY. (a) The Childress County Juvenile Board is composed of the county judge and the district judges in Childress County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional monthly compensation set by the commissioners court at not less than $50 nor more than $150 for the added duties imposed on the members. The additional compensation shall be paid from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Childress County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0461. COCHRAN COUNTY. (a) The Cochran County Juvenile Board is composed of the county judge, the district judge in

Cochran County, and the judge of any statutory court designated as a juvenile court in the county. The chairman shall appoint five public members to serve on the board for a period determined by the board.

(b) The county judge is the chairman of the juvenile board. The district judge is the vice-chairman and acts as chairman if:

(1) the chairman is absent or disabled; or

(2) the office of county judge is vacant.

(c) The juvenile board shall hold regular meetings at least annually on dates set by the board and shall hold special meetings at the call of the chairman.

(d) The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court, payable in equal monthly installments from the general fund or any other available fund of the county. Public members serve without compensation.

(e) The commissioners court may reimburse a juvenile board member for the member's reasonable and necessary job-related expenses. Reimbursable expenses include travel, lodging, training, and educational activities.

(f) The juvenile board shall pay the salaries of juvenile probation personnel and other expenses the chairman certifies as essential to provide services to the children of Cochran County from the juvenile board fund to the extent of the state aid received in the fund. The salaries approved by the commissioners court may be paid from funds received for that purpose from the Texas Juvenile Justice Department. The commissioners court shall pay the remaining approved salaries of juvenile probation personnel and other expenses certified as necessary by the juvenile board chairman from the general funds of the county.

(g) The chairman of the juvenile board shall certify to the commissioners court an annual request for the expenditure of county funds. The commissioners court shall act on the request in the same manner as it acts on a request from another county office.

(h) The county auditor shall serve as the board's fiscal officer.

(i) Sections 152.0002, 152.0004, 152.0005, 152.0006, and 152.0008 do not apply to the juvenile board of Cochran County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1993, 73rd Leg., ch. 476, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 128, eff. September 1, 2015.

Sec. 152.0471. COKE COUNTY. (a) The juvenile board of Coke County is composed of the county judge and the district judges in Coke County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not more than $1,200 payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Coke County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0481. COLEMAN COUNTY. (a) The Coleman County Juvenile Board is composed of the county judge and the district judges having jurisdiction in Coleman County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board chairman additional annual compensation of not more than $1,800 for the added duties imposed on the chairman. The commissioners court may pay each of the other members of the juvenile board additional annual compensation of not more than $300. The additional compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Coleman County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0491. COLLIN COUNTY. (a) The juvenile board of Collin County is composed of the county judge, the district judges in Collin County, and the judge of each county court at law.

(b) The juvenile court judge is the chairman of the board and

its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation of not more than $6,000 as compensation for the added duties imposed on the members. The additional compensation is payable in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Collin County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0492. COLLIN COUNTY SUPPORT PAYMENT COLLECTION. (a) The juvenile board of Collin County may appoint the district court clerk in Collin County to administer support payments for Collin County.

(b) The juvenile board may provide for the payment of a monthly support service fee in an amount set by the board not to exceed $2.50. The fee is assessed against the person ordered by a district court of Collin County to pay child or spousal support through the district clerk. The clerk shall add the fee to the first support payment each month.

(c) The district clerk shall collect the fees and shall transfer the money to the county treasurer on the last day of each month. The county treasurer shall deposit the fees to the credit of the county general fund.

(d) The service fee authorized by this section applies to child support, spousal support, and separate maintenance payments ordered before September 1, 1983, if the person ordered to make those payments defaults and is cited for contempt of court. The service fee becomes due and payable for each month after the hearing on the contempt citation.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0501. COLLINGSWORTH COUNTY. (a) The Collingsworth County Juvenile Board is composed of the county judge and the district judges in Collingsworth County.

(b) The juvenile court judge is the chairman of the board and

its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional monthly compensation set by the commissioners court at not less than $50 nor more than $150 for the added duties imposed on the members. The additional compensation shall be paid from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Collingsworth County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0511. COLORADO COUNTY. (a) The Colorado County Juvenile Board is composed of the county judge and the district judges in Colorado County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional monthly compensation set by the commissioners court at not less than $100 nor more than $400 for the added duties imposed on the members. The additional compensation shall be paid from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salary and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Colorado County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0521. COMAL COUNTY. (a) The Comal County Juvenile Board is composed of:

(1) the county judge;

(2) the judge of each county court at law in the county;

(3) the judge of the 22nd District Court;
(4) the judge of the 207th District Court;
(5) the judge of the 433rd District Court;
(6) the judge of the 274th District Court; and
(7) the criminal district attorney of Comal County.

(a-1) Repealed by Acts 2009, 81st Leg., R.S., Ch. 152, Sec. 2, eff. May 23, 2009.

(b) The commissioners court may pay the juvenile board members an annual salary in an amount set by the commissioners court as compensation for the additional duties imposed on the members. The compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(c) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Comal County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1995, 74th Leg., ch. 285, Sec. 1, eff. June 5, 1995; Acts 2003, 78th Leg., ch. 4, Sec. 1, eff. April 10, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1325 (H.B. 3515), Sec. 1, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 20, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 152 (S.B. 2134), Sec. 1, eff. May 23, 2009.

Acts 2009, 81st Leg., R.S., Ch. 152 (S.B. 2134), Sec. 2, eff. May 23, 2009.

Acts 2017, 85th Leg., R.S., Ch. 218 (S.B. 2255), Sec. 1, eff. September 1, 2017.

Sec. 152.0531. COMANCHE COUNTY. (a) Comanche County is included in the Bosque, Comanche, and Hamilton counties juvenile board. The juvenile board is composed of:
(1) the county judge in Bosque County;
(2) the county judge in Comanche County;
(3) the county judge in Hamilton County; and
(4) the 220th Judicial District judge.

(b) The 220th Judicial District judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court of Comanche County shall pay the county judge in Comanche County and the 220th Judicial District judge additional annual compensation set by the commissioners court at not less than the amount paid to a board member under this section on October 1, 1998. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Comanche County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 336, Sec. 2, eff. May 29, 1999.

Sec. 152.0541. CONCHO COUNTY. (a) The juvenile board of Concho County is composed of the county judge and the district judges in Concho County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the board chairman additional annual compensation of not more than $600 for the added duties imposed on the chairman. The commissioners court may pay the other board members additional annual compensation of not more than $300. The compensation shall be paid in equal monthly installments from the general fund or any other available fund.

(d) Sections 152.0002, 152.0004, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Concho County.

Added by Acts 1997, 75th Leg., ch. 1445, Sec. 1, eff. June 20, 1997.

Sec. 152.0551. COOKE COUNTY. (a) The Cooke County Juvenile Board is composed of the county judge, the district judges in Cooke County, and the judge of any statutory court designated as a juvenile court in the county.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not more than $1,200, payable in equal monthly installments from the general fund or any other available fund of the county.

(d) Section 152.0005(b) does not apply to the juvenile board of

Cooke County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0561. CORYELL COUNTY. (a) The juvenile board of Coryell County is composed of the county judge, the district judge or judges whose district includes Coryell County, and the judges of the county courts-at-law of Coryell County.

(b) The board shall select one of its members to serve as chairman and chief administrative officer. The chairman serves a one- or two-year term as determined by the board.

(c) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than the amount paid to a board member under this section on October 1, 1994. Compensation under this section must be the same amount for each board member. The additional compensation is paid in equal monthly installments from the general fund of the county.

(d) The board may apply for, accept, hold in trust, spend, and use a gift, grant, or donation of land, money, or other personal property from a government, corporate, personal, or other source to finance adequate and effective probation programs and services.

(e) Sections 152.0002, 152.0004, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Coryell County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1995, 74th Leg., ch. 467, Sec. 1, eff. Aug. 28, 1995.

Sec. 152.0571. COTTLE COUNTY. (a) Cottle County is included in the 50th Judicial District Juvenile Board.

(b) Section 152.0181 applies to the 50th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0581. CRANE COUNTY. (a) The Crane County Juvenile Board is composed of the county judge and the district judges in Crane County.

(b) The juvenile court judge is the chairman of the board and

its chief administrative officer.

(c) The commissioners court may pay the juvenile board chairman additional annual compensation of not more than $1,200. The commissioners court may pay the other members of the juvenile board additional annual compensation of not more than $600. The additional compensation is for the added duties imposed on the chairman and members and shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(d) The commissioners court shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Crane County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0591. CROCKETT COUNTY. (a) The Crockett County Juvenile Board is composed of the county judge and the district judges in Crockett County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 nor more than $3,600 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Crockett County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0601. CROSBY COUNTY. (a) The Crosby County Juvenile Board is composed of the county judge, the district judges in Crosby County, and one public member appointed by the judges.

(b) The public member serves a two-year term.

(c) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(d) The members of the juvenile board do not receive compensation for serving on the board.

(e) The chief probation officer may set the salaries and allowances of juvenile probation personnel with the approval of the board.

(f) Sections 152.0003 and 152.0005(b) do not apply to the juvenile board of Crosby County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0611. CULBERSON COUNTY. (a) The Culberson-Hudspeth Counties Juvenile Board is composed of the county judges and the district judges in Culberson and Hudspeth counties.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each calendar year.

(c) The commissioners courts shall pay the members of the juvenile board an annual salary set by the commissioners court at not less than $1,200, payable in equal monthly installments out of the general fund or any other available fund of the counties.

(d) If approved by the juvenile board, the commissioners courts shall reimburse each juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings relating to juvenile matters.

(e) The chief juvenile officer may set the salaries and allowances of juvenile probation personnel with the approval of the board.

(f) Unless the counties agree on a different method of allocating costs, each county shall pay the costs of the juvenile board in accordance with the ratio that the population of the county bears to the total population of the two counties.

(g) Section 152.0005(b) does not apply to the Culberson-Hudspeth Counties Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0621. DALLAM COUNTY. (a) The Dallam County Juvenile Board is composed of the county judge, the district judges in Dallam County, the judge of any statutory county court designated as a juvenile court, and one public member appointed by the commissioners

court.

(b) The public member serves a two-year term.

(c) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(d) The board shall hold regular meetings each year on dates set by the board and special meetings at the call of the chairman.

(e) The board may cooperate with other juvenile boards to provide adequate services.

(f) The commissioners court may pay the juvenile board members a salary in an amount set by the commissioners court.

(g) The chief juvenile probation officer may appoint necessary personnel with the approval of the board and with the advice and consent of the commissioners court.

(h) The juvenile board shall use the juvenile probation fund to pay as much of the salaries and allowances and other necessary expenses as possible. The commissioners court shall pay the other salaries, allowances, and necessary expenses from the general fund or any other available fund of the county.

(i) The board may accept aid, grants, and gifts from the state, other political subdivisions of the state, or associations for the sole purpose of financing adequate and effective probation programs. A municipality may grant and allocate money to the county government or to the juvenile board to support and maintain juvenile programs if the municipality's governing body approves the expenditure. The fiscal officer shall deposit funds received under this subsection in a special account.

(j) If approved by the commissioners court, the county shall reimburse each juvenile board member for the member's reasonable and necessary job-related expenses. Reimbursable expenses include travel, lodging, training, and educational activities.

(k) Sections 152.0002, 152.0004, 152.0005(a) and (b), and 152.0008(a) do not apply to the juvenile board of Dallam County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0631. DALLAS COUNTY. (a) The juvenile board of Dallas County is composed of:

(1) the county judge;

(2) one county commissioner appointed by the commissioners

court;

(3) each juvenile court judge;

(4) the local administrative judge;

(5) one judge of a district court in Dallas County that gives preference to family matters, appointed by the judges of those courts;

(6) one judge of a district court in Dallas County that gives preference to criminal matters, appointed by the judges of those courts;

(7) one judge of a district court in Dallas County that gives preference to civil matters, appointed by the judges of those courts; and

(8) the chairman of the youth services advisory board.

(b) The appointed members serve one-year terms.

(c) The board shall hold an annual meeting in January and at this meeting shall elect a chairman from among the members. The board shall hold other regular meetings as determined by the board at the January meeting and may meet at the call of the chairman or at the request to the chairman of at least two members. The board shall keep accurate and complete minutes of its meetings. The minutes are open to public inspection.

(d) All county facilities and programs for children, other than the facilities and programs operated by the Dallas County Mental Health and Mental Retardation or the Dallas County Hospital District, are under the board's jurisdiction.

(e) The juvenile board shall set policies for the juvenile probation department and other departments, facilities, and programs under the board's jurisdiction.

(f) The juvenile board may make an annual written report to the commissioners court that relates to the operations and efficiency of the juvenile probation department, the county and other institutions for the care of neglected, dependent, and delinquent children, and the other facilities and programs under the jurisdiction of the board and to the general adequacy of the juvenile services provided by the county. The board may include in the report any recommendations for improvements that the board considers necessary.

(g) The board may investigate the operations of the juvenile probation department, the county institutions for the care of neglected, dependent, or delinquent children, or any other facility or program under the board's jurisdiction, at the request of the

judges of the district courts in Dallas County. The board shall make a written report of the investigation to the commissioners court.

(h) The juvenile board may make any special studies or investigations it considers necessary to improve the operations of the juvenile probation departments and the county institutions under its jurisdiction.

(i) The juvenile board shall appoint a person to serve as the director of juvenile services and as chief juvenile probation officer.

(j) The board shall set the salary of the director of juvenile services. The director serves at the pleasure of the board.

(k) The board may apply for, accept, hold in trust, spend, and use a gift, grant, or donation of land, money, or other personal property from a governmental, corporate, personal, or other source to benefit the county facilities and programs under the jurisdiction of the board.

(l) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Dallas County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 12.05(a), eff. Aug. 26, 1991.

Sec. 152.0632. DALLAS COUNTY DIRECTOR OF JUVENILE SERVICES AND JUVENILE PROBATION DEPARTMENT. (a) The director of juvenile services in Dallas County is the chief administrative officer for the juvenile probation department and all facilities and programs under the jurisdiction of the juvenile board as authorized by the board.

(b) The director of juvenile services shall annually prepare under the juvenile board's direction a budget for the juvenile probation department, the county and other institutions for the care of neglected, dependent, and delinquent children, and the other facilities and programs under the jurisdiction of the juvenile board. The juvenile board shall approve the budget and submit the budget to the commissioners court for final approval in the same manner as prescribed by law for the other county agencies and departments.

(c) The director shall hire the employees of the juvenile probation department and of the county institutions and facilities

and programs under the jurisdiction of the juvenile board. The director may remove a juvenile probation department employee at any time.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 12.05(a), eff. Aug. 26, 1991.

Sec. 152.0633. DALLAS COUNTY DISTRICT AND COUNTY COURTS ADMINISTRATOR AND COURT SERVICES DEPARTMENT. (a) The district and county courts administrator is the chief administrative officer of the court services department of Dallas County.

(b) The local administrative district judge and the judges of the district courts in Dallas County that give preference to civil, criminal, family law, or juvenile matters shall, on a majority vote, appoint and set the salary of the district and county courts administrator. The administrator serves at the will of those judges.

(c) The commissioners court shall pay the salaries and expenses of the court services department employees as determined by the department budget submitted by the local administrative judge and approved by the commissioners court.

(d) A judge may not be subjected to a suit for, and is immune from liability for damages arising from, an act or omission committed while performing a duty under this section unless the act or omission is:

(1) committed intentionally, wilfully, or wantonly; or

(2) committed with:

(A) gross negligence; or

(B) conscious indifference or reckless disregard for the safety of others.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 12.05(a), eff. Aug. 26, 1991; Acts 2001, 77th Leg., ch. 658, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 1171 (H.B. 3531), Sec. 1, eff. October 1, 2005.

Sec. 152.06331. DALLAS COUNTY DOMESTIC RELATIONS OFFICE. (a)

The domestic relations office of Dallas County is established. Except to the extent of a conflict with this section, Chapter 203, Family Code, applies to the office, and the office has the powers and duties of a domestic relations office provided by that chapter.

(b) The judges of the district courts in Dallas County that give preference to family law matters shall, on a majority vote, appoint the director of the domestic relations office. The director serves at the will of those judges, except that those judges may delegate the decision to terminate the director's appointment to the presiding judge of those judges' courts.

(c) The judges of the district courts in Dallas County that give preference to family law matters shall, by majority vote, supervise the activities of the director and the domestic relations office, including the office's structure and budget, or those judges may delegate the supervisory duties to the presiding judge of those judges' courts.

(d) The domestic relations office shall report to the Dallas County district and county courts administrator, and the administrator shall report to the judges of the district courts in Dallas County that give preference to family law matters, regarding:

(1) the domestic relations office's performance of all matters relating to family court services or successor services and child support collection and administration; and

(2) all other functions performed by the office.

(e) The judges of the district courts in Dallas County that give preference to family law matters have final authority over decisions regarding the administration of the functions and duties of the domestic relations office and have the right to direct the district and county courts administrator to adopt and adhere to the policies adopted by the judges with regard to the domestic relations office.

(f) Fees for the preparation of a court-ordered child custody evaluation or adoption evaluation or any other services provided by the domestic relations office, other than services related to the collection of child support, must be reasonable and imposed on a sliding scale according to the financial resources of the parties using the services.

(g) A judge may not be subjected to a suit for, and is immune from liability for damages arising from, an act or omission committed while performing a duty under this section unless the act or omission

is:

(1) committed intentionally, wilfully, or wantonly; or

(2) committed with:

(A) gross negligence; or

(B) conscious indifference or reckless disregard for the safety of others.

Added by Acts 2005, 79th Leg., Ch. 1171 (H.B. 3531), Sec. 2, eff. October 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 3.08, eff. September 1, 2015.

Sec. 152.06332. DALLAS COUNTY CRIMINAL DISTRICT COURTS ADMINISTRATOR. (a) The criminal district courts administrator is the chief administrative officer of the criminal district courts in Dallas County.

(b) The judges of the district courts in Dallas County that give preference to criminal law matters shall, on a majority vote, appoint the criminal district courts administrator. The administrator serves at the will of a majority of those judges, except that those judges may delegate the decision to terminate the administrator's appointment to the presiding judge of those judges' courts.

(c) The judges of the district courts in Dallas County that give preference to criminal law matters shall, by majority vote, supervise the activities of the criminal district courts administrator, including the structure of the administrator's office and budget for that office, or those judges may delegate the supervisory duties to the presiding judge of those courts.

(d) The criminal district courts administrator shall report to the Dallas County district and county courts administrator, and the district and county courts administrator shall report to the judges of the criminal district courts in Dallas County, regarding all issues related to the criminal district courts.

(e) The judges of the district courts that give preference to criminal law matters in Dallas County have the final authority over decisions regarding the administration of the areas related to the criminal district courts in Dallas County and have the right to

direct the district and county courts administrator to adopt and adhere to the policies adopted by the judges with regard to the criminal district courts in Dallas County.

(f) A judge may not be subjected to a suit for, and is immune from liability for damages arising from, an act or omission committed while performing a duty under this section unless the act or omission is:

(1) committed intentionally, wilfully, or wantonly; or

(2) committed with:

(A) gross negligence; or

(B) conscious indifference or reckless disregard for the safety of others.

Added by Acts 2005, 79th Leg., Ch. 1171 (H.B. 3531), Sec. 2, eff. October 1, 2005.

Sec. 152.0636. CERTIFICATE OF INDEBTEDNESS FOR FACILITIES. (a) Certificates of indebtedness issued and sold by the Commissioners Court of Dallas County to acquire property and to construct, enlarge, furnish, equip, and repair buildings used as homes and schools for delinquent children that have been submitted to the attorney general, approved by the attorney general, and registered by the comptroller are incontestable.

(b) The certificates are legal and authorized investments for:

(1) banks;

(2) savings banks;

(3) trust companies;

(4) savings and loan associations;

(5) insurance companies;

(6) fiduciaries;

(7) trustees;

(8) guardians; and

(9) sinking funds of municipalities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies.

(c) The certificates are eligible to secure deposits of public funds of the state and of municipalities, counties, school districts, and other political subdivisions of the state. The certificates are lawful and sufficient security for deposits to the extent of their

market or face value, whichever is less, if accompanied by all unmatured coupons.

(d) The commissioners court shall continue to levy a tax that is sufficient to pay the principal of and interest on the certificates so long as certificates are outstanding.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0641. DAWSON COUNTY. (a) The juvenile board of Dawson County is composed of:

(1) the county judge and the district judges in Dawson County;

(2) the superintendent of the Lamesa Independent School District or the superintendent's designee;

(3) one citizen of Dawson County appointed by the county commissioners court; and

(4) one citizen of Dawson County appointed by the Lamesa City Council.

(b) Citizen members serve two-year terms.

(c) The county judge is the chairman of the juvenile board and its chief administrative officer.

(d) The county commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not more than $1,200, payable in equal monthly installments from the general fund of the county.

(e) Section 152.0005(b) does not apply to the juvenile board of Dawson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0651. DEAF SMITH COUNTY. (a) The Deaf Smith County Juvenile Board is composed of:

(1) the county judge;

(2) two persons appointed by the Hereford City Commission;

(3) two persons appointed by the commissioners court; and

(4) two persons appointed by the board of trustees of the Hereford Independent School District.

(b) The appointed members serve staggered two-year terms with the terms of one person appointed by the city, one person appointed

by the county, and one person appointed by the school district expiring on December 31 of each year.

(c) The board shall elect one of its members as chairman.

(d) Board members serve without compensation.

(e) The commissioners court, Hereford City Commission, and the board of trustees of the Hereford Independent School District may agree to pay equally the costs of the salaries and expenses of the juvenile department. The commissioners court, city commission, and board of trustees shall determine the length of the agreement. The city of Hereford and the Hereford Independent School District may appropriate and spend money to implement this subsection.

(f) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Deaf Smith County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0671. DENTON COUNTY. (a) The Denton County Juvenile Board is composed of the county judge, the district judges in Denton County, and the judge of any statutory court in the county.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The commissioners court shall pay the juvenile board members an annual salary set by the commissioners court at not less than $1,500, payable in equal monthly installments from the general fund of the county.

(d) If approved by the juvenile board, the commissioners court shall reimburse each juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings related to juvenile matters.

(e) Section 152.0005(b) does not apply to the juvenile board of Denton County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0681. DE WITT COUNTY. (a) The juvenile board of De Witt County is composed of the county judge and the district judges in De Witt County.

(b) The commissioners court may pay the juvenile board members

reasonable additional annual compensation in an amount set by the commissioners court as compensation for the added duties imposed on the members. The compensation may not be lower than the compensation paid to a member on August 29, 1977. The compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of De Witt County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0691. DICKENS COUNTY. (a) Dickens County is included in the 110th Judicial District Juvenile Board.

(b) Section 152.0291 applies to the 110th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0711. DONLEY COUNTY. (a) The Donley County Juvenile Board is composed of the county judges and the district judges in Donley County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional monthly compensation set by the commissioners court at not less than $50 nor more than $150 for the added duties imposed on the members. The additional compensation shall be paid from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Donley County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0721. DUVAL COUNTY. (a) The Duval County Juvenile Board is composed of the county judge, the district judge in Duval County, and a citizen of Duval County appointed by the county judge

and the district judge in Duval County. The citizen member of the board serves the same term of office as the district judge in Duval County.

(b) The district judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 or more than $10,000 for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) The juvenile board shall appoint not more than five persons to serve on an advisory council.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Duval County.

(f) The Duval County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Duval County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1999, 76th Leg., ch. 1143, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 908 (H.B. 2884), Sec. 34, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 21, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 702 (H.B. 2804), Sec. 1, eff. September 1, 2009.

Sec. 152.0731. EASTLAND COUNTY. (a) The Eastland County Juvenile Board is composed of the county judge, the judge of the 91st Judicial District, the criminal district attorney, and the county sheriff.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional compensation for the added duties imposed on the members. The compensation is in addition to any other salary a county attorney

or sheriff receives and is paid from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Eastland County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0741. ECTOR COUNTY. (a) The Ector County Juvenile Board is composed of the county judge, the district judges in Ector County, and the judge of each county court at law.

(b) The juvenile court judge is the chairman of the board.

(c) The county commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $4,800 nor more than $6,000. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) Each juvenile probation officer shall take the oath of office and the oath and the fact of the officer's appointment shall be filed with the county clerk. The juvenile board may require an officer to obtain a bond conditioned on the faithful performance of the officer's duties and payable to the county treasurer in an amount determined by the board.

(e) The commissioners court shall approve the salaries of the juvenile probation officers and other personnel and provide the necessary funds to pay their salaries and expenses. The county shall pay the salaries in equal monthly installments.

(f) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Ector County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1989, 71st Leg., ch. 596, Sec. 2, eff. Sept. 1, 1989.

Sec. 152.0742. COMPENSATION OF JUVENILE COURT JUDGE. (a) If designated as the juvenile court judge, the judge of the County Court at Law of Ector County may be paid additional annual compensation of not more than $3,000 for serving as juvenile court judge.

(b) The compensation shall be paid in equal monthly installments from the general fund of the county.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0751. EDWARDS COUNTY. (a) The juvenile board of Edwards County is composed of the county judge and the district judges in Edwards County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $3,600, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Edwards County.

(d) The juvenile board of Edwards County and the juvenile boards of one or more counties that are adjacent to or in close proximity to Edwards County may agree to operate together. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 818 (S.B. 1832), Sec. 1, eff. June 14, 2013.

Sec. 152.0761. ELLIS COUNTY. (a) The Ellis County Juvenile Board is composed of the county judge, the district judges in Ellis County, and the judge of each statutory court in the county.

(b) The juvenile board shall elect one of its members as chairman.

(c) The commissioners court shall pay the juvenile board members an annual salary of not less than $3,600, payable in equal monthly installments from the general fund or any other available fund of the county.

(d) The commissioners court shall pay the salaries of juvenile probation personnel and other expenses the chairman certifies as essential to provide services to children from the general fund of the county.

(e) Juvenile probation officers serve at the pleasure of the juvenile board.

(f) Sections 152.0004, 152.0005(b), and 152.0008 do not apply to the juvenile board of Ellis County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0771. EL PASO COUNTY. (a) The juvenile board of El Paso County is composed of:

(1) the county judge or:

(A) a member of the commissioners court designated by the county judge; or

(B) an individual who is not a member of the commissioners court and who is designated by the county judge and approved by the commissioners court by majority vote;

(2) each family district court judge;

(3) each juvenile court judge;

(4) up to five judges on the "El Paso Council of Judges" to be elected by majority vote of that council;

(5) a municipal judge from El Paso County selected by the chairman of the juvenile board of El Paso County; and

(6) a justice of the peace in El Paso County selected by the chairman of the juvenile board of El Paso County.

(b) Repealed by Acts 1993, 73rd Leg., ch. 317, Sec. 2, eff. Sept. 1, 1993.

(c) The juvenile board shall hold meetings at least once every three months in accordance with board rules.

(d) The board shall keep records as required by law and board rules.

(e) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(f) The commissioners court shall provide the juvenile probation officers with:

(1) automobiles and their maintenance and operation expenses for use in official duties; or

(2) an automobile allowance for the use of a personal automobile on official business in the amount determined to be necessary by the commissioners court.

(g), (h) Repealed by Acts 1993, 73rd Leg., ch. 317, Sec. 2, eff. Sept. 1, 1993.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 317, Sec. 1, 2, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 371, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 300 (H.B. 1334), Sec. 1, eff. June 14, 2013.

Sec. 152.0772. EL PASO COUNTY INSTITUTIONS. (a) The juvenile board of El Paso County shall appoint a person to supervise the county facilities under the jurisdiction of the juvenile board. The supervisor may be the county probation officer. The supervisor shall direct the policies and conduct of each institution.

(b) The juvenile board shall also appoint the head of each facility. The facility head may hire employees that the juvenile board determines are necessary.

(c) The facilities supervisor or employees under the supervisor's control shall supervise each child committed to a county institution until the child becomes of age. The supervisor or employees shall submit periodic reports to the juvenile board as required for the board's approval or action.

(d) The commissioners court shall provide the necessary funds to operate each institution.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0773. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN EL PASO COUNTY. (a) The juvenile board of El Paso County may designate the district clerk or the juvenile probation officer to collect and disburse court-ordered child or spousal support payments that are required by court order to be made to the county. The person designated to receive the payments shall disburse the payments in the manner the court believes to be in the best interest of the spouse or child.

(b) If the juvenile board designates the juvenile probation officer to receive the payments, the officer shall work in the court as an officer of the court. The officer shall obtain a surety bond in an amount determined by the county auditor from a solvent surety company authorized to make the bonds in this state and approved by

the county auditor. The bond shall be conditioned on the faithful performance of the officer's duties and on the proper accounting of the money entrusted to the officer.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0791. FALLS COUNTY. (a) Falls County is part of the Milam, Robertson, Falls Counties Juvenile Board. The juvenile board is composed of the county judges, the district judges in the counties, and the judges of any statutory court in the counties designated as a juvenile court. The board by unanimous vote may appoint five public members to serve on the board.

(b) The public members serve staggered terms of not more than two years as determined by the board.

(c) The board shall appoint one of its members as chairman at the beginning of each calendar year.

(d) The board shall hold biannual meetings on dates set by the board and special meetings at the call of the chairman.

(e) Service on a juvenile board by a judge is an additional duty of office. The commissioners courts may pay the judges on the juvenile board an amount that will reasonably compensate them for their added duties. Public members serve without compensation.

(f) The counties shall reimburse a juvenile board member for the member's actual and necessary expenses incurred in performing the member's duties.

(g) The juvenile board shall ensure that the chief juvenile officer and fiscal officer:

(1) keep the financial and statistical records and submit reports to the Texas Juvenile Justice Department as prescribed by Section 221.007; and

(2) submit periodic financial and statistical reports to the commissioners courts.

(h) The chief juvenile probation officer shall appoint an appropriate number of qualified juvenile probation officers, assistants, and support personnel with the approval of the board as necessary to perform the chief juvenile probation officer's duties. The chief juvenile probation officer and the personnel appointed under this section may be removed at any time by the appointing authority or by the juvenile board. The chief juvenile probation

officer shall recommend to the juvenile board the salaries of and allowances for juvenile probation officers, assistants, and support personnel. The juvenile board shall provide the chief juvenile probation officer and the officer's assistants with transportation or an automobile allowance for use of a personal automobile on official business.

(i) A claim for expenses from a person in the juvenile probation department must be made to the board chairman. The chairman shall certify to the fiscal officer the expenses to be paid from state funds and shall certify to the commissioners courts the expenses to be paid from county funds.

(j) The chairman of the board shall certify to the commissioners courts an annual request for the expenditure of county funds. The commissioners courts shall act on the request in the same manner as they act on a request from another county office.

(k) The board may accept state aid and grants or gifts from other political subdivisions of the state or associations to finance adequate and effective juvenile programs. A municipality may grant and allocate money to the juvenile board to support and maintain effective juvenile services if the municipality's governing body approves the expenditure. Funds received under this subsection shall be administered and kept separately from other public funds. This section does not affect a program of local enrichment of juvenile services funded by a service.

(l) Sections 152.0002, 152.0004, 152.0005, 152.0008, and 152.0009 do not apply to the Milam, Robertson, Falls Counties Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.019, eff. September 1, 2011.

Sec. 152.0801. FANNIN COUNTY. The Fannin County Juvenile Board is governed by Subchapter B.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 198 (S.B. 1886), Sec. 2, eff. May 28, 2011.

Sec. 152.0811. FAYETTE COUNTY. (a) The juvenile board of Fayette County is composed of:

(1) the county judge;

(2) the judge of each district court in Fayette County;

(3) the judge of each statutory county court in Fayette County; and

(4) a public member only if the total number of board members described by Subdivisions (1)-(3) is fewer than three or is an even number.

(a-1) A public member who serves on the board must be appointed by a majority of the other members of the board. The public member serves a two-year term.

(b) The commissioners court may pay the juvenile board members compensation of $1,200 annually for the duties imposed on the members. The compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(c) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Fayette County.

(d) The board member who has the greatest number of years of judicial service and is willing to serve is the chair of the board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 8.01, eff. September 1, 2019.

Sec. 152.0821. FISHER COUNTY. (a) Fisher County is included in the 32nd Judicial District Juvenile Board.

(b) Section 152.1831 applies to the 32nd Judicial District Juvenile Board.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(1), eff. October 1, 2017.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(1), eff. October 1, 2017.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(1), eff. October 1, 2017.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(1), eff. October 1, 2017.

(g) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(1), eff. October 1, 2017.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 246, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 1, eff. October 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(1), eff. October 1, 2017.

Sec. 152.0831. FLOYD COUNTY. (a) Floyd County is included in the 110th Judicial District Juvenile Board.

(b) Section 152.0291 applies to the 110th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0841. FOARD COUNTY. (a) Foard County is included in the 46th Judicial District Juvenile Board. The juvenile board is composed of:

(1) the county judges of Foard, Hardeman, and Wilbarger counties;

(2) the judge of the 46th Judicial District; and

(3) two public members appointed by the judges.

(b) The public members serve one-year terms.

(c) The district judge is the chairman of the board.

(d) Service on a juvenile board by a judge is an additional duty of office. The commissioners courts shall pay the judges on the juvenile board additional annual compensation of not more than $1,200 for the added duties imposed on them. The additional compensation shall be paid in equal monthly installments from the general funds of the counties.

(e) If approved by the juvenile board, each county shall reimburse the juvenile court judge in the county for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings relating to juvenile

problems.

(f) The commissioners courts shall provide the funds for the salaries of the juvenile probation officers in the amount set by the juvenile board.

(g) The commissioners courts shall pay the expenses of the juvenile probation officers that are certified as necessary by the juvenile board chairman from the general fund and in the amount set by the juvenile board.

(h) Sections 152.0004 and 152.0005(b) do not apply to the 46th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0851. FORT BEND COUNTY. (a) The juvenile board of Fort Bend County is composed of the county judge, the district judges in Fort Bend County, and the judge of each county court at law.

(b) The commissioners court shall pay the board members annual additional compensation in an amount set by the commissioners court. The additional compensation shall be paid in equal monthly installments from the general fund of the county. The judge of a county court at law is entitled to receive the same amount of additional compensation as the county judge receives.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Fort Bend County.

(d) The board by majority vote shall annually elect one of its members as chairman.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1997, 75th Leg., ch. 55, Sec. 1, eff. Sept. 1, 1997.

Sec. 152.0852. FORT BEND COUNTY CHILD SUPPORT OFFICE. (a) The judges of the district courts in Fort Bend County may establish a child support office in the county juvenile office to collect and disburse child support payments that are required by court order to be made to the office. The office shall disburse the payments in the manner the court believes to be in the best interest of the parties in the case.

(b) The judges of the district courts in a county served by an

office may appoint an administrator and other assistants to serve two-year terms. The administrator shall obtain a surety bond in an amount determined by the county auditor from a solvent surety company authorized to make the bonds in this state and approved by the county auditor. The bond shall be conditioned on the faithful performance of the administrator's duties and on the proper accounting of the money entrusted to the administrator. The county shall pay the premium for the bond from the general fund of the county, the child support fund, or any other available fund.

(c) The judges shall determine the duties of the administrator and assistants and set their salaries. The salaries are payable in equal monthly installments from the general fund of the county, the child support fund, or any other available fund. The judges must approve a claim for expenses made by the administrator or an assistant or a claim for administrative expenses in operating the child support office, including a claim for payment of equipment and supplies.

(d) The office shall keep an accurate and complete record of money received and disbursed under this section. The record is open for public inspection. The county auditor or other authorized county officer or employee shall inspect and examine the records and audit the accounts quarterly. The auditor shall report the results of the audit to the judges and include any recommendations the auditor may have.

(e) The child support office may serve one or more of Brazoria, Matagorda, or Wharton counties. If a child support office serves more than one county, the judges of the district courts in the counties shall determine the location of the office. The officers and employees of the county in which the office is located shall perform the duties prescribed by this section. The counties shall pay the salaries, bond premium, and other expenses in accordance with the ratio that the population of each county bears to the total population of all of the counties served by the office.

(f) The commissioners courts shall pay the district court judges $75 a month for performing the duties prescribed by this section. The compensation shall be paid from the general fund of the county and is in addition to any other compensation the judges receive.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0853. FORT BEND COUNTY CHILD SUPPORT SERVICE FEE. (a) The Fort Bend County child support office shall assess a monthly fee of not more than $10 for collecting and disbursing child support payments that are required by court order to be made to the office. The fee is payable annually and in advance.

(b) The payor of the support shall pay the fee unless the payor is a member of the armed services and the monthly child support payments exceed the amount the court orders the person to pay, in which case the payee shall pay the service fee for as long as the payor is a member of the armed services and the support payments exceed the amount the court orders the person to pay.

(c) The first fee payment is due on the date that the payor is ordered to begin the child support payments. If the payee must pay the fee, the first fee payment is due on the date that the payee receives the original support payment. Subsequent annual fees are due on the anniversary of the date of the original fee payment.

(d) A person who refuses or fails to pay the fee on the date due or in the amount ordered is subject to an action for contempt of court.

(e) Fees collected under this section shall be paid to the county treasurer on the last day of each calendar month. The county treasurer shall deposit the fees to the credit of the child support fund. The judges of the district courts in a county served by the office shall administer the fund, with the approval of the commissioners court, to assist in paying the salaries and expenses of the child support office.

(f) An accurate and complete record of money received under this section shall be kept. The county auditor or other authorized person shall audit the child support fund regularly. An annual report of the receipts and expenditures of the fund shall be made to the commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 12.04(a), eff. Aug. 26, 1991.

Sec. 152.0881. FRIO COUNTY. (a) The juvenile board of Frio

County is composed of the county judge and the district judges in Frio County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $4,800 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Frio County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0901. GALVESTON COUNTY. (a) The Galveston County Juvenile Board is composed of:

(1) the county judge;

(2) the district judges in Galveston County;

(3) the judge of each statutory county court;

(4) a municipal judge in Galveston County, selected by majority vote of all the municipal judges in the county; and

(5) a justice of the peace in Galveston County, selected by majority vote of all the justices of the peace in the county.

(b) The juvenile board annually shall elect its chairman and other officers.

(c) The juvenile board members do not receive compensation for serving on the juvenile board. The county commissioners court shall pay the members $75 per month for performing the additional duties prescribed by Sections 152.0902 and 152.0903.

(d) The board shall meet monthly to review the work of the chief juvenile probation officer and the other juvenile probation officers and to consider any matter relating to juveniles and the disposition of cases relating to juveniles pending before the juvenile court.

(e) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(f) The juvenile board may require a juvenile probation officer or facility superintendent to obtain a surety or personal bond in an amount determined by the board and conditioned on the faithful

performance of the person's duties.

(g) The board chairman shall certify a claim for expenses as being necessary for the performance of the officer's duties. The county commissioners court shall provide the necessary funds to pay the salaries and expenses.

(h) The commissioners court shall appoint a citizens' advisory committee composed of not more than 15 persons. The committee shall consult with the juvenile board and the commissioners court on matters relating to juveniles. The committee annually shall elect a chairman and other officers and may meet at its own discretion.

(i) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Galveston County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1140, Sec. 1, eff. Sept. 1, 1999.

Sec. 152.0902. GALVESTON COUNTY INSTITUTIONS. (a) The juvenile board of Galveston County controls and supervises each county facility used for the detention of juveniles.

(b) The juvenile board by majority vote may adopt any order or regulation necessary to the welfare of juveniles in a county facility. The chief juvenile probation officer shall enter each order or regulation in a book kept for that purpose and shall certify the order or regulation and deliver a copy to each facility superintendent or person in charge of a facility. The superintendent or other person and each juvenile probation officer shall comply with the order or regulation.

(c) The juvenile board may require the superintendent or person in charge of a facility to submit to the board reports containing information required by the board.

(d) The criminal district attorney of Galveston County shall assign an attorney in the district attorney's office to represent the juvenile board and probation officers in protecting the rights of children in abandonment cases and proceedings.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0903. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN GALVESTON COUNTY. (a) The juvenile board of Galveston County may require a juvenile probation officer to collect and disburse child support payments that are required by court order to be made to a court in the county.

(b) The juvenile probation officer shall keep a record of money received and disbursed in a well-bound book subject to public inspection in the probation office. The county auditor shall audit the records.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0911. GARZA COUNTY. (a) The Garza County Juvenile Board is composed of the county judge, the district judges in Garza County, and the judge of any statutory court in the county designated as a juvenile court. The juvenile court judge may appoint five citizen members to serve on the board for a term set by the judge.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not more than $120, payable in equal monthly installments from the general fund or any other available fund of the county. The citizen members serve without compensation.

(d) The chief juvenile probation officer may set the salaries and allowances of juvenile probation personnel with the approval of the board.

(e) Section 152.0005(b) does not apply to the juvenile board of Garza County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0921. GILLESPIE COUNTY. (a) The juvenile board of Gillespie County is composed of the county judge and the district judges in Gillespie County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $600 nor more than $1,200, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Gillespie County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0931. GLASSCOCK COUNTY. (a) Glasscock County is included in the 118th Judicial District Juvenile Board. The juvenile board is composed of the county judges and the district judges in Glasscock, Howard, and Martin counties.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each calendar year.

(c) The juvenile board shall hold regular quarterly meetings at the call of the chairman.

(d) The chief juvenile probation officer may set the salaries and allowances of juvenile probation personnel with the approval of the board.

(e) Each county shall pay the expenses of the juvenile board in accordance with the ratio that the population of the county bears to the total population of the three counties.

(f) Each county judge who is a member of the board shall appoint two citizens to serve on an advisory council. A vacancy on the juvenile board is filled by the county judge who appointed the original member.

(g) Sections 152.0002, 152.0003, and 152.0005(b) do not apply to the 118th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0941. GOLIAD COUNTY. (a) The juvenile board of Goliad County is composed of the county judge and the district judges in Goliad County.

(b) The commissioners court may pay the juvenile board members reasonable additional annual compensation in an amount set by the commissioners court as compensation for the added duties imposed on the members. The compensation may not be lower than the compensation paid to a member on August 29, 1977. The compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0004, and 152.0005 do not apply to

the juvenile board of Goliad County.

(d) The juvenile board of Goliad County and the juvenile boards of one or more counties that are adjacent to or in close proximity to Goliad County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 8.02, eff. September 1, 2019.

Sec. 152.0951. GONZALES COUNTY. (a) The Gonzales County Juvenile Board is composed of the county judge and the district judges in Gonzales County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional monthly compensation set by the commissioners court at not less than $100 nor more than $400 for the added duties imposed on the members. The additional compensation shall be paid from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Gonzales County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0961. GRAY COUNTY. (a) The Gray County Juvenile Board is composed of the county judge and the district judges in Gray County.

(b) The county judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members

additional compensation in an amount that will reasonably compensate them for their added duties. The commissioners court shall also reimburse the members for the members' actual and necessary expenses incurred in performing their duties. The commissioners court may not reduce the members' compensation or expenses below the amount paid to the members as compensation and expenses on June 6, 1979. Each member shall receive equal compensation.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Gray County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0971. GRAYSON COUNTY. (a) The juvenile board of Grayson County is composed of the county judge and the district judges in Grayson County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional compensation in an amount set by the commissioners court. The additional compensation is for the added duties imposed on the members and shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Grayson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.0981. GREGG COUNTY. (a) The Gregg County Juvenile Board is composed of the county judge, the district judges in Gregg County, and the judge of each county court at law.

(b) The county judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary in an amount set by the commissioners court. The salary is for the added duties imposed on the members and shall be

paid in equal monthly installments from the general fund of the county.

(d) Repealed by Acts 1989, 71st Leg., 1st C.S., ch. 17, Sec. 2, eff. Sept. 1, 1989.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 17, Sec. 1, 2, eff. Sept. 1, 1989.

Sec. 152.0991. GRIMES COUNTY. (a) The juvenile board of Grimes County is composed of the county judge, the district judges in Grimes County, and the judge of each county court at law in the county.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 annually, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Grimes County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2005, 79th Leg., Ch. 1152 (H.B. 3045), Sec. 1, eff. June 18, 2005.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 8.03, eff. September 1, 2019.

Sec. 152.1001. GUADALUPE COUNTY. (a) The Guadalupe County Juvenile Board is composed of the county judge and the district judges in Guadalupe County. The county judge may add the judge of the county court at law to the board or may, from time to time, designate the judge of the county court at law to serve on the board in the county judge's place.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional monthly compensation set by the commissioners court at not less than $100 nor more than $400 for the added duties

imposed on the members. The additional compensation shall be paid from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salary and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Guadalupe County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1011. HALE COUNTY. (a) The juvenile board of Hale County is composed of the county judge, the district judges in Hale County, and the judge of any statutory court designated as a juvenile court in the county.

(b) The juvenile board shall elect one of its members as chairman.

(c) The commissioners court shall pay the members of the juvenile board an annual salary set by the commissioners court at not less than $1,200, payable in equal monthly installments from the general fund of the county.

(d) The commissioners court shall pay the salaries and expenses of juvenile probation personnel and other expenses the chairman certifies as essential to provide services to children from the general funds or any other available funds of the county.

(e) A member of the juvenile board is not liable in civil damages or for criminal prosecution for an action taken by the juvenile board.

(f) The juvenile board shall appoint an advisory council composed of five citizens from different parts of Hale County.

(g) Sections 152.0004 and 152.0005(b) do not apply to the juvenile board in Hale County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1993, 73rd Leg., ch. 454, Sec. 2, eff. Aug. 30, 1993.

Sec. 152.1021. HALL COUNTY. (a) The Hall County Juvenile Board is composed of the county judges and the district judges in

Hall County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional monthly compensation set by the commissioners court at not less than $50 nor more than $150 for the added duties imposed on the members. The additional compensation shall be paid from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Hall County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1031. HAMILTON COUNTY. (a) Hamilton County is included in the Bosque, Comanche, and Hamilton counties juvenile board. The juvenile board is composed of:

(1) the county judge in Bosque County;

(2) the county judge in Comanche County;

(3) the county judge in Hamilton County; and

(4) the 220th Judicial District judge.

(b) The 220th Judicial District judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court of Hamilton County shall pay the county judge in Hamilton County and the 220th Judicial Disrict judge additional annual compensation set by the commissioners court at not less than the amount paid to a board member under this section on October 1, 1998. The compensation shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Hamilton County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 336, Sec. 3, eff. May 29, 1999.

Sec. 152.1041. HANSFORD COUNTY. (a) The Hansford County Juvenile Board is composed of the county judge, the district judges

in Hansford County, and the judge of any statutory county court designated as a juvenile court.

(b) The board shall hold regular meetings each year on dates set by the board and special meetings at the call of the chairman.

(c) The board may cooperate with other juvenile boards to provide adequate services.

(d) The commissioners court may pay the juvenile board members a salary in an amount set by the commissioners court.

(e) The county auditor shall serve as the board's fiscal officer.

(f) The chief juvenile probation officer may appoint necessary personnel with the approval of the board and with the advice and consent of the commissioners court.

(g) The juvenile board shall use the juvenile probation fund to pay as much of the salaries and allowances, and other necessary expenses as possible. The commissioners court shall pay the other salaries, allowances, and necessary expenses from the general fund or any other available fund of the county.

(h) The board may accept aid, grants, or gifts from the state, other political subdivisions of the state, or associations for the sole purpose of financing adequate and effective probation programs. A municipality may grant and allocate money to the county government or to the juvenile board to support and maintain juvenile programs if the municipality's governing body approves the expenditure. The fiscal officer shall deposit funds received under this subsection in a special account.

(i) If approved by the commissioners court, the county shall reimburse each juvenile board member for the member's reasonable and necessary job-related expenses. Reimbursable expenses include travel, lodging, training, and educational activities.

(j) Sections 152.0002, 152.0004, 152.0005(a) and (b), 152.0006, and 152.0008(a) do not apply to the juvenile board of Hansford County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1051. HARDEMAN COUNTY. (a) Hardeman County is included in the 46th Judicial District Juvenile Board.

(b) Section 152.0841 applies to the 46th Judicial District

Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1061. HARDIN COUNTY. (a) The Hardin County Juvenile Board is composed of the county judge and the district judges in Hardin County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not more than $5,000 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Hardin County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1071. HARRIS COUNTY. (a) The juvenile board of Harris County is composed of:

(1) the county judge;

(2) the juvenile court judges;

(3) one judge of a district court that primarily hears family law matters, selected by those judges;

(4) one judge of a district court that primarily hears criminal law cases, selected by those judges;

(5) one judge of a district court that primarily hears civil cases, selected by those judges; and

(6) a justice of the peace in Harris County, selected by majority vote of all of the justices of the peace in the county.

(b) At the first meeting in January each year the board shall elect a chairman from among the members. The board shall hold regular monthly meetings and may meet at the call of the chairman or

at the written request to the chairman of at least two members. The board shall keep accurate and complete minutes of its meetings. The minutes are open to public inspection.

(c) Subject to the approval of the commissioners court, the juvenile board shall establish a general personnel policy for the employees of the probation department and the county institutions under the jurisdiction of the board. The board shall establish and maintain an employee classification system that includes:

(1) an accurate statement of the duties of each employee position;

(2) the qualifications for each position; and

(3) a compensation plan that ensures equal pay for equal work.

(d) The juvenile board shall make an annual written report to the commissioners court that relates to the operations and efficiency of the juvenile probation department and the county institutions under the jurisdiction of the board and to the general adequacy of the juvenile services provided by the county. The board may include in the report any recommendations for improvements that the board considers necessary.

(e) The board shall investigate the operations of the juvenile probation department and the county institutions under the jurisdiction of the board at the request of the juvenile court judge. The board shall make a written report of the investigation to the commissioners court.

(f) The juvenile board may make any special studies or investigations it considers necessary to improve the operations of the juvenile probation departments and the county institutions under its jurisdiction.

(g) Subject to the approval of the commissioners court, the board may accept and hold in trust a grant or donation of land, money, or other personal property to benefit the county facilities under the jurisdiction of the board.

(h) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Harris County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 741, Sec. 1, eff. Sept. 1, 1999.

Sec. 152.1072. HARRIS COUNTY JUVENILE PROBATION DEPARTMENT. (a) The Harris County chief probation officer is the chief administrative officer of the juvenile probation department and the director of the county institutions under the jurisdiction of the juvenile board.

(b) The chief probation officer shall annually prepare under the juvenile board's direction a budget for the juvenile probation department and the county institutions under the jurisdiction of the juvenile board. The juvenile board shall approve the budget and submit the budget to the commissioners court for final approval in the same manner prescribed by law for the other county agencies and departments.

(c) The chief probation officer shall hire the employees of the juvenile probation department and of the county institutions under the jurisdiction of the juvenile board. The chief probation officer may remove an employee at any time. The appointment and removal of supervisors of the probation department and of superintendents of county institutions are subject to approval by the juvenile board. The commissioners court shall pay the salaries and expenses of the employees as determined by the budget submitted by the juvenile board and approved by the commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1073. HARRIS COUNTY BOARD OF PROTECTIVE SERVICES FOR CHILDREN AND ADULTS. (a) In this section:

(1) "Board" means the Harris County Board of Protective Services for Children and Adults.

(2) "Director" means the highest administrative officer who is responsible to the board.

(3) "Institution" means an institution for the care and protection of children who have been abandoned or abused, or are for any other reason in need of protective services. The term does not include a detention facility for delinquent children or children in need of supervision or a facility primarily for children with severe psychological or other medical conditions.

(b) The board has the powers and duties of a child welfare board created under Section 264.005, Family Code.

(c) The board may, with the approval of the commissioners

court, assume jurisdiction, management, and control over a county owned institution. If the board assumes control and management of an institution, the board shall perform the functions in relation to the institutions that the juvenile board and chief probation officer of Harris County formerly performed.

(d) The board may designate the director or a specially designated assistant as the director of one or more institutions.

(e) The board may hire and remove institution employees. The board shall establish a general personnel policy for institution employees and shall pay the salaries and expenses of the employees from funds supplied by the commissioners court under the annual budget or supplemental budget approved by the commissioners court or from funds supplied by the state or other sources.

(f) The board shall prepare an annual budget for the institutions and submit the budget to the commissioners court for final approval as prescribed by law for other county agencies and departments. The board shall also make an annual report to the commissioners court on the operations and efficiency of the institutions.

(g) In addition to the authority granted to the board by the commissioners court and the Texas Department of Human Services, the board may:

(1) disburse funds from sources other than the commissioners court and the Texas Department of Human Services to benefit children under this section and to provide care, protection, evaluation, training, treatment, education, and recreation to those children;

(2) refuse to accept any funds the board considers to be inappropriate, incompatible, or burdensome to board policies or the provision of services;

(3) accept a gift or grant of real or personal property or accept support under or an interest in a trust to benefit children under this section and hold the gift or grant directly or in trust;

(4) use a gift or grant to benefit children under this section and to provide care, protection, education, or training to those children;

(5) accept and disburse as provided by Subdivision (1) fees and contributions from parents, guardians, and relatives of children who are:

(A) in county supported substitute care or custody; or

(B) being assisted by casework, day care, or homemaker services, by medical, psychological, dental, or other remedial help, or by teaching, training, or other services;

(6) account for and spend funds the board receives as fees, contributions, payments made by guardians, or payments made to benefit a child in the board's legal custody;

(7) receive and disburse funds available to support or benefit a child in the board's legal custody, including social security benefits, life insurance proceeds, survivors' pension or annuity benefits, or a beneficial interest in property; and

(8) receive and use funds, grants, and assistance available to the board from a federal or state department or agency to carry out the functions and programs of the department or agency that is designed to aid or extend programs and operations approved by the board.

(h) The board shall designate the director or an assistant to apply for letters of guardianship if necessary to receive funds under Subsection (g)(7). The director or an assistant may:

(1) apply for and disburse the funds to provide special items of support for children under this section or to pay general administrative expenses relating to services under this section;

(2) hold the funds in trust; or

(3) apply the funds for a particular or more restricted purpose as required by law or the source of the funds.

(i) The board may delegate to the director or an assistant any function or duty authorized or prescribed by this section. If the board delegates the duty to prepare the annual budget and report, the board must approve the budget and report before they are submitted to the commissioners court. The board may periodically review any delegation.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.50, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 60 (H.B. 1763), Sec. 1, eff. May 11, 2007.

Acts 2007, 80th Leg., R.S., Ch. 60 (H.B. 1763), Sec. 2, eff. May 11, 2007.

Sec. 152.1074. HARRIS COUNTY CHILD SUPPORT DEPARTMENT. (a) The Harris County Commissioners Court may create a child support department to receive, disburse, and record payments of restitution and child and spousal support made to the department under a court order or may designate by order a county officer to create a child support office within the officer's department to receive, disburse, and record payments of restitution and child and spousal support made to the office under a court order. The commissioners court may rescind the order designating the officer at any time.

(b) The commissioners court may appoint an advisory board to advise the court on matters relating to the policies and procedures of the child support department. The advisory board consists of seven judges of district courts in Harris County whose courts specialize in family or juvenile cases.

(c) If the commissioners court creates a child support department, the commissioners court shall appoint a director to serve at the pleasure of the commissioners court. The director may hire additional employees subject to the approval of the commissioners court. The director must execute a bond with a solvent surety company authorized to execute bonds of this type in the state. The bond shall be payable to the county judge and conditioned on the director's faithful performance of his duties and on the director properly accounting for any funds entrusted to him. The commissioners court shall set the amount of the bond and shall pay the premium for the bond out of the general funds of the county.

(d) The director or the director's agent or the county officer designated to create an office of child support within the county officer's department or the county officer's agent shall receive the payments made under this section. The director or the director's agent or the county officer designated to create an office of child support within the county officer's department or the county officer's agent shall disburse the funds in the manner the district court determines to be in the best interests of the parties involved in the case and in accordance with departmental policies as approved by the commissioners court.

(e) The director or the county officer designated to create an office of child support within the county officer's department or the county officer's agent shall keep an accurate and complete record of all receipts and disbursements of funds under this section. The county auditor shall inspect the record, audit the accounts annually,

and make a report of the auditor's findings and recommendations to the commissioners court.

(f) To recover the costs of providing services, the commissioners court may provide by order for the collection by the district clerk of a fee set by the commissioners court at an amount that does not exceed $12. A person who files a suit for divorce, annulment, or to declare a marriage void in which the parties are parents of a child, as that term is defined by Section 101.003, Family Code, shall pay the fee at the time the suit is filed.

(g) The commissioners court may provide by order for the collection by the department of a fee not to exceed $2 for each transaction, other than the receipt of a payment of support, in connection with a suit for spousal support or a suit affecting the parent-child relationship, including services relating to the location of an absent parent, an accounting of support payments, a computer printout of payment history, and a monthly notification of the nonpayment of support.

(h) Each year the commissioners court may set aside an amount equal to not more than four percent of the amount of fees collected under this section during the previous year to provide self-insurance for errors and omissions.

(i) The commissioners court may contract with a private entity to provide any part of the services this section authorizes the department to provide or, in lieu of establishing the child support department, may contract with a private entity to provide all of the services this section authorizes the department to provide.

(j) If the commissioners court contracts with a private entity to collect or disburse support payments or the fee prescribed by this section, the commissioners court shall require the entity to keep accurate and complete records of all receipts and disbursements. The entity shall permit the county auditor to inspect the entity's records and audit the accounts annually. The commissioners court shall also require the entity to execute a surety bond. The bond must be similar to the bond required by Subsection (c), but the commissioners court may not pay the premium for the bond.

(k) If the commissioners court designates a county officer to create an office of child support within the county officer's department, the county officer shall serve as the director of the child support department. The county officer may hire additional employees subject to the approval of the commissioners court. The

county officer must execute a bond with a solvent surety company authorized to execute bonds of this type in this state. The bond shall be payable to the county judge and conditioned on the county officer's faithful performance of the duties entrusted to him under this section and on the county officer's properly accounting for any funds entrusted to him. The commissioners court shall set the amount of the bond and shall pay the premium for the bond out of the general funds of the county.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 12.06(a), eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 364, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 7.51, eff. Sept. 1, 1997.

Sec. 152.1076. CERTIFICATE OF INDEBTEDNESS FOR FACILITIES. (a) Certificates of indebtedness issued and sold by the commissioners court of Harris County to acquire property and to construct, enlarge, furnish, equip, and repair buildings used as homes and schools for delinquent children that have been submitted to the attorney general, approved by the attorney general, and registered by the comptroller are incontestable.

(b) The certificates are legal and authorized investments for:

(1) banks;

(2) savings banks;

(3) trust companies;

(4) savings and loan associations;

(5) insurance companies;

(6) fiduciaries;

(7) trustees;

(8) guardians; and

(9) sinking funds of municipalities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies.

(c) The certificates are eligible to secure deposits of public funds of the state and of municipalities, counties, school districts, and other political subdivisions of the state. The certificates are lawful and sufficient security for deposits to the extent of their market or face value, whichever is less, if accompanied by all unmatured coupons.

(d) The commissioners court shall continue to levy a tax that is sufficient to pay the principal of and interest on the certificates so long as certificates are outstanding.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1081. HARRISON COUNTY. (a) The Harrison County Juvenile Board is composed of the county judge, the district judges in Harrison County, and the judge of each county court at law.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional compensation in an amount set by the commissioners court. The additional compensation is for the added duties imposed on the members and shall be paid in equal monthly installments from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Harrison County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1091. HARTLEY COUNTY. (a) The Hartley County Juvenile Board is composed of the county judge, the district judges in Hartley County, and the judge of any statutory court designated as a juvenile court.

(b) The board shall hold regular meetings each year on dates set by the board and special meetings at the call of the chairman.

(c) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(d) The board may cooperate with other juvenile boards to provide adequate services.

(e) The commissioners court may pay the juvenile board members a salary in an amount set by the commissioners court.

(f) The chief juvenile probation officer may appoint necessary

personnel with the approval of the board and with the advice and consent of the commissioners court.

(g) The juvenile board shall use the juvenile probation fund to pay as much of the salaries and allowances and other necessary expenses as possible. The commissioners court shall pay the other salaries, allowances, and necessary expenses from the general fund or any other available fund of the county.

(h) The board may accept aid, grants, or gifts from the state, other political subdivisions of the state, or associations for the sole purpose of financing adequate and effective probation programs. A municipality may grant and allocate money to the county government or to the juvenile board to support and maintain juvenile programs if the municipality's governing body approves the expenditure. The fiscal officer shall deposit funds received under this subsection in a special account.

(i) If approved by the commissioners court, the county shall reimburse each juvenile board member for the member's reasonable and necessary job-related expenses. Reimbursable expenses include travel, lodging, training, and educational activities.

(j) Sections 152.0002, 152.0004, 152.0005(a) and (b), and 152.0008(a) do not apply to the Hartley County Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1101. HASKELL COUNTY. (a) Haskell County is included in the 39th Judicial District Juvenile Board. The juvenile board is composed of:

(1) the county judge of Haskell County;
(2) the county judge of Kent County;
(3) the county judge of Stonewall County;
(4) the county judge of Throckmorton County; and
(5) the 39th Judicial District judge.

(b) The juvenile court judge may appoint two public members to serve on the board for a term set by the judge.

(c) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(d) The commissioners court of each county shall pay the county judge of that county and the 39th Judicial District judge additional annual compensation of not more than $6,000, payable in

equal monthly installments from the general fund or any other available fund of the county, for the added duties imposed on the judges under this section. The public members serve without compensation.

(e) If approved by the juvenile board, the commissioners court shall reimburse the juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings related to juvenile problems. The counties shall prorate the expenses allowed for the members of the juvenile board and for the juvenile court judge.

(f) The commissioners court of each county shall jointly provide the necessary funds to pay the salaries of the juvenile probation personnel in the amount set by the juvenile board.

(g) The commissioners court of each county shall jointly pay the expenses of the juvenile probation officers that are certified as necessary by the juvenile board chairman from the general fund and in the amount set by the juvenile board.

(h) Sections 152.0004 and 152.0005(b) do not apply to the juvenile board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 65 (S.B. 1811), Sec. 1, eff. September 1, 2009.

Sec. 152.1111. HAYS COUNTY. (a) The juvenile board of Hays County is composed of the county judge, the district judge of the 22nd judicial district, the judges of the county court at law, the county sheriff, and the criminal district attorney.

(b) The commissioners court may pay the juvenile board members additional annual compensation in an amount determined by the commissioners court. The additional compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(c) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Hays County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1997, 75th Leg., ch. 709, Sec. 1, eff. Sept. 1, 1997.

Sec. 152.1121. HEMPHILL COUNTY. (a) The Hemphill County Juvenile Board is composed of the county judge and the district judges in Hemphill County.

(b) The juvenile board shall select one of its members to act as chairman.

(c) The commissioners court may pay the juvenile board members additional compensation in an amount that will reasonably compensate them for their added duties. The board members shall receive the same compensation.

(d) The commissioners court shall reimburse the juvenile board members for the members' actual and necessary expenses incurred in performing their duties.

(e) The juvenile board shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties.

(f) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Hemphill County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1131. HENDERSON COUNTY. (a) The juvenile board of Henderson County is composed of:

(1) the county judge;

(2) the judges of the 3rd, 173rd, and 392nd judicial districts;

(3) the judges of the county courts at law; and

(4) the county attorney.

(b) The juvenile board shall elect one of its members as chairman at its first regular meeting of each fiscal year.

(c) The commissioners court shall pay the 173rd and 392nd district judges and the county court at law judges an amount set by the commissioners court at not less than $750 a month and shall pay the 3rd district judge an amount set by the commissioners court at not less than one-third of the amount paid to the 173rd or 392nd district judge or the county court at law judges. The commissioners court shall pay the other juvenile board members an amount set by the commissioners court at not less than $250 a month. The compensation is in addition to other compensation provided or allowed by law.

(d) The county attorney shall file, prosecute, and try on

behalf of the state all juvenile cases in the juvenile court. A district attorney with jurisdiction in Henderson County shall act for the county attorney at the request of the juvenile court judge if the county attorney is ill or unable to perform his duties.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Henderson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 332, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 377, Sec. 3(b), eff. Sept. 1, 2003.

Sec. 152.1141. HIDALGO COUNTY. (a) The Hidalgo County Juvenile Board is composed of the county judge and the district judges in Hidalgo County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not more than $8,000 for the added duties imposed on the members. The compensation shall be paid in equal monthly installments from the general fund of the county.

(c) The commissioners court may reimburse the juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings relating to juvenile matters. The annual amount for which the judge may be reimbursed may not exceed $600.

(d) The juvenile board may require a board employee to enter into a bond payable to the board, conditioned on the faithful performance of the person's duties. The board shall pay the premium of the bond. The board may suspend or remove an employee for good cause.

(e) The commissioners court shall provide the juvenile probation officers with:

(1) automobiles and their maintenance and operation for use in official duties; or

(2) an automobile allowance in the amount the commissioners court determines to be necessary for use of a personal automobile on official business.

(f) The board shall control and supervise each county facility used to train, educate, detain, support, or correct juveniles. The

board shall appoint the superintendent of each institution.

(g) The board may accept gifts or grants of real or personal property subject to the terms and conditions of the gift or grant to use for the benefit of the juvenile justice system.

(h) The board shall submit an annual budget to the county commissioners court. The commissioners court may appropriate and the juvenile board shall use money from the county general fund to administer this section.

(i) The board may authorize the use of foster homes for the temporary care of a child alleged to be a child in need of supervision or a delinquent child or a child that is dependent or neglected.

(j) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(b) do not apply to the juvenile board of Hidalgo County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1142. HIDALGO COUNTY COURT CONFERENCE COMMITTEE. (a) A law enforcement officer in Hidalgo County may refer to the court conference committee a child who:

(1) has been charged with a Class C misdemeanor (first offense only);

(2) is a status offender; or

(3) is a truant or runaway.

(b) This section does not affect:

(1) the authority of a law enforcement officer under Title 3, Family Code; or

(2) the duty of a law enforcement officer to report a case to a state or local child protective services agency.

(c) In this section:

(1) "Child" has the meaning assigned by Section 51.02, Family Code.

(2) "Court conference committee" means the county juvenile probation program's court conference committee.

Added by Acts 1993, 73rd Leg., ch. 527, Sec. 1, eff. Aug. 30, 1993.

Sec. 152.1151. HILL COUNTY. (a) The juvenile board of Hill County is composed of the county judge, the statutory county court

judges, and the district judges in Hill County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not more than $2,400 as compensation for the added duties imposed on the members. The compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Hill County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 959 (H.B. 1622), Sec. 4, eff. September 1, 2005.

Sec. 152.1161. HOCKLEY COUNTY. (a) The Hockley County Juvenile Board is composed of the county judge, the district judge in Hockley County, the judge of any statutory court designated as a juvenile court in the county, and the juvenile court referee, if any. Subject to approval by the commissioners court, the chairman shall appoint five public members to serve on the board for a period of two years. A public member may be reappointed to the board.

(b) The county judge is the chairman of the juvenile board. The district judge is the vice-chairman and acts as chairman if:

(1) the chairman is absent or disabled; or

(2) the office of county judge is vacant.

(c) The board shall hold regular meetings at least annually on dates set by the board and shall hold special meetings at the call of the chairman. All meetings shall be held at a site in Hockley County.

(d) The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not more than $600, payable in equal monthly installments from the general fund or any other available fund of the county. Public members serve without compensation.

(e) The commissioners court may reimburse a juvenile board

member for the member's reasonable and necessary job-related expenses. Reimbursable expenses include travel, lodging, training, and educational activities.

(f) The juvenile board shall pay the salaries of juvenile probation personnel and other expenses the chairman certifies as essential to provide services to the children of Hockley County from the juvenile board fund to the extent of the state aid received in the fund. The salaries approved by the commissioners court may be paid from funds received for that purpose from the Texas Juvenile Justice Department. The commissioners court shall pay the remaining approved salaries of juvenile probation personnel and other expenses certified as necessary by the juvenile board chairman from the general funds of the county.

(g) The chairman of the juvenile board shall certify to the commissioners court an annual request for the expenditure of county funds. The commissioners court shall act on the request in the same manner as it acts on a request from another county office.

(h) The county auditor shall serve as the board's fiscal officer.

(i) Sections 152.0002, 152.0004, 152.0005, 152.0006, and 152.0008 do not apply to the juvenile board of Hockley County.

Added by Acts 1989, 71st Leg., ch. 513, Sec. 10, eff. Sept. 1, 1989.
Amended by Acts 1993, 73rd Leg., ch. 476, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 129, eff. September 1, 2015.

Sec. 152.1182. COMPENSATION OF JUVENILE COURT JUDGE. (a) The commissioners court shall pay the juvenile court judge of Hopkins County an annual salary set by the commissioners court at not less than $2,400 nor more than $3,600 for serving as juvenile court judge.

(b) The compensation is in addition to any other compensation the judge receives and is payable in equal monthly installments from the general fund, salary fund, or any other available fund of the county.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1191. HOUSTON COUNTY. (a) The juvenile board of Houston County is composed of the county judge, the district judges in Houston County, the county attorney, and each county court at law judge.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional compensation set by the commissioners court at not less than $50 nor more than $250 a month as compensation for the added duties imposed on the members.

(d) The county attorney shall file, prosecute, and try on behalf of the state all juvenile cases in the juvenile court. The district attorney shall act for the county attorney if the county attorney is ill, absent, or otherwise unable to perform his duties.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Houston County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 536, Sec. 1, eff. Aug. 26, 1991.

Sec. 152.1201. HOWARD COUNTY. (a) Howard County is included in the 118th Judicial District Juvenile Board.

(b) Section 152.0931 applies to the 118th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1211. HUDSPETH COUNTY. (a) The Culberson-Hudspeth Counties Juvenile Board is composed of the county judges and the district judges in Culberson and Hudspeth counties.

(b) Section 152.0611 applies to the Culberson-Hudspeth Counties Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1221. HUNT COUNTY. (a) The Hunt County Juvenile Board is composed of the county judge, the district judges in Hunt County, and the judges of the county courts at law.

(b) The board shall designate a juvenile court judge as the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the members of the juvenile board additional annual compensation set by the commissioners court at not more than $3,600 for the added duties imposed on the members. The commissioners court may pay the juvenile court clerk additional annual compensation set by the commissioners court at not more than $800. The additional compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county. The compensation is in addition to all other compensation provided or allowed by law for the clerk of the juvenile court.

(d) Each judge on the board may appoint one citizen to serve on the advisory council. Members of the advisory council serve without compensation.

(e) A member of the advisory council is not liable in civil damages or for criminal prosecution for an action taken by the juvenile board.

(f) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Hunt County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 13(b), eff. September 1, 2009.

Sec. 152.1231. HUTCHINSON COUNTY. (a) The Hutchinson County Juvenile Board is composed of:

(1) the county judge and the district judges in Hutchinson County;

(2) one member appointed by the Hutchinson County Commissioners Court; and

(3) one member appointed by the Borger Bar Association.

(b) The appointed members serve one-year terms.

(c) The judge of the 316th Judicial District is the chairman of the board and its chief administrative officer.

(d) The members of the juvenile board serve without compensation.

(e) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the

officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(f) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Hutchinson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1241. IRION COUNTY. (a) The juvenile board of Irion County is composed of the county judge and the district judges in Irion County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not more than $1,200, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Irion County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1251. JACK COUNTY. (a) The juvenile board in Jack and Wise counties is composed of the county judges, the district judges in Jack and Wise counties, and the judge of each statutory county court in the counties that is designated as a juvenile court.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The commissioners courts shall pay the members of the juvenile board an annual salary in an amount set by the commissioners courts, payable in equal monthly installments out of the general funds or any other available funds of the counties.

(d) Unless the counties agree on a different method of allocating costs, each county shall pay the costs of the juvenile board in accordance with the ratio that the population of the county bears to the total population of the two counties.

(e) Section 152.0005(b) does not apply to the juvenile board in Jack and Wise counties.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1261. JACKSON COUNTY. (a) The juvenile board of Jackson County is composed of the county judge and the district judges in Jackson County.

(b) The commissioners court may pay the juvenile board members reasonable additional annual compensation in an amount set by the commissioners court as compensation for the added duties imposed on the members. The compensation may not be lower than the compensation paid to a member on August 29, 1977. The compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Jackson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1271. JASPER COUNTY. (a) Jasper County is included in the East Texas Juvenile Board. The juvenile board is composed of the county judge and the district judges in Jasper, Newton, Sabine, or San Augustine County.

(b) The judge of the 1st Judicial District is the chairman of the board and its chief administrative officer. The juvenile board shall elect a county judge on the board to serve as vice-chairman.

(c) The Commissioners Court of Jasper County may pay the county judge of Jasper County additional annual compensation in an amount set by the commissioners court.

(d) The commissioners courts of the counties included on the board may pay the district judges on the board additional annual compensation in an amount set by a majority of the county commissioners of the four counties. The commissioners court of each county shall pay the compensation to the district judges in accordance with the ratio that the population of the county bears to the total population of the four counties.

(e) The compensation paid to the county and district judges is for the added duties imposed on the judges and shall be paid in equal monthly installments from the general fund or any other available fund of the counties.

(f) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007,

and 152.0008 do not apply to the East Texas Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1281. JEFF DAVIS COUNTY. (a) The Jeff Davis County Juvenile Board is composed of the county judge and the district judges in Jeff Davis County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 nor more than $3,600 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Jeff Davis County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1291. JEFFERSON COUNTY. (a) The juvenile board of Jefferson County is composed of the county judge and the district and criminal district judges in Jefferson County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the county judge on the juvenile board additional annual compensation set by the commissioners court at not more than $5,000 as compensation for the administrative and judicial services performed by the judge. The compensation shall be paid in equal monthly installments from the general fund of the county.

(d) The juvenile board may require a juvenile probation officer or facility superintendent to obtain a surety or personal bond in an amount determined by the board, conditioned on the faithful performance of the person's duties, and approved by the board.

(e) The juvenile board may suspend or remove a juvenile probation officer at any time for good cause. The chief probation officer, with the approval of the board, may suspend or remove an assistant probation officer for good cause after the assistant is notified and afforded an opportunity to appear before the board.

(f) Sections 152.0002, 152.0003, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Jefferson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1292. JEFFERSON COUNTY INSTITUTIONS. (a) The juvenile board of Jefferson County controls and supervises each county facility used for the detention of juveniles.

(b) The juvenile board by majority vote may adopt any order or regulation necessary to the welfare of juveniles in a county facility. The chief juvenile probation officer shall enter each order or regulation in a book kept for that purpose and shall certify the order or regulation and deliver a copy to each facility superintendent or person in charge of a facility. The superintendent or other person and each juvenile probation officer shall comply with the order or regulation.

(c) The juvenile board may require the superintendent or person in charge of a facility to submit to the board reports containing information required by the board.

(d) The district attorney of Jefferson County shall assign an attorney in the district attorney's office to represent the juvenile board and probation officers in protecting the rights of children in abandonment cases and proceedings.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1293. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN JEFFERSON COUNTY. (a) The juvenile board of Jefferson County may require a juvenile probation officer to collect and disburse child support payments that are required by court order to be made to a court in the county.

(b) The juvenile probation officer shall keep a record of money received and disbursed in a well-bound book in the probation office. The payment book is open to public inspection. The county auditor shall audit the records.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1301. JIM HOGG COUNTY. (a) The Jim Hogg County Juvenile Board is composed of the county judge, the district judge in Jim Hogg County, and a citizen of Jim Hogg County appointed by the county judge and the district judge. The citizen member of the board serves the same term of office as the district judge in Jim Hogg County.

(b) The district judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 or more than $3,600 for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) The juvenile board shall appoint not more than five persons to serve on an advisory council.

(e) The Jim Hogg County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Jim Hogg County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

(f) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board.

Added by Acts 2007, 80th Leg., R.S., Ch. 908 (H.B. 2884), Sec. 35, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 22(a), eff. September 1, 2007.

Sec. 152.1321. JOHNSON COUNTY. (a) The juvenile board of Johnson County is composed of the county judge, the district judges in Johnson County, and the judge of each county court at law.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional compensation in an amount set by the commissioners court. The additional compensation is for the added duties imposed on the members and is payable in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Johnson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1076, Sec. 3, eff. Sept. 1, 1989.

Sec. 152.1322. JOHNSON COUNTY SUPPORT PAYMENT COLLECTION. (a) The juvenile board of Johnson County may appoint the district clerk in Johnson County to administer support payments for Johnson County.

(b) The juvenile board may provide for the payment of a monthly support service fee of $1. The fee is assessed against the person ordered by a district court of Johnson County to pay child or spousal support through the district clerk. The clerk shall add the fee to the first support payment each month.

(c) The district clerk shall collect the fees and shall transfer the money to the county treasurer on the last day of each month. The county treasurer shall deposit the fees to the credit of the county general fund.

(d) The service fee authorized by this section applies to child support, spousal support, and separate maintenance payments ordered before September 1, 1983, if the person ordered to make those payments defaults and is cited for contempt of court. The service fee becomes due and payable for each month after the hearing on the contempt citation.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1331. JONES COUNTY. (a) The Jones County Juvenile Board is composed of the county judge, the district judges in Jones County, and the judge of each statutory court designated as a juvenile court. The juvenile court judge may appoint one public member to serve on the board for a term set by the judge.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The commissioners court shall pay the judges on the board an annual salary set by the commissioners court at not more than $5,000, payable in equal monthly installments from the general fund

or any other available fund of the county. The public member serves without compensation.

(d) The chief juvenile probation officer may set the salaries and allowances of juvenile probation personnel with the approval of the board.

(e) Section 152.0005(b) does not apply to the juvenile board of Jones County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1341. KARNES COUNTY. (a) The juvenile board of Karnes County is composed of the county judge and the district judges in Karnes County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $4,800 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Karnes County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1351. KAUFMAN COUNTY. (a) The Kaufman County Juvenile Board is composed of the county judge, the judges of the county courts at law of Kaufman County, the district judges in Kaufman County, and the criminal district attorney.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation of not more than $600 for the added duties imposed on the members. The compensation is in addition to all other compensation paid to a board member by the state or county and shall be paid in equal monthly installments from the general fund of the county.

(d) The juvenile probation officer's expenses are payable on a voucher signed by the board chairman. The commissioners court shall pay the officer's salary and expenses from the general fund of the

county.

(e) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Kaufman County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1995, 74th Leg., ch. 222, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 776 (H.B. 3547), Sec. 3, eff. September 1, 2005.

Sec. 152.1361. KENDALL COUNTY. (a) The juvenile board of Kendall County is composed of the county judge, the judge of the county court at law, and the district judges in Kendall County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $600 nor more than $1,200, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Kendall County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2001, 77th Leg., ch. 138, Sec. 1, eff. Sept. 1, 2001.

Sec. 152.1371. KENEDY COUNTY. (a) The juvenile board of Kenedy County is composed of the judges of the county and district courts in the county. The board must have not fewer than three nor more than five members. The judges of the county and district courts in the county may appoint an appropriate number of public members to serve on the board without compensation if necessary to satisfy this requirement. The chairman of the board shall determine the number of public members to be appointed to the board.

(b) The county judge is the chairman of the board.

(c) The board shall hold biannual meetings on dates set by the board and special meetings at the call of the chairman.

(d) Service on a juvenile board by a judge is an additional duty of office. The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not

more than $6,000, payable in equal monthly installments from the general fund or any other available fund of the county.

(e) The county shall reimburse a juvenile board member for the member's actual and necessary expenses incurred in performing the member's duties.

(f) The juvenile board shall ensure that the chief juvenile officer and fiscal officer:

(1) keep the financial and statistical records and submit reports to the Texas Juvenile Justice Department as prescribed by Section 221.007; and

(2) submit periodic financial and statistical reports to the county commissioners court.

(g) The chief juvenile probation officer shall appoint an appropriate number of qualified juvenile probation officers, assistants, and support personnel with the approval of the board as necessary to perform his duties. The chief juvenile probation officer and the personnel appointed under this section may be removed at any time by the appointing authority or by the juvenile board. The chief juvenile probation officer shall recommend to the juvenile board the salaries of and allowances for juvenile probation officers, assistants, and support personnel. The juvenile board shall provide the chief juvenile probation officer and his assistants with transportation or an automobile allowance for use of a personal automobile on official business.

(h) A claim for expenses from a person in the juvenile probation department must be made to the board chairman. The chairman shall certify to the fiscal officer the expenses to be paid from state funds and shall certify to the commissioners court the expenses to be paid from county funds.

(i) The chairman of the board shall certify to the commissioners court an annual request for the expenditure of county funds. The commissioners court shall act on the request in the same manner as it acts on a request from another county office.

(j) The board may accept state aid and grants and gifts from other political subdivisions of the state or associations for the purpose of financing adequate and effective juvenile programs. A municipality may grant and allocate money to the juvenile board to support and maintain effective juvenile services if the municipality's governing body approves the expenditure. Funds received under this subsection shall be administered and kept

separately from other public funds. This section does not affect a program of local enrichment of juvenile services funded by a service.

(k) The juvenile board shall appoint an advisory council of not more than five persons.

(l) Sections 152.0002, 152.0004, 152.0005, 152.0008, and 152.0009 do not apply to the juvenile board of Kenedy County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.020, eff. September 1, 2011.

Sec. 152.1381. KENT COUNTY. (a) Kent County is included in the 39th Judicial District Juvenile Board.

(b) Section 152.1101 applies to the 39th Judicial District Juvenile Board.

Added by Acts 2009, 81st Leg., R.S., Ch. 65 (S.B. 1811), Sec. 2, eff. September 1, 2009.

Sec. 152.1391. KERR COUNTY. (a) The juvenile board of Kerr County is composed of the county judge and the district judges in Kerr County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $600 nor more than $1,200, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Kerr County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1401. KIMBLE COUNTY. (a) The Kimble County Juvenile Board is composed of the county judge and the district judges in Kimble County.

(b) The juvenile board shall elect one of its members as chairman.

(c) The juvenile board shall hold regular annual meetings on dates set by the board and special meetings at the call of the chairman.

(d) The commissioners court shall pay the juvenile board members an annual salary of not less than $600, payable in equal monthly installments from the general fund or any other available fund of the county. The commissioners court may increase the compensation at any time.

(e) Sections 152.0002, 152.0004, 152.0005(b), and 152.0006 do not apply to the juvenile board of Kimble County.

(f) The Kimble County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Kimble County may agree to operate together. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 913 (S.B. 1322), Sec. 1, eff. June 17, 2011.

Sec. 152.1411. KING COUNTY. (a) King County is included in the 50th Judicial District Juvenile Board.

(b) Section 152.0181 applies to the 50th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1421. KINNEY COUNTY. (a) The juvenile board of Kinney County is composed of the county judge and district judges in Kinney County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $3,600, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Kinney County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1431. KLEBERG COUNTY. (a) The juvenile board of Kleberg County is composed of the judges of the county and district courts in the county. The board must have not fewer than three nor more than five members. The judges of the county and district courts in the county may appoint an appropriate number of public members to serve on the board without compensation if necessary to satisfy this requirement. The chairman of the board shall determine the number of public members to be appointed to the board.

(b) The county judge is the chairman of the board.

(c) The board shall hold biannual meetings on dates set by the board and special meetings at the call of the chairman.

(d) Service on a juvenile board by a judge is an additional duty of office. The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not more than $6,000, payable in equal monthly installments from the general fund or any other available fund of the county.

(e) The county shall reimburse a juvenile board member for the member's actual and necessary expenses incurred in performing the member's duties.

(f) The juvenile board shall ensure that the chief juvenile officer and fiscal officer:

(1) keep the financial and statistical records and submit reports to the Texas Juvenile Justice Department as prescribed by Section 221.007; and

(2) submit periodic financial and statistical reports to the county commissioners court.

(g) The chief juvenile probation officer shall appoint an appropriate number of qualified juvenile probation officers, assistants, and support personnel with the approval of the board as necessary to perform his duties. The chief juvenile probation officer and the personnel appointed under this section may be removed at any time by the appointing authority or by the juvenile board. The chief juvenile probation officer shall recommend to the juvenile board the salaries of and allowances for juvenile probation officers, assistants, and support personnel. The juvenile board shall provide the chief juvenile probation officer and his assistants with transportation or an automobile allowance for use of a personal

automobile on official business.

(h) A claim for expenses from a person in the juvenile probation department must be made to the board chairman. The chairman shall certify to the fiscal officer the expenses to be paid from state funds and shall certify to the commissioners court the expenses to be paid from county funds.

(i) The chairman of the board shall certify to the commissioners court an annual request for the expenditure of county funds. The commissioners court shall act on the request in the same manner as it acts on a request from another county office.

(j) The board may accept state aid and grants and gifts from other political subdivisions of the state or associations for the purpose of financing adequate and effective juvenile programs. A municipality may grant and allocate money to the juvenile board to support and maintain effective juvenile services if the municipality's governing body approves the expenditure. Funds received under this subsection shall be administered and kept separately from other public funds. This section does not affect a program of local enrichment of juvenile services funded by a service.

(k) The juvenile board shall appoint an advisory council of not more than five persons.

(l) Sections 152.0002, 152.0004, 152.0005, 152.0008, and 152.0009 do not apply to the juvenile board of Kleberg County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.021, eff. September 1, 2011.

Sec. 152.1441. KNOX COUNTY. (a) Knox County is included in the 50th Judicial District Juvenile Board.

(b) Section 152.0181 applies to the 50th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1451. LAMAR COUNTY. (a) The Lamar County Juvenile Board is composed of:

(1) the county judge;

(2) the statutory county court at law judge;

(3) the district judges in Lamar County; and

(4) one member of the commissioners court selected by and from among the members of the commissioners court.

(b) The juvenile board shall elect one of its members as chairman at its first regular meeting of each fiscal year. The board shall hold regular meetings each year on dates set by the board and special meetings at the call of the chairman.

(c) Service on a juvenile board by a judge is an additional duty of office. The commissioners court may pay the board chairman and other board members additional annual compensation for the additional duties imposed on the chairman and the other board members. The compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(d) The juvenile board shall recommend to the commissioners court proposed salaries for juvenile probation officers and other juvenile probation employees. The commissioners court shall set the salaries of juvenile probation officers and other juvenile probation employees after considering the recommendation of the juvenile board and any other relevant factors, including the source of funds, the duties and workload of the employees, and the effect on other county employees. The commissioners court shall comply with all applicable laws when setting the salaries of juvenile probation officers and other juvenile probation employees.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Lamar County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1392, Sec. 1, eff. Sept. 1, 1997.

Sec. 152.1461. LAMB COUNTY. (a) The Lamb County Juvenile Board is composed of the county judge, the district judges in Lamb County, and the judge of any statutory court designated as a juvenile court. The juvenile court judge may appoint three public members to serve on the board for a term set by the judge.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The commissioners court may pay the judges on the board an

annual salary in an amount set by the commissioners court, payable in equal monthly installments from the general fund or any other available fund of the county. The public members serve without compensation.

(d) Section 152.0005(b) does not apply to the juvenile board of Lamb County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1471. LAMPASAS COUNTY. (a) The Lampasas County Juvenile Board is composed of the county judge and the district judges in Lampasas County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary of not more than $600 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Lampasas County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1481. LA SALLE COUNTY. (a) The juvenile board of La Salle County is composed of the county judge and the district judges in La Salle County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $4,800 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of La Salle County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1491. LAVACA COUNTY. (a) The Lavaca County Juvenile

Board is composed of the county judge and the district judges in Lavaca County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court shall pay the juvenile board members additional monthly compensation set by the commissioners court at not less than $100 nor more than $400 for the added duties imposed on the members. The additional compensation shall be paid from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salary and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Lavaca County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1511. LEON COUNTY. (a) The juvenile board of Leon County is composed of the county judge and the district judges in Leon County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 annually, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Leon County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 531 (H.B. 956), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1152 (H.B. 3045), Sec. 2, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 26, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.01(d), eff. September 1, 2013.

Sec. 152.1521. LIBERTY COUNTY. (a) The Liberty County Juvenile Board is composed of the county judge and at least two citizens of Liberty County appointed by the county judge with the approval of the commissioners court. The juvenile probation officer may be appointed as a public member. The public members serve two-year terms.

(b) The commissioners court may pay the juvenile board members additional annual compensation in an amount set by the commissioners court. The additional compensation is for the added duties imposed on the members and shall be paid in equal monthly installments from the general fund or any other appropriate fund of the county. The compensation paid to the public members is in addition to any other salary received by a public member. If the juvenile probation officer serves as a public member, the officer may not receive additional compensation for serving on the board.

(c) The commissioners court shall certify all claims for expenses of the juvenile probation officer and the officer's assistants as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer and the officer's assistants.

(d) The county judge shall serve as the judge of the juvenile court.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Liberty County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1541. LIPSCOMB COUNTY. (a) The Lipscomb County Juvenile Board is composed of the county judge and the district judges in Lipscomb County.

(b) The juvenile board shall select one of its members to act as chairman.

(c) The commissioners court may pay the juvenile board members additional compensation in an amount that will reasonably compensate them for their added duties. The board members shall receive the same compensation.

(d) The commissioners court shall reimburse the juvenile board members for the members' actual and necessary expenses incurred in performing their duties.

(e) The juvenile board shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties.

(f) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Lipscomb County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1551. LIVE OAK COUNTY. (a) The juvenile board of Live Oak County is composed of the county judge and the district judges in Live Oak County.

(b) The commissioners court may pay the juvenile board members additional annual compensation in an amount set by the commissioners court for the added duties imposed on the members. The additional compensation may not be lower than the amount paid to the judges on September 1, 1981.

(c) The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Live Oak County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1561. LLANO COUNTY. (a) The Llano County Juvenile Board is composed of the county judge and the district judges in Llano County.

(b) The judge of the 33rd District Court is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not more than $1,200 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Llano County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 21, eff. September 1, 2005.

Sec. 152.1581. LUBBOCK COUNTY. (a) The juvenile board of Lubbock County is composed of the county judge and the district judges in Lubbock County.

(b) The commissioners court may pay the county judge additional annual compensation of $1,500, payable in equal monthly installments from the general fund of the county. The commissioners court may pay each district judge an annual salary of not less than $6,500, payable in equal monthly installments from the general fund or any other available fund of the county. The commissioners court shall pay the members an additional $75 per month for performing the additional duties prescribed by Sections 152.1582 and 152.1583.

(c) The juvenile board shall hold meetings at least once every three months in accordance with board rules.

(d) The board shall keep records as required by law and board rules.

(e) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(f) The juvenile board may require a juvenile probation officer or facility superintendent to obtain a surety or personal bond in an amount determined by the board and conditioned on the faithful performance of the person's duties.

(g) The juvenile board may suspend or remove a juvenile probation officer at any time for good cause. The chief probation officer, with the approval of the board, may suspend or remove an assistant probation officer for good cause after the assistant is notified and afforded an opportunity to appear before the board.

(h) Sections 152.0002, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Lubbock County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1582. LUBBOCK COUNTY INSTITUTIONS. (a) The juvenile

board of Lubbock County controls and supervises each county facility used for the detention of juveniles.

(b) The juvenile board by majority vote may adopt any order or regulation necessary to the welfare of juveniles in a county facility. The chief juvenile probation officer shall enter each order or regulation in a book kept for that purpose and shall certify the order or regulation and deliver a copy to each facility superintendent or person in charge of a facility. The superintendent or other person and each juvenile probation officer shall comply with the order or regulation.

(c) The juvenile board may require the superintendent or person in charge of a facility to submit to the board reports containing information required by the board.

(d) The district attorney of Lubbock County shall assign an attorney in the district attorney's office to represent the juvenile board and probation officers in protecting the rights of children in abandonment cases and proceedings.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1583. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN LUBBOCK COUNTY. (a) The juvenile board of Lubbock County may require a juvenile probation officer to collect and disburse child support payments that are required by court order to be made to a court in the county.

(b) The juvenile probation officer shall keep a record of money received and disbursed in a well-bound book subject to public inspection in the probation office. The county auditor shall audit the records.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1591. LYNN COUNTY. (a) The Lynn County Juvenile Board is composed of the county judge, the district judges in Lynn County, and the judge of each statutory court designated as a juvenile court. The juvenile court judge may appoint three public members to serve on the board for a term set by the judge.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The juvenile board shall hold regular annual meetings each year on dates set by the board and special meetings at the call of the chairman.

(d) The commissioners court shall pay the judges on the board an annual salary set by the commissioners court at not more than $1,200, payable in equal monthly installments from the general fund of the county. The public members serve without compensation.

(e) The commissioners court shall pay the salaries and allowances of juvenile probation personnel and other expenses certified as necessary by the board chairman and approved by the commissioners court from the general funds of the county.

(f) Sections 152.0002, 152.0004, and 152.0005(b) do not apply to the juvenile board of Lynn County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1601. MCCULLOCH COUNTY. (a) The McCulloch County Juvenile Board is composed of the county judge and the district judges in McCulloch County.

(b) The juvenile board shall elect one of its members as chairman.

(c) The juvenile board shall hold regular annual meetings on dates set by the board and special meetings at the call of the chairman.

(d) The commissioners court shall pay the juvenile board members an annual salary of not less than $600, payable in equal monthly installments from the general fund or any other available fund of the county. The county commissioners court may increase the compensation at any time.

(e) Sections 152.0002, 152.0004, 152.0005(b), and 152.0006 do not apply to the juvenile board of McCulloch County.

(f) The McCulloch County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to McCulloch County may agree to operate together. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 913 (S.B. 1322), Sec. 2, eff.

June 17, 2011.

Sec. 152.1611. MCLENNAN COUNTY. (a) The McLennan County Juvenile Board is composed of the county judge, the county court at law judges, and the district judges in McLennan County.

(b) The juvenile board shall hold meetings at least once every three months in accordance with board rules.

(c) The board shall keep records as required by law and board rules.

(d) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(e) The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation personnel.

(f) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of McLennan County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 583 (S.B. 1976), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 956 (H.B. 4040), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 13.031, eff. September 1, 2009.

Sec. 152.1612. COMPENSATION OF COUNTY, DISTRICT, AND COUNTY COURT AT LAW JUDGES. (a) The Commissioners Court of McLennan County shall annually supplement the salaries of the judges of the county and county court at law in an amount of not less than $1,500 nor more than $5,000 for services rendered to the juvenile board of McLennan County. The supplement is in addition to all other salary paid or authorized to be paid by the state to the judges of the county and county court at law.

(b) The commissioners court shall pay the district judges in the county an annual salary of not less than $1,500 for services rendered to the juvenile board. The salary is in addition to the

supplemental salary paid to the judges under Section 32.155(a), Government Code.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1613. MCLENNAN COUNTY JUVENILE BOARD LOCAL ENRICHMENT PROGRAM. The McLennan County Juvenile Board may establish and administer a local enrichment of juvenile services program consistent with policies adopted by the juvenile board.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1193 (H.B. 3829), Sec. 1, eff. June 17, 2011.

Sec. 152.1614. GIFT, GRANT, OR DONATION TO MCLENNAN COUNTY JUVENILE BOARD. (a) The McLennan County Juvenile Board may accept a gift, grant, or donation from a public or private source for any lawful purpose, including support of a local enrichment of juvenile services program.

(b) The juvenile board shall place a donation of money under Subsection (a) in a special fund that is:

(1) subject to all reporting or procedural requirements of the county auditor; and

(2) audited annually by the county auditor.

(c) Notwithstanding Subsection (b), the juvenile board is not required to establish or adopt a budget for expenditures under the special fund described by this section.

(d) The special fund described by Subsection (b) may be used only to pay expenses of and related to programs, services, and items approved by the juvenile board.

(e) An expenditure from the special fund described by Subsection (b) must comply with the requirements of Chapter 262, Local Government Code, that apply to the juvenile board's other expenditures.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1193 (H.B. 3829), Sec. 1, eff. June 17, 2011.

Sec. 152.1621. MCMULLEN COUNTY. (a) The juvenile board of

McMullen County is composed of the county judge and the district judges in McMullen County.

(b) The commissioners court may pay the juvenile board members additional annual compensation in an amount set by the commissioners court for the added duties imposed on the members. The additional compensation may not be lower than the amount paid to the judges on September 1, 1981.

(c) The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of McMullen County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1631. MADISON COUNTY. (a) The juvenile board of Madison County is composed of the county judge and the district judges in Madison County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 annually, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Madison County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1152 (H.B. 3045), Sec. 3, eff. June 18, 2005.

Sec. 152.1641. MARION COUNTY. (a) Marion County is included in the Camp, Marion, Morris, and Titus Counties Juvenile Board.

(b) Section 152.0381 applies to the Camp, Marion, Morris, and Titus Counties Juvenile Board.

(c) Section 152.1612 is suspended while Marion County is a member of the Camp, Marion, Morris, and Titus Counties Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1642. MARION COUNTY. (a) The Marion County Juvenile Board is composed of the county judges and the district judges in Marion County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $600 nor more than $1,200 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Marion County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1651. MARTIN COUNTY. (a) Martin County is included in the 118th Judicial District Juvenile Board.

(b) Section 152.0931 applies to the 118th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1661. MASON COUNTY. (a) The Mason County Juvenile Board is composed of the county judge and the district judges in Mason County.

(b) The juvenile board shall elect one of its members as chairman.

(c) The commissioners court shall pay the juvenile board members an annual salary of not less than $600, payable in equal monthly installments from the general fund or any other available fund of the county. The commissioners court may increase the compensation at any time.

(d) Sections 152.0002, 152.0004, 152.0005(b), and 152.0006 do not apply to the juvenile board of Mason County.

(e) The juvenile board shall hold regular annual meetings on dates set by the board and special meetings at the call of the chairman.

(f) The Mason County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Mason County may agree to operate together. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 913 (S.B. 1322), Sec. 3, eff. June 17, 2011.

Sec. 152.1671. MATAGORDA COUNTY. (a) The juvenile board of Matagorda County is composed of the county judge and the district judges in Matagorda County.

(b) The commissioners court shall pay the board members annual additional compensation in an amount set by the commissioners court. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Matagorda County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2003, 78th Leg., ch. 771, Sec. 1, eff. June 20, 2003.

Sec. 152.1672. COMPENSATION OF JUVENILE JUDGE IN MATAGORDA COUNTY. (a) The Commissioners Court of Matagorda County may pay the juvenile judge additional annual compensation of not more than $1,500 for serving as the judge of the juvenile court.

(b) The compensation is in addition to all other compensation paid or authorized to be paid to the judge who serves as the juvenile judge.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1673. MATAGORDA COUNTY CHILD SUPPORT OFFICE. (a) The judges of the district courts in Matagorda County may establish a child support office in the county juvenile office to collect and disburse child support payments that are required by court order to be made to the office. The office shall disburse the payments in the manner the court believes to be in the best interest of the parties in the case.

(b) The judges of the district courts in a county served by an office may appoint an administrator and other assistants to serve two-year terms. The administrator shall obtain a surety bond in an amount determined by the county auditor from a solvent surety company authorized to make the bonds in this state and approved by the county auditor. The bond shall be conditioned on the faithful performance of the administrator's duties and on the proper accounting of the money entrusted to the administrator. The county shall pay the premium for the bond from the general fund of the county, the child support fund, or any other available fund.

(c) The judges shall determine the duties of the administrator and assistants and set their salaries. The salaries are payable in equal monthly installments from the general fund of the county, the child support fund, or any other available fund. The judges must approve a claim for expenses made by the administrator or an assistant or a claim for administrative expenses in operating the child support office, including a claim for payment of equipment and supplies.

(d) The office shall keep an accurate and complete record of money received and disbursed under this section. The record is open for public inspection. The county auditor or other authorized county officer or employee shall inspect and examine the records and audit the accounts quarterly. The auditor shall report the results of the audit to the judges and include any recommendations the auditor may have.

(e) The child support office may serve one or more of Brazoria, Fort Bend, and Wharton counties. If a child support office serves more than one county, the judges of the district courts in the counties shall determine the location of the office. The officers and employees of the county in which the office is located shall perform the duties prescribed by this section. The counties shall

pay the salaries, bond premium, and other expenses in accordance with the ratio that the population of each county bears to the total population of all of the counties served by the office.

(f) The commissioners courts shall pay the district court judges $75 a month for performing the duties prescribed by this section. The compensation shall be paid from the general fund of the county and is in addition to any other compensation the judges receive.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1674. MATAGORDA COUNTY CHILD SUPPORT SERVICE FEE. (a) The Matagorda County child support office shall assess a monthly fee of not more than $10 for collecting and disbursing child support payments that are required by court order to be made to the office. The fee is payable annually and in advance.

(b) The payor of the support shall pay the fee unless the payor is a member of the armed services and the monthly child support payments exceed the amount the court orders the person to pay, in which case the payee shall pay the service fee for as long as the payor is a member of the armed services and the support payments exceed the amount the court orders the person to pay.

(c) The first fee payment is due on the date that the payor is ordered to begin the child support payments. If the payee must pay the fee, the first fee payment is due on the date that the payee receives the original support payment. Subsequent annual fees are due on the anniversary of the date of the original fee payment.

(d) A person who refuses or fails to pay the fee on the date due or in the amount ordered is subject to an action for contempt of court.

(e) Fees collected under this section shall be paid to the county treasurer on the last day of each calendar month. The county treasurer shall deposit the fees to the credit of the child support fund. The judges of the district courts in a county served by the office shall administer the fund, with the approval of the commissioners court, to assist in paying the salaries and expenses of the child support office.

(f) An accurate and complete record of money received under this section shall be kept. The county auditor or other authorized

person shall audit the child support fund regularly. An annual report of the receipts and expenditures of the fund shall be made to the commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 12.04(a), eff. Aug. 26, 1991.

Sec. 152.1691. MEDINA COUNTY. (a) The juvenile board of Medina County is composed of the county judge, the district judges in Medina County, and the judge of each county court at law.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $3,600, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Medina County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 549, Sec. 1, eff. Aug. 26, 1991.

Sec. 152.1701. MENARD COUNTY. (a) The Menard County Juvenile Board is composed of the county judge and the district judges in Menard County.

(b) The juvenile board shall elect one of its members as chairman.

(c) The juvenile board shall hold regular annual meetings on dates set by the board and special meetings at the call of the chairman.

(d) The commissioners court shall pay the juvenile board members an annual salary of not less than $600, payable in equal monthly installments from the general fund or any other available fund of the county. The commissioners court may increase the compensation at any time.

(e) Sections 152.0002, 152.0004, 152.0005(b), and 152.0006 do not apply to the juvenile board of Menard County.

(f) The Menard County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to

Menard County may agree to operate together. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 913 (S.B. 1322), Sec. 4, eff. June 17, 2011.

Sec. 152.1711. MIDLAND COUNTY. (a) The Midland County Juvenile Board is composed of the county judge, the district judges in Midland County, and the judge of each county court at law.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(d) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Midland County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1721. MILAM COUNTY. (a) Milam County is part of the Milam, Robertson, Falls Counties Juvenile Board.

(b) Section 152.0791 applies to the Milam, Robertson, Falls Counties Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1741. MITCHELL COUNTY. (a) Mitchell County is included in the 32nd Judicial District Juvenile Board.

(b) Section 152.1831 applies to the 32nd Judicial District Juvenile Board.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(2), eff. October 1, 2017.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(2), eff. October 1, 2017.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(2), eff. October 1, 2017.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(2), eff. October 1, 2017.

(g) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(2), eff. October 1, 2017.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1995, 74th Leg., ch. 97, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 2, eff. October 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(2), eff. October 1, 2017.

Sec. 152.1752. MONTAGUE COUNTY CHILD SUPPORT DIVISION. (a) The child support division in the Montague County Probation Department shall provide assistance to the district clerk in collecting child or spousal support payments. The division shall also assist in the enforcement of orders relating to the possession of or access to a child and may initiate contempt proceedings to enforce an order relating to the support and conservator orders.

(b) The person ordered by a district court of Montague County to pay child or spousal support to the district clerk shall pay a monthly service fee of $1. The district clerk shall deduct the service fee from each payment. If the payment is ordered to be made semimonthly or weekly, the district clerk shall deduct 50 cents from each payment. The service fee authorized by this subsection applies to child or spousal support payments ordered before June 14, 1973, if the person ordered to make those payments defaults and is cited for contempt of court. The service fee becomes due and payable for each month after the hearing on the contempt citation.

(c) A person found in contempt of court in Montague County for failure to pay child or spousal support shall pay $15 as attorney's fees if the contempt action is initiated by the probation department. The additional cost shall be collected in the same manner that other costs are collected.

(d) A person who files an adoption case in a district court of Montague County shall pay to the district court a filing fee of $25. The fee is in addition to other fees imposed for filing an adoption case in Montague County and is taxed, collected, and paid as other costs. Funds collected under this subsection shall be used to provide adoption investigation service.

(e) The district clerk shall transfer the money collected under this section to the county treasurer on the last day of each month. The county treasurer shall deposit the fees to the credit of the probation fund.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1753. MONTAGUE COUNTY PROBATION DEPARTMENT LEGAL OFFICER. The county attorney of Montague County is the legal officer for the Montague County Probation Department. If the county attorney fails, refuses, or declines to perform the duties, the probation board may appoint another suitable attorney as the legal officer.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1761. MONTGOMERY COUNTY. (a) The juvenile board of Montgomery County is composed of the county judge, the district judges in Montgomery County, and the judge of each county court at law.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $3,000, payable in equal monthly installments from the general fund of the county.

(c) Section 152.0003 does not apply to the juvenile board of Montgomery County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 340, Sec. 1, eff. May 29, 1999.

Sec. 152.1771. MOORE COUNTY. (a) The Moore County Juvenile Board is composed of:

(1) the county judge; and

(2) six persons appointed by the Moore County Commissioners Court.

(b) The appointed members serve staggered two-year terms with the terms of three members expiring on December 31 of each even-numbered year, and the terms of three members expiring on December 31 of each odd-numbered year.

(c) The board shall select one of its members as chairman.

(d) The members serve without compensation.

(f) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Moore County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2003, 78th Leg., ch. 767, Sec. 1, eff. Sept. 1, 2003.

Sec. 152.1781. MORRIS COUNTY. (a) Morris County is included in the Camp, Marion, Morris, and Titus Counties Juvenile Board.

(b) Section 152.0381 applies to the Camp, Marion, Morris, and Titus Counties Juvenile Board.

(c) Section 152.1782 is suspended while Morris County is a member of the Camp, Marion, Morris, and Titus Counties Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1782. MORRIS COUNTY. (a) The Morris County Juvenile Board is composed of the county judge and the district judges in Morris County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,800 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the

necessary funds to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the Morris County Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1791. MOTLEY COUNTY. (a) Motley County is included in the 110th Judicial District Juvenile Board.

(b) Section 152.0291 applies to the 110th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1801. NACOGDOCHES COUNTY. (a) The Nacogdoches County Juvenile Board is composed of the county judge, the district judges in Nacogdoches County, and the judge of each county court at law.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation in an amount determined by the commissioners court for the added duties imposed on the members. The combined yearly salary from state and county sources received by each judge may not exceed an amount equal to $1,000 less than the combined yearly salary from state and county sources received by each justice of the court of appeals of the court of appeals district in which Nacogdoches County is located. The additional compensation is payable in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Nacogdoches County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1077, Sec. 3, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 1208, Sec. 1, eff. Sept. 1, 2001.

Sec. 152.1811. NAVARRO COUNTY. (a) The juvenile board of

Navarro County is composed of the county judge, the district judges in Navarro County, and the criminal district attorney. The juvenile board may appoint five public members to serve on the board without salary for a term determined by the board.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The commissioners court shall pay the juvenile board members an annual salary set by the commissioners court at not more than $4,800, payable in equal monthly installments from the general fund of the county.

(d) If approved by the juvenile board, the commissioners court may reimburse each juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings relating to juvenile matters.

(e) Section 152.0005(b) does not apply to the juvenile board of Navarro County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1812. ADDITIONAL COMPENSATION OF JUVENILE COURT JUDGE. (a) The Commissioners Court of Navarro County shall pay the district judge of the 13th Judicial District an annual salary of $4,000 for serving as the juvenile court judge.

(b) The salary is in addition to other compensation provided by law and paid by the state.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1821. NEWTON COUNTY. (a) Newton County is included in the East Texas Juvenile Board.

(b) Sections 152.1271(a), (b), (d), (e), and (f) apply to the juvenile board in Jasper, Newton, Sabine, and San Augustine counties.

(c) The Commissioners Court of Newton County may pay the county judge of Newton County additional annual compensation in an amount set by the commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1831. NOLAN COUNTY. (a) Nolan County is included in the 32nd Judicial District Juvenile Board. The juvenile board is composed of the county judges, statutory county judges, and district judges in Fisher, Mitchell, and Nolan Counties.

(b) The juvenile board shall elect one of the members as chairman.

(c) The commissioners courts of the counties may pay the members of the juvenile board an annual supplemental compensation from the general fund or any other available fund of the counties.

(d) The juvenile board shall hold regular meetings on dates set by the board and special meetings at the call of the chairman.

(e) Sections 152.0002, 152.0003, 152.0004, and 152.0005 do not apply to the juvenile board in Fisher, Mitchell, and Nolan counties.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(3), eff. October 1, 2017.

(g) The juvenile board shall designate the treasurer or auditor of Fisher County, Mitchell County, or Nolan County to serve as the board's fiscal officer.

(h) The juvenile board shall appoint an advisory council composed of one person from each county.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 246, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 3, eff. October 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1113 (H.B. 4280), Sec. 4(3), eff. October 1, 2017.

Sec. 152.1841. NUECES COUNTY. (a) The juvenile board of Nueces County is composed of the county judge, the district judges in Nueces County, and the judge of the County Court at Law No. 5 of Nueces County.

(b) The commissioners court shall pay the board members annual additional compensation set by the commissioners court at not less than $4,200 or more than $12,000 for the added duties imposed on the members. The additional compensation is in lieu of any other compensation provided by law for service on the juvenile board.

(c) The commissioners court shall provide the juvenile

probation officers with:

(1) automobiles and their maintenance and operating expenses for use in official duties; or

(2) an automobile allowance for the use of a personal automobile on official business in the amount determined to be necessary by the commissioners court.

(d) The juvenile board may require a juvenile probation officer or institution superintendent to obtain a surety or personal bond conditioned on faithful performance of duty in an amount determined by the board.

(e) The juvenile board may suspend or remove a juvenile probation officer or an institution superintendent at any time for good cause. The chief probation officer, with the approval of the board, may suspend or remove an assistant probation officer for good cause after the assistant is notified and afforded an opportunity to appear before the board.

(f) The commissioners court shall provide necessary funds to maintain and operate the juvenile probation department.

(g) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Nueces County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1134, Sec. 3, eff. Sept. 1, 1999.

Sec. 152.1842. NUECES COUNTY INSTITUTIONS. (a) The juvenile board of Nueces County controls and supervises each county facility used for the detention of juveniles.

(b) The juvenile board may adopt any order or regulation necessary to the welfare of juveniles in a county facility. The chief juvenile probation officer shall enter each order or regulation in a book kept for that purpose and shall certify the order or regulation and deliver a copy to each institution superintendent or person in charge of a facility. The superintendent or other person and each juvenile probation officer shall comply with the order or regulation.

(c) The juvenile board may require the superintendent or person in charge of a facility to submit to the board reports containing information required by the board.

(d) The district attorney of Nueces County shall assign an attorney in the district attorney's office to represent the juvenile board and probation officers in protecting the rights of children in abandonment cases and proceedings.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1843. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN NUECES COUNTY. (a) The juvenile board of Nueces County may require a juvenile probation officer to collect and disburse child support payments that are required by court order to be made to a court in the county.

(b) The juvenile probation officer shall keep a record of money received and disbursed in a well-bound book subject to public inspection in the probation office. The county auditor shall audit the records.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1844. CHILD SUPPORT SERVICE FEE IN NUECES COUNTY. (a) The Commissioners Court of Nueces County by order may provide for the collection of a monthly child support service fee in an amount set by the commissioners court not to exceed $5.

(b) The fee is payable annually and in advance. The first fee payment is due on the date that the payor is ordered to begin the child support payments. Subsequent annual payments are due on the anniversary of the date of the original fee payment.

(c) The court ordering the child support payment may assess the fee in a case in which a person is ordered to pay child support through the wife and child support division of the Nueces County district clerk's office. The court may assess the fee against the payor or payee or may waive the fee as to a particular person. If the order does not waive the fee or assess the fee against a particular person, the payor shall pay the fee.

(d) A person who refuses or fails to pay the fee on the date due or in the amount ordered is subject to an action for contempt. The action may be brought by the court on its own motion or as provided by law.

(e) The commissioners court by order may provide for the

collection of a fee in an amount set by the commissioners court not to exceed $10 to be assessed as costs against a person who is ordered to pay child support and defaults and is cited for contempt of court.

(f) The district clerk shall collect the fees under this section and shall transfer the money to the county treasurer. The county treasurer shall deposit the fees to the credit of the county general fund.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 272, Sec. 1, eff. Sept. 1, 1991.

Sec. 152.1871. ORANGE COUNTY. (a) The Orange County Juvenile Board is composed of the county judge, the district judges in Orange County, and the judge of any statutory county court.

(b) The commissioners court may pay the juvenile board members additional annual compensation in an amount set by the commissioners court. The compensation paid to the judge of the county court at law may not exceed the compensation paid to the other members.

(c) The commissioners court may reimburse the juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings relating to juvenile matters.

(d) The juvenile board may require a board employee to enter into a bond payable to the board, conditioned on the faithful performance of the person's duties. The board shall pay the premium of the bond. The board may suspend or remove an employee for good cause.

(e) The board shall control and supervise each county institution used to detain juveniles. The board shall appoint the superintendent of each institution.

(f) The board shall set the fees and costs that relate to the programs or services the board administers.

(g) The board may accept gifts or grants of real or personal property subject to the terms and conditions of the gift or grant.

(h) The board shall submit an annual budget to the commissioners court. The commissioners court may appropriate and the juvenile board shall use money from the county general fund to administer this section.

(i) The board may authorize the use of foster homes for the

temporary care of a child alleged to be a child in need of supervision or a delinquent child.

(j) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(b) do not apply to the Orange County Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1873. DIVORCE AND CONTEMPT FEES IN ORANGE COUNTY. (a) Each person who files a divorce case in Orange County shall pay to the clerk of the district court a filing fee of not less than $5. The fee is taxed, collected, and paid as other costs and is used to assist in maintaining the Orange County Juvenile Board as provided by Subsection (g).

(b) A person found in contempt of court for failure or refusal to pay child or spousal support or to comply with a court order relating to access to or possession of a child shall pay costs of court as determined by the district clerk. The costs are collected to provide legal services, court costs, and expenses of service in support cases.

(c) The person initiating the contempt procedure shall pay the costs to the clerk of the district court. The court may require a person found in contempt to reimburse the complainant for these costs and other expenses incurred by the complainant in prosecuting the contempt action.

(d) A receipt of all disbursements of money paid to the Orange County Juvenile Board in a matter involving contempt shall be kept on file.

(e) The costs prescribed by Subsection (b) may not be assessed against a person who files a pauper's affidavit and is found to qualify as a pauper.

(f) Fees collected under this section shall be deposited in a separate fund known as the "divorce and contempt fees fund" by the county treasurer. A record shall be kept of all fees collected and expended. The divorce and contempt fees fund is subject to regular audit by the county auditor or other authorized person. An annual report of receipts and expenditures in the account shall be made to the commissioners court by the auditor.

(g) The Orange County Juvenile Board shall administer the fees

collected under this section to meet the expenses of the juvenile board, including postage, equipment, stationery, office supplies, subpoenas, salaries, and other expenses authorized by the board. The fund shall be supplemented from the general fund or other available funds of the county as necessary.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 699 (H.B. 884), Sec. 1, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 699 (H.B. 884), Sec. 2, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 699 (H.B. 884), Sec. 3, eff. September 1, 2015.

Sec. 152.1874. ORANGE COUNTY ADOPTION INVESTIGATION FUND. (a) A person who files an adoption case in a court in Orange County shall pay to the district clerk a filing fee of not less than $25. The fee is taxed, collected, and paid as other costs.

(b) Money collected under this section shall be placed in the adoption investigation fund. The juvenile board shall administer the fund to maintain adoption investigation services. The fund may be supplemented by money from the general fund or any other available fund of the county as necessary.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1881. PALO PINTO COUNTY. (a) The Palo Pinto County Juvenile Board is composed of the county judge and the district judges in Palo Pinto County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary in an amount set by the commissioners court for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund or any other fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Palo Pinto

County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1891. PANOLA COUNTY. (a) The Panola County Juvenile Board is composed of the county judge and the district judges in Panola County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not more than $1,800 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) The commissioners court shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Panola County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1901. PARKER COUNTY. (a) The juvenile board of Parker County is composed of the county judge, the statutory county court judges, and the district judges in Parker County.

(b) The judge of the 43rd Judicial District is the chairman of the board.

(c) The commissioners court shall pay the juvenile board members an annual salary of not less than $6,000, payable in equal monthly installments from the general fund or any other available fund of the county.

(d) The juvenile board shall appoint not more than four volunteers to serve on a citizen's advisory council. The advisory council shall meet with the juvenile board at the board's regular quarterly meetings and shall keep the board informed of current community issues relating to juveniles.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2003, 78th Leg., ch. 1306, Sec. 3(d), eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 785 (H.B. 3993), Sec. 1, eff. October 1, 2007.

Sec. 152.1911. PARMER COUNTY. (a) The juvenile board of Bailey and Parmer counties is composed of the county judge, the district judges in the counties, and the judge of each statutory court designated as a juvenile court in the counties.

(b) Section 152.0151 applies to the juvenile board of Bailey and Parmer counties.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1921. PECOS COUNTY. (a) The Pecos County Juvenile Board is composed of the county judge and the district judges in Pecos County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 nor more than $3,600 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Pecos County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1931. POLK COUNTY. (a) The juvenile board of Polk County is composed of the county judge, the district judges in Polk County, and the judge of each county court at law.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $3,000 nor more than $10,000, payable in equal monthly installments from the general fund of the county. The

additional compensation paid to the judge of the county court at law may not exceed the amount paid to the other members of the board.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 of the general provisions subchapter do not apply to the juvenile board of Polk County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1941. POTTER COUNTY. (a) The juvenile board of Potter County is composed of the county judge, the district and family district judges in Potter County, and the judge of each county court at law.

(b) The juvenile board shall hold meetings at least once every three months in accordance with board rules.

(c) The juvenile board members receive additional compensation as prescribed by Section 152.0053.

(d) The board shall keep records as required by law and board rules.

(e) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(f) The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation personnel.

(g) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Potter County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1989, 71st Leg., ch. 595, Sec. 2, eff. Sept. 1, 1989.

Sec. 152.1951. PRESIDIO COUNTY. (a) The Presidio County Juvenile Board is composed of the county judge and the district judges in Presidio County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 nor more than $3,600 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly

installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Presidio County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1971. RANDALL COUNTY. (a) The Randall County Juvenile Board is composed of the county judge, the county court at law judges, and the district judges in Randall County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $600 for the added duties imposed on the members. The compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0004 and 152.0005 do not apply to the juvenile board of Randall County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 322 (S.B. 672), Sec. 1, eff. September 1, 2005.

Sec. 152.1981. REAGAN COUNTY. (a) The Reagan County Juvenile Board is composed of the county judge and the district judges in Reagan County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 nor more than $3,600 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Reagan County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.1991. REAL COUNTY. (a) The juvenile board of Real

County is composed of the county judge and the district judges in Real County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $3,600, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Real County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2001. RED RIVER COUNTY. (a) The Red River County Juvenile Board is composed of the county judge and the district judges in the county.

(b) The commissioners court may pay the members of the juvenile board additional annual compensation set by the commissioners court at not less than $1,200 for the added duties imposed on the members. The compensation is payable in equal monthly installments out of the general funds of the county.

(c) The commissioners court may reimburse the juvenile court judge in the county for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings relating to juvenile problems. Annual reimbursement provided to a judge under this subsection may not exceed $600.

(d) The commissioners court shall provide the funds for the salaries and reasonable expenses of the juvenile probation officers.

(e) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Red River County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 592, Sec. 2(a), eff. Sept. 1, 1989.

Sec. 152.2021. REFUGIO COUNTY. (a) The juvenile board of Refugio County is composed of the county judge and the district judges in Refugio County.

(b) The commissioners court may pay the juvenile board members

reasonable additional annual compensation in an amount set by the commissioners court as compensation for the added duties imposed on the members. The compensation may not be lower than the compensation paid to a member on August 29, 1977. The compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Refugio County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2031. ROBERTS COUNTY. (a) The Roberts County Juvenile Board is composed of the county judge and the district judges in Roberts County.

(b) The juvenile board shall select one of its members to act as chairman.

(c) The commissioners court may pay the juvenile board members additional compensation in an amount that will reasonably compensate them for their added duties. The board members shall receive the same compensation.

(d) The commissioners court shall reimburse the juvenile board members for the members' actual and necessary expenses incurred in performing their duties.

(e) The juvenile board shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties.

(f) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Roberts County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2041. ROBERTSON COUNTY. (a) Robertson County is part of the Milam, Robertson, Falls Counties Juvenile Board.

(b) Section 152.0791 applies to the Milam, Robertson, Falls Counties Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2051. ROCKWALL COUNTY. (a) The Rockwall County

Juvenile Board is composed of:

(1) the judge of the County Court at Law of Rockwall County;

(2) the district judges in Rockwall County;

(3) one county commissioner appointed by the commissioners court;

(4) one member of the board of trustees of the Rockwall Independent School District selected by the board of trustees of the Rockwall Independent School District; and

(5) one member of the board of trustees of the Royse City Independent School District selected by the board of trustees of the Royse City Independent School District.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional compensation in an amount set by the commissioners court. The compensation is for the added duties imposed on the members and shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Rockwall County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1997, 75th Leg., ch. 953, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 652 (H.B. 3098), Sec. 1, eff. June 17, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 15.01, eff. January 1, 2012.

Sec. 152.2061. RUNNELS COUNTY. (a) The Runnels County Juvenile Board is composed of the county judge, the judge of the 119th Judicial District, and the district attorney.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the board chairman additional annual compensation of not more than $600 for the added duties imposed on the chairman. The commissioners court may pay the

other board members additional annual compensation of not more than $300. The compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county. The compensation is in addition to all other compensation provided or allowed for a district attorney.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Runnels County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2071. RUSK COUNTY. (a) The Rusk County Juvenile Board is composed of the county judge, the district judges in Rusk County, and the judge of each county court at law.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional compensation in an amount set by the commissioners court. The additional compensation is for the added duties imposed on the members and shall be paid in equal monthly installments from the general fund of the county.

(d) The commissioners court may accept gifts, grants, or donations from other political subdivisions of the state, an organization, or other person for use in paying the salaries and expenses of the juvenile probation officer. Funds received under this subsection shall be placed in a special fund.

(e) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer from the special fund or from the general fund.

(f) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Rusk County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2081. SABINE COUNTY. (a) Sabine County is included in the East Texas Juvenile Board.

(b) Sections 152.1271(a), (b), (d), (e), and (f) apply to the juvenile board in Jasper, Newton, Sabine, and San Augustine counties.

(c) The Commissioners Court of Sabine County may pay the county judge of Sabine County additional annual compensation in an amount set by the commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2091. SAN AUGUSTINE COUNTY. (a) San Augustine County is included in the East Texas Juvenile Board.

(b) Sections 152.1271(a), (b), (d), (e), and (f) apply to the juvenile board in Jasper, Newton, Sabine, and San Augustine counties.

(c) The Commissioners Court of San Augustine County may pay the county judge of San Augustine County additional annual compensation in an amount set by the commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2101. SAN JACINTO COUNTY. (a) The juvenile board of San Jacinto County is composed of the county judge, the district judges in San Jacinto County, and the judge of each county court at law.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $3,000 nor more than $10,000, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of San Jacinto County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2111. SAN PATRICIO COUNTY. (a) The juvenile board of San Patricio County is composed of the county judge, the district judges in San Patricio County, and the judge of each county court at law.

(b) The commissioners court may pay the juvenile board members additional annual compensation in an amount set by the commissioners court for the added duties imposed on the members. The additional compensation may not be lower than the amount paid to the judges on

September 1, 1981.

(c) The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of San Patricio County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1989, 71st Leg., ch. 659, Sec. 3, eff. Sept. 1, 1989.

Sec. 152.2121. SAN SABA COUNTY. (a) The San Saba County Juvenile Board is composed of the county judge and the district judges in San Saba County.

(b) The judge of the 33rd District Court is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not more than $1,200 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of San Saba County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 22, eff. September 1, 2005.

Sec. 152.2131. SCHLEICHER COUNTY. (a) The juvenile board of Schleicher County is composed of the county judge and the district judges in Schleicher County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not more than $1,200, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Schleicher County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2141. SCURRY COUNTY. (a) Scurry County is included in the 132nd Judicial District Juvenile Board.

(b) Section 152.0231 applies to the 132nd Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2151. SHACKELFORD COUNTY. (a) The Shackelford County Juvenile Board is composed of the county judge, the district judges in Shackelford County, and the judge of any statutory court designated as the juvenile court. The juvenile court judge may appoint one public member for a term determined by the juvenile court judge.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not more than $2,500, payable in equal monthly installments from the general fund of the county. The public member serves without compensation.

(d) Section 152.0005(b) does not apply to the juvenile board of Shackelford County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2171. SHERMAN COUNTY. (a) The Sherman County Juvenile Board is composed of the county judge, the district judges in Sherman County, and the judge of any statutory court designated as a juvenile court.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The board may cooperate with other juvenile boards to provide adequate services.

(d) The juvenile board members receive no compensation for serving on the board.

(e) Sections 152.0003 and 152.0005(b) do not apply to the

juvenile board of Sherman County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2181. SMITH COUNTY. (a) The Smith County Juvenile Board is composed of the county judge, the district judges in Smith County, and the judge of each county court at law.

(b) The county judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the board members annual additional compensation in an amount set by the commissioners court. The additional compensation is for the added duties imposed on the members and shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Smith County.

(e) The board may accept gifts and grants from any private or public source to use in maintaining and improving the county's juvenile probation services.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 376, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1005, Sec. 1, eff. Sept. 1, 1997.

Sec. 152.2182. SMITH COUNTY CHILD SUPPORT OFFICE. (a) The Smith County Juvenile Board may establish a child support office in the district clerk's office to collect and disburse child support payments that are required by court order to be made to the county. The office shall receive and disburse the payments in the manner the court believes to be in the best interest of the parties in the case.

(b) The juvenile board may appoint an administrator and other necessary assistants to serve two-year terms. The administrator shall obtain a surety bond in an amount determined by the county auditor from a solvent surety company authorized to make the bonds in this state and approved by the county auditor. The bond shall be conditioned on the faithful performance of the administrator's duties and on the proper accounting of the money entrusted to the administrator. The county shall pay the premium for the bond from the general fund of the county, the child support fund, or any other

available fund.

(c) The board shall determine the duties of the administrator and assistants and set their salaries. The salaries are payable in equal monthly installments from the general fund of the county, the child support fund, or any other available fund. The board must approve a claim for expenses made by the administrator or an assistant or a claim for administrative expenses in operating the child support office, including a claim for payment of equipment and supplies.

(d) The office shall keep an accurate and complete record of money received and disbursed under this section. The county auditor or other authorized county officer or employee shall inspect and examine the records and audit the accounts quarterly. The record is open to the inspection by the public. The auditor shall report the results of the audit to the judges and include any recommendations the auditor may have.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2183. SMITH COUNTY CHILD SUPPORT SERVICE FEE. (a) The court may allow the child support office to assess a monthly fee of not more than $2.50 for collecting and disbursing child support payments that are required by court order to be made to the Smith County child support office.

(b) The payor of the support shall pay the fee unless the payor is a member of the armed services and the monthly child support payment exceeds the amount the court orders the person to pay, in which case the payee shall pay the service fee for as long as the payor is a member of the armed services and the support payment exceeds the amount the court orders the person to pay.

(c) The service fee is due and payable monthly if the payments are to be made monthly, annually if the payments are to be made annually, and weekly if the payments are to be made weekly, unless the court provides a different method of collection. The annual service fee is 12 times the monthly fee and the weekly service fee is 1/52 of the annual fee. If the court orders the fee paid on a different interval, the court shall provide the due date and shall fairly allocate the fee among the periods.

(d) A person who refuses or fails to pay the fee on the date

due or in the amount ordered is subject to an action for contempt of court.

(e) Fees collected under this section shall be paid to the county treasurer on the last day of each calendar month. The county treasurer shall deposit the fees to the credit of the child support fund. The juvenile board shall administer the fund, with the approval of the commissioners court, to assist in paying the salaries and expenses of the child support office and the expenses and costs of other family law or juvenile court services.

(f) A record of money received under this section shall be kept. The county auditor or other authorized person shall audit the child support fund regularly. An annual report of the receipts and expenditures of the fund shall be made to the commissioners court.

(g) The service fee authorized by this section applies to child support ordered before August 31, 1981, if the person ordered to make those payments defaults and is cited for contempt of court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2191. SOMERVELL COUNTY. (a) The juvenile board of Somervell County is composed of the county judge and the district judges in Somervell County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary in an amount set by the commissioners court for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund or any other fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Somervell County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2201. STARR COUNTY. (a) The Starr County Juvenile Board is composed of the county judge, the judge of the county court at law in Starr County, and the district judges in Starr County.

(b) The juvenile court judge is the chairman of the board and

its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 or more than $10,000 for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) The juvenile board shall appoint not more than five persons to serve on an advisory council.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Starr County.

(f) The Starr County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Starr County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 908 (H.B. 2884), Sec. 36, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 23, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 705 (H.B. 2813), Sec. 1, eff. September 1, 2009.

Sec. 152.2221. STERLING COUNTY. (a) The juvenile board of Sterling County is composed of the county judge and the district judges in Sterling County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not more than $1,200, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Sterling County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2231. STONEWALL COUNTY. (a) Stonewall County is included in the 39th Judicial District Juvenile Board.

(b) Section 152.1101 applies to the 39th Judicial District Juvenile Board.

Added by Acts 2009, 81st Leg., R.S., Ch. 65 (S.B. 1811), Sec. 3, eff. September 1, 2009.

Sec. 152.2241. SUTTON COUNTY. (a) The Sutton County Juvenile Board is composed of the county judge and the district judges in Sutton County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 nor more than $3,600 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Sutton County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2251. SWISHER COUNTY. (a) The juvenile board of Castro and Swisher counties is composed of the county judges, the district judges in Castro and Swisher counties, and the judge of any statutory court designated as a juvenile court in the counties.

(b) Section 152.0411 applies to the juvenile board of Castro and Swisher counties.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 454, Sec. 3, eff. Aug. 30, 1993.

Sec. 152.2261. TARRANT COUNTY. (a) The juvenile board of Tarrant County is composed of the county judge and the district judges in Tarrant County.

(b) If the chief juvenile probation officer serves as secretary to the juvenile board, the officer may receive additional annual

compensation of $1,000.

(c) The juvenile board shall hold meetings at least once every three months in accordance with board rules.

(d) The board shall keep records as required by law and board rules.

(e) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(f) The commissioners court shall provide the juvenile probation officers with:

(1) automobiles and their maintenance and operation expenses for use in official duties; or

(2) an automobile allowance for the use of a personal automobile on official business in the amount determined to be necessary by the juvenile board.

(g) The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation personnel and the additional compensation prescribed for the county judge.

(h) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Tarrant County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 23, eff. September 1, 2005.

Sec. 152.2262. TARRANT COUNTY INSTITUTIONS. (a) The juvenile board of Tarrant County shall appoint a person to supervise the county facilities under the jurisdiction of the juvenile board. The supervisor may be the county probation officer. The supervisor shall direct the policies and conduct of each institution.

(b) The juvenile board shall also appoint the head of each facility. The facility head may hire employees that the juvenile board determines are necessary.

(c) The facilities supervisor or employees under the supervisor's control shall supervise each child committed to a county institution until the child becomes of age. The supervisor or employees shall submit periodic reports to the juvenile board as required for the board's approval or action.

(d) The commissioners court shall provide the necessary funds to operate each institution.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2263. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN TARRANT COUNTY. (a) The juvenile board of Tarrant County may designate the district clerk or the juvenile probation officer to collect and disburse court-ordered child or spousal support payments that are required by court order to be made to the county. The person designated to receive the payments shall disburse the payments in the manner the court believes to be in the best interest of the spouse or child.

(b) If the juvenile board designates the juvenile probation officer to receive the payments, the officer shall work in the court as an officer of the court. The officer shall obtain a surety bond in an amount determined by the commissioners court from a solvent surety company authorized to make the bonds in this state and approved by the commissioners court. The bond shall be conditioned on the faithful performance of the officer's duties and on the proper accounting of the money entrusted to the officer. The county shall pay the premium for the bond from the general fund of the county.

(c) The juvenile probation officer shall keep an accurate and complete record of money received and disbursed under this section. The record is open for public inspection. The county auditor shall inspect and examine the records and audit the accounts quarterly. The auditor shall report the results of the audit to the juvenile board and include any recommendations the auditor may have.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2264. TARRANT COUNTY CRIMINAL COURT ADMINISTRATOR. (a) Subject to the approval of the commissioners court, the judges of the district and county courts in Tarrant County that give preference to criminal matters may use the services of a criminal courts administrator.

(b) A judge may not be subjected to a suit for, and is immune from liability for damages arising from, an act or omission committed while performing a duty under this section unless the act or omission

is:

(1) committed intentionally, wilfully, or wantonly; or

(2) committed with:

(A) gross negligence; or

(B) conscious indifference or reckless disregard for the safety of others.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 24, eff. September 1, 2005.

Sec. 152.2271. TAYLOR COUNTY. (a) The juvenile board of Taylor County is composed of the county judge, the district judges in Taylor County, and the judge of each statutory county court exercising juvenile jurisdiction.

(b) The juvenile board shall hold meetings at least once every three months in accordance with board rules.

(c) The board shall keep records as required by law and board rules.

(d) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(e) The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation personnel.

(f) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Taylor County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 551, Sec. 2, eff. Sept. 1, 1989.

Sec. 152.2281. TERRELL COUNTY. (a) The juvenile board of Terrell County is composed of the county judge and the district judges in Terrell County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $3,600, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Terrell

County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2291. TERRY COUNTY. (a) The Terry County Juvenile Board is composed of the:

(1) county judge;

(2) district judges in Terry County;

(3) juvenile court judge;

(4) Brownfield city manager;

(5) superintendent of the Brownfield Independent School District; and

(6) one public member from Terry County appointed by the board chairman.

(b) The juvenile board shall elect one of its members as chairman.

(c) The commissioners court shall pay the judges on the juvenile board an annual salary of not more than $1,200 for the added duties imposed on them. The salary shall be paid in equal monthly installments out of the general fund of the county.

(d) If approved by the juvenile board, the commissioners court shall reimburse the juvenile board members and all probation officers and staff for reasonable and necessary job related expenses. Reimbursable expenses include travel, lodging, training, and educational activities.

(e) The commissioners court shall provide the funds for the salaries and allowances of the juvenile probation officers in the amount set by the juvenile board.

(f) Sections 152.0005(a) and (b) do not apply to the juvenile board of Terry County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2301. THROCKMORTON COUNTY. (a) Throckmorton County is included in the 39th Judicial District Juvenile Board.

(b) Section 152.1101 applies to the 39th Judicial District Juvenile Board.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 65, Sec. 5, eff. September 1, 2009.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 65, Sec. 5, eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 65, Sec. 5, eff. September 1, 2009.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 65 (S.B. 1811), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 65 (S.B. 1811), Sec. 5, eff. September 1, 2009.

Sec. 152.2311. TITUS COUNTY. (a) Titus County is included in the Camp, Marion, Morris, and Titus Counties Juvenile Board.

(b) Section 152.0381 applies to the Camp, Marion, Morris, and Titus Counties Juvenile Board.

(c) Section 152.2312 is suspended while Titus County is a member of the Camp, Marion, Morris, and Titus Counties Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2312. TITUS COUNTY. (a) The Titus County Juvenile Board is composed of the county judge and the district judges in Titus County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $600 nor more than $1,800 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the Titus County Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2321. TOM GREEN COUNTY. (a) The juvenile board of Tom Green County is composed of the county judge and the district judges in Tom Green County.

(b) The juvenile board shall hold meetings at least once every three months in accordance with board rules.

(c) The county commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $600 or more than $1,200, payable in equal monthly installments from the general fund of the county.

(d) The board shall keep records as required by law and board rules.

(e) A juvenile probation officer shall take the oath of office when appointed and the oath and the fact of the appointment shall be filed with the county clerk.

(f) The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation personnel.

(g) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(a) do not apply to the juvenile board of Tom Green County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2331. TRAVIS COUNTY. (a) The Travis County Juvenile Board is composed of the county judge and the district judges in Travis County.

(b) The commissioners court shall pay the juvenile board members an annual salary of $4,800 for the judicial and administrative duties imposed on the judges. The compensation shall be paid in equal monthly installments from the general fund of the county.

(c) The commissioners court shall provide the funds for the salaries of the juvenile probation officers in the amount set by the juvenile board.

(d) The commissioners court shall pay the expenses of the juvenile probation officers that are certified as necessary by the juvenile board chairman from the general fund and in the amount set

by the juvenile board.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, and 152.0007 do not apply to the juvenile board of Travis County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2332. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN TRAVIS COUNTY. (a) The juvenile board of Travis County may designate the chief probation officer to collect and disburse child and spousal support payments that are required by court order to be made to the county or that are voluntarily made to the county. The chief probation officer shall disburse the payments in the manner the court by order states is in the best interest of the spouse or child.

(b) The officer shall obtain a surety bond in an amount determined by the juvenile board from a corporate surety authorized to make the bonds in this state and approved by the commissioners court. The bond shall be payable to the district judges in the county and conditioned on the faithful performance of the officer's duties and on the proper accounting of the money entrusted to the officer. The county shall pay the premium for the bond from the general fund of the county.

(c) The officer shall keep an accurate and complete record of money received and disbursed under this section. The records are court records and may be inspected at reasonable times by the parties, their representatives, and attorneys. The records may be introduced into evidence as prescribed by the Texas Rules of Evidence. The county auditor shall inspect and examine the records and audit the accounts quarterly. The auditor shall report the results of the audit to the juvenile board and include any recommendations the auditor may have.

(d) The chief juvenile probation officer may appoint necessary personnel with the approval of the juvenile board to administer this section. The personnel serve at the pleasure of the chief juvenile probation officer.

(e) The commissioners court shall provide from the general fund the money necessary to administer this section in the amount recommended by the juvenile board and approved by the commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2341. TRINITY COUNTY. (a) The juvenile board of Trinity County is composed of the county judge, the district judges in Trinity County, and the judge of each county court at law.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $3,000 nor more than $10,000, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Trinity County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2351. TYLER COUNTY. (a) The Tyler County Juvenile Board is composed of the county judge and the district judges in Tyler County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not more than $5,000 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(d) The chairman shall certify all claims for expenses of the juvenile probation officer as necessary in the performance of the officer's duties. The commissioners court shall provide the necessary funds to pay the salaries and expenses of the juvenile probation officer.

(e) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Tyler County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2361. UPSHUR COUNTY. (a) The Upshur County Juvenile Board is composed of the county judge and the district judge in Upshur County.

(b) The county judge of Upshur County is the chairman of the

board and its chief administrative officer.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 707, Sec. 2, eff. June 14, 2013.

(d) Service on a juvenile board by a judge is an additional duty of office. The commissioners court shall pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200, payable in equal monthly installments from any funds available to the county or to the juvenile board.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 707, Sec. 2, eff. June 14, 2013.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 707, Sec. 2, eff. June 14, 2013.

(g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 707, Sec. 2, eff. June 14, 2013.

(h) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 707, Sec. 2, eff. June 14, 2013.

(i) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 707, Sec. 2, eff. June 14, 2013.

(j) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 707, Sec. 2, eff. June 14, 2013.

(k) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 707, Sec. 2, eff. June 14, 2013.

(l) The board may accept state aid and grants or gifts from other political subdivisions of the state, private citizens, or associations for the purpose of financing adequate and effective juvenile programs.

(m) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 707, Sec. 2, eff. June 14, 2013.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 707 (H.B. 3161), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 707 (H.B. 3161), Sec. 2, eff. June 14, 2013.

Sec. 152.2371. UPTON COUNTY. (a) The Upton County Juvenile Board is composed of the county judge and the district judges in Upton County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 nor more than $3,600 as compensation for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Upton County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2381. UVALDE COUNTY. (a) The juvenile board of Uvalde County is composed of the county judge and the district judges in Uvalde County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $3,600, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Uvalde County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2391. VAL VERDE COUNTY. (a) The juvenile board of Val Verde County is composed of the county judge, the district judges in Val Verde County, and the judge of the County Court at Law of Val Verde County.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $3,600, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Val Verde County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1125 (H.B. 3952), Sec. 1, eff. September 1, 2013.

Sec. 152.2401. VAN ZANDT COUNTY. (a) The Van Zandt County Juvenile Board is composed of the county judge, the criminal district attorney of Van Zandt County, the judge of the 294th Judicial District, and the judge of the county court at law.

(b) The juvenile board shall elect one of its members as chairman at its first regular meeting of each calendar year.

(c) The board shall hold meetings each year on dates set by the board and special meetings at the call of the chairman.

(d) The board may agree to join with the juvenile board of one or more counties to provide services and facilities and to receive and disburse funds under this section.

(e) Service on a juvenile board by a judge or the district attorney is an additional duty of office. The commissioners courts shall pay the juvenile board members an annual salary set by the commissioners courts at not less than $600 for the added duties imposed on the members. The salary shall be paid in equal monthly or bimonthly installments from any funds available to the county or to the juvenile board. The salary is in addition to all other compensation provided or allowed by law for criminal district attorneys.

(f) The juvenile board shall make the financial and statistical records and reports the board is required to make to the Texas Juvenile Justice Department available to the commissioners court.

(g) The board, in a timely manner, shall prepare and submit to the commissioners court for approval an annual request for funding for the board and the juvenile probation department. Each request must include the total of anticipated expenses of the board or for providing juvenile services for the next fiscal year. The request for funding for the juvenile probation department must also be accompanied by an accounting of all available funds from other funding sources.

(h) The board may accept aid, grants, and gifts from the state or federal government, other political subdivisions of the state, and associations to finance adequate and effective juvenile probation programs. The fiscal officer shall deposit funds received under this subsection in a special account.

(i) Sections 152.0002, 152.0004, 152.0005, and 152.0008(a) do not apply to the juvenile board of Van Zandt County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 15(b), eff. January 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 130, eff. September 1, 2015.

Sec. 152.2411. VICTORIA COUNTY. (a) The juvenile board of Victoria County is composed of the county judge, the district judges in Victoria County, and the judge of each county court at law.

(b) The juvenile board shall elect one of its members as chairman of the board.

(c) The commissioners court shall pay the juvenile board members additional compensation in an amount set by the commissioners court. The additional compensation is for the added duties imposed on the members and shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(d) The commissioners court may pay the county clerk additional compensation for serving as the clerk of the juvenile court.

(e) The commissioners court shall provide the funds necessary to pay the salaries and expenses essential to the proper operation of the probation department.

(f) Sections 152.0002, 152.0004, and 152.0005 do not apply to the juvenile board of Victoria County.

(g) The juvenile board of Victoria County and the juvenile boards of one or more counties that are adjacent to or in close proximity to Victoria County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 8.04, eff. September 1, 2019.

Sec. 152.2421. WALKER COUNTY. (a) The juvenile board of Walker County is composed of the county judge, the district judges in Walker County, and the judge of each county court at law.

(b) The commissioners court shall pay the juvenile board members additional annual compensation of not less than $1,200, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Walker County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1152 (H.B. 3045), Sec. 4, eff. June 18, 2005.

Sec. 152.2431. WALLER COUNTY. (a) The juvenile board of Waller County is composed of the county judge, the district judges in Waller County, and the judge of each county court at law.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not more than $1,200, payable in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Waller County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1989, 71st Leg., ch. 652, Sec. 2, eff. Sept. 1, 1989.

Sec. 152.2441. WARD COUNTY. (a) The Ward County Juvenile Board is composed of the county judge, the district judges in Ward County, and the judge of any statutory court in the county.

(b) The juvenile board shall elect one of its members as chairman.

(c) The commissioners court shall pay the juvenile board members an annual salary set by the commissioners court at not less than $1,200 or more than $3,600 for the added duties imposed on the members. The salary shall be paid in equal monthly installments from

the general fund or any other fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Ward County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2451. WASHINGTON COUNTY. (a) The juvenile board of Washington County is composed of the county judge, the district judges in Washington County, and the judge of each county court at law.

(b) The board shall select one member to act as chairman.

(c) The commissioners court may reasonably compensate each member of the juvenile board for the member's additional duties.

(d) The juvenile board shall pay from the juvenile board fund to the extent of the state aid received in the fund the salaries of juvenile probation department personnel and other expenses required to provide adequate services to children.

(e) The county shall pay salaries and expenses other than those paid under Subsection (d) that are essential to provide adequate services to children in an amount set by the juvenile board with the advice and consent of the commissioners court.

(f) The juvenile board may accept state aid and grants or gifts from other political subdivisions of the state or associations for the sole purpose of financing adequate and effective probation programs. A municipality may grant money to the county government or to the juvenile board to support and maintain juvenile programs if the municipality's governing body approves the expenditure. Funds received under this subsection shall be administered and kept separately from other county funds.

(g) The chief juvenile probation officer may appoint necessary personnel with the approval of the juvenile board. Juvenile probation officers serve at the pleasure of the juvenile board.

(h) The juvenile board shall provide the juvenile probation officers with transportation or an automobile allowance for use of a personal automobile on official business.

(i) The juvenile board may agree to operate together with one or more counties that are adjacent to or in close proximity to Washington County. The juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the

boards.

(j) The juvenile board may operate foster homes for the temporary care of children served by the board.

(k) Sections 152.0002, 152.0004, and 152.0008 do not apply to the juvenile board of Washington County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1993, 73rd Leg., ch. 239, Sec. 1, eff. May 22, 1993.

Sec. 152.2461. WEBB COUNTY. (a) The Webb County Juvenile Board is composed of the county judge, the district judges in the county, and the judge of each county court at law. The county judge may designate any member of the commissioners court to represent the judge on the board. A reference in this section to a juvenile court judge of a juvenile board member includes a person designated by the county judge under this subsection.

(b) The commissioners court may pay the juvenile board members additional annual compensation set by the commissioners court at not more than $4,800 for the added duties imposed on the members. The compensation shall be paid in equal monthly installments from the general fund of the county.

(c) The commissioners court may reimburse the juvenile court judge for the judge's actual and necessary expenses incurred in attending seminars and other educational or instructional meetings relating to juvenile matters. The annual amount for which the judge may be reimbursed may not exceed $600.

(d) The juvenile board may require a board employee to enter into a bond payable to the board, conditioned on the faithful performance of the person's duties. The board shall pay the premium of the bond. The board may suspend or remove an employee for good cause. The board may permit the chief juvenile probation officer to suspend or remove employees whom the chief juvenile probation officer may supervise.

(e) The board shall control and supervise each county institution used to detain juveniles. The board shall appoint the superintendent of each institution.

(f) The board may accept gifts or grants of real or personal property subject to the terms and conditions of the gift or grant to use for the benefit of the juvenile justice system.

(g) The board shall submit an annual budget to the commissioners court. The commissioners court may appropriate and the juvenile board shall use money from the county general fund to administer this section.

(h) The board may authorize the use of foster homes for the temporary care of a child alleged to be a child in need of supervision or a delinquent child.

(i) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008(b) do not apply to the juvenile board of Webb County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 23, Sec. 2, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 105, Sec. 1, eff. Aug. 30, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 25, eff. September 1, 2005.

Sec. 152.2471. WHARTON COUNTY. (a) The juvenile board of Wharton County is composed of the county judge, the district judges in Wharton County, and the judge of each county court at law.

(b) The commissioners court shall pay the board members annual additional compensation in an amount set by the commissioners court. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Wharton County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2472. COMPENSATION OF JUVENILE JUDGE IN WHARTON COUNTY. (a) The Commissioners Court of Wharton County may pay the juvenile judge additional annual compensation of not more than $1,500 for serving as the judge of the juvenile court.

(b) The compensation is in addition to all other compensation paid or authorized to be paid to the judge who serves as the juvenile judge.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2473. WHARTON COUNTY CHILD SUPPORT OFFICE. (a) The judges of the district courts in Wharton County may establish a child support office in the county juvenile office to collect and disburse child support payments that are required by court order to be made to the office. The office shall disburse the payments in the manner the court believes to be in the best interest of the parties in the case.

(b) The judges of the district courts in a county served by an office may appoint an administrator and other assistants to serve two-year terms. The administrator shall obtain a surety bond in an amount determined by the county auditor from a solvent surety company authorized to make the bonds in this state and approved by the county auditor. The bond shall be conditioned on the faithful performance of the administrator's duties and on the proper accounting of the money entrusted to the administrator. The county shall pay the premium for the bond from the general fund of the county, the child support fund, or any other available fund.

(c) The judges shall determine the duties of the administrator and assistants and set their salaries. The salaries are payable in equal monthly installments from the general fund of the county, the child support fund, or any other available fund. The judges must approve a claim for expenses made by the administrator or an assistant or a claim for administrative expenses in operating the child support office, including a claim for payment of equipment and supplies.

(d) The office shall keep an accurate and complete record of money received and disbursed under this section. The record is open for public inspection. The county auditor or other authorized county officer or employee shall inspect and examine the records and audit the accounts quarterly. The auditor shall report the results of the audit to the judges and include any recommendations the auditor may have.

(e) The child support office may serve one or more of Brazoria, Fort Bend, and Matagorda counties. If a child support office serves more than one county, the judges of the district courts in the counties shall determine the location of the office. The officers and employees of the county in which the office is located shall perform the duties prescribed by this section. The counties shall pay the salaries, bond premium, and other expenses in accordance with

the ratio that the population of each county bears to the total population of all of the counties served by the office.

(f) The commissioners courts shall pay the district court judges $75 a month for performing the duties prescribed by this section. The compensation shall be paid from the general fund of the county and is in addition to any other compensation the judges receive.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2474. WHARTON COUNTY CHILD SUPPORT SERVICE FEE. (a) The Wharton County child support office shall assess a monthly fee of not more than $10 for collecting and disbursing child support payments that are required by court order to be made to the office. The fee is payable annually and in advance.

(b) The payor of the support shall pay the fee unless the payor is a member of the armed services and the monthly child support payments exceed the amount the court orders the person to pay, in which case the payee shall pay the service fee for as long as the payor is a member of the armed services and the support payments exceed the amount the court orders the person to pay.

(c) The first fee payment is due on the date that the payor is ordered to begin the child support payments. If the payee must pay the fee, the first fee payment is due on the date that the payee receives the original support payment. Subsequent annual fees are due on the anniversary of the date of the original fee payment.

(d) A person who refuses or fails to pay the fee on the date due or in the amount ordered is subject to an action for contempt of court.

(e) Fees collected under this section shall be paid to the county treasurer on the last day of each calendar month. The county treasurer shall deposit the fees to the credit of the child support fund. The judges of the district courts in a county served by the office shall administer the fund, with the approval of the commissioners court, to assist in paying the salaries and expenses of the child support office.

(f) An accurate and complete record of money received under this section shall be kept. The county auditor or other authorized person shall audit the child support fund regularly. An annual

report of the receipts and expenditures of the fund shall be made to the commissioners court.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 12.04(a), eff. Aug. 26, 1991.

Sec. 152.2491. WICHITA COUNTY. (a) The Wichita County Juvenile Board is composed of the county judge, the district judges in Wichita County, and the judge of each statutory county court.

(b) The commissioners court may pay the board members additional annual compensation in an amount determined by the commissioners court, payable in equal monthly installments from the general fund of the county.

(c) The juvenile board may authorize the use of foster homes for the temporary care of children subject to Title 3 or 5, Family Code. The rate of pay for foster care shall be determined by the juvenile board and those payments are necessary operating expenses of the Wichita County Family Court Services Department.

(d) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Wichita County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.52, eff. Sept. 1, 1997.

Sec. 152.2492. WICHITA COUNTY INSTITUTIONS. (a) The juvenile board of Wichita County controls and supervises each county facility used for the detention of juveniles.

(b) The chief juvenile probation officer shall appoint the superintendent of each facility. The juvenile board must confirm the appointment. A superintendent or an assistant may be suspended or removed at any time by the appointing authority.

(c) The juvenile board shall set the salaries of the superintendents and assistants.

(d) This section does not apply to a person or facility that provides services to juveniles under a contract with the commissioners court or juvenile board and that is licensed or

registered by a state or federal agency or an agency of another state.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 288 (H.B. 953), Sec. 1, eff. June 15, 2007.

Sec. 152.2496. WICHITA COUNTY ADOPTION INVESTIGATION FUND. (a) A person who files an adoption case in a district court in Wichita County shall pay to the district clerk a filing fee of $100. The fee is taxed, collected, and paid as other costs.

(b) The district clerk shall transfer the money collected under this section to the Wichita County Family Court Services Department for placement in the adoption investigation fund. The juvenile board shall administer the fund to maintain adoption investigation services, including the salaries and expenses of the adoption investigator and assistants and the purchase of supplies and equipment.

(c) The fund may be supplemented by money from the general fund or any other available fund of the county as necessary.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2501. WILBARGER COUNTY. (a) Wilbarger County is included in the 46th Judicial District Juvenile Board.

(b) Section 152.0841 applies to the 46th Judicial District Juvenile Board.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2511. WILLACY COUNTY. (a) The juvenile board of Willacy County is composed of the judges of the county and district courts in the county. The board must have not fewer than three nor more than five members. The judges of the county and district courts in the county may appoint an appropriate number of public members to serve on the board without compensation if necessary to satisfy this requirement. The chairman of the board shall determine the number of

public members to be appointed to the board.

(b) The county judge is the chairman of the board.

(c) The board shall hold biannual meetings on dates set by the board and special meetings at the call of the chairman.

(d) Service on a juvenile board by a judge is an additional duty of office. The commissioners court shall pay the judges on the juvenile board an annual salary set by the commissioners court at not more than $6,000, payable in equal monthly installments from the general fund or any other available fund of the county.

(e) The county shall reimburse a juvenile board member for the member's actual and necessary expenses incurred in performing the member's duties.

(f) The juvenile board shall ensure that the chief juvenile officer and fiscal officer:

(1) keep the financial and statistical records and submit reports to the Texas Juvenile Justice Department as prescribed by Section 221.007; and

(2) submit periodic financial and statistical reports to the county commissioners court.

(g) The chief juvenile probation officer shall appoint an appropriate number of qualified juvenile probation officers, assistants, and support personnel with the approval of the board as necessary to perform his duties. The chief juvenile probation officer and the personnel appointed under this section may be removed at any time by the appointing authority or by the juvenile board. The chief juvenile probation officer shall recommend to the juvenile board the salaries of and allowances for juvenile probation officers, assistants, and support personnel. The juvenile board shall provide the chief juvenile probation officer and his assistants with transportation or an automobile allowance for use of a personal automobile on official business.

(h) A claim for expenses from a person in the juvenile probation department must be made to the board chairman. The chairman shall certify to the fiscal officer the expenses to be paid from state funds and shall certify to the commissioners court the expenses to be paid from county funds.

(i) The chairman of the board shall certify to the commissioners court an annual request for the expenditure of county funds. The commissioners court shall act on the request in the same manner as it acts on a request from another county office.

(j) The board may accept state aid and grants and gifts from other political subdivisions of the state or associations for the purpose of financing adequate and effective juvenile programs. A municipality may grant and allocate money to the juvenile board to support and maintain effective juvenile services if the municipality's governing body approves the expenditure. Funds received under this subsection shall be administered and kept separately from other public funds. This section does not affect a program of local enrichment of juvenile services funded by a service.

(k) The juvenile board shall appoint an advisory council of not more than five persons.

(l) Sections 152.0002, 152.0004, 152.0005, 152.0008, and 152.0009 do not apply to the juvenile board of Willacy County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.022, eff. September 1, 2011.

Sec. 152.2521. WILLIAMSON COUNTY. (a) The juvenile board of Williamson County is composed of the county judge and the district judges in the county, and the judges of any statutory court in the county designated as a juvenile court. The judge of a district court may designate a person to represent the judge on the board.

(b) The juvenile board shall elect one of its members to act as chairman.

(c) The board may cooperate with other juvenile boards to provide adequate services.

(d) The board's fiscal officer shall receive and disburse for juvenile probation the funds of the board.

(e) Service on a juvenile board by a judge is an additional duty of office. The commissioners court may pay the juvenile board members a salary in an amount that will reasonably compensate them for their added duties. The commissioners court shall pay to a person designated to serve on the board by a district judge the judge's salary as authorized by this subsection. The salary to the person designated is in addition to all other compensation provided or allowed by law.

(f) The county shall reimburse a juvenile board member for the

member's actual and necessary expenses incurred in performing his duties.

(g) The juvenile board shall provide each juvenile probation officer with an automobile or an automobile allowance for use of a personal automobile on official business.

(h) The juvenile board shall pay the salaries of juvenile probation personnel and other expenses required to provide adequate services to children from the juvenile board fund to the extent of the state aid received in the fund. The county shall pay the other salaries and expenses essential to provide adequate services in an amount set by the juvenile board with the advice and consent of the commissioners court.

(i) The board may accept state aid and grants or gifts from other political subdivisions of the state or associations for the sole purpose of financing adequate and effective juvenile programs. A municipality may grant and allocate money to the appropriate county government or to the juvenile board to support and maintain effective juvenile services if the municipality's governing body approves the expenditure. Funds received under this subsection shall be administered and kept separately from other public funds. This section does not affect a program of local enrichment of juvenile services funded by any source.

(j) Sections 152.0002, 152.0004, 152.0005, 152.0008, and 152.0009 do not apply to the juvenile board of Williamson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2531. WILSON COUNTY. (a) The juvenile board of Wilson County is composed of the county judge and the district judges in Wilson County.

(b) The commissioners court shall pay the juvenile board members additional annual compensation set by the commissioners court at not less than $1,200 nor more than $4,800 for the added duties imposed on the members. The additional compensation shall be paid in equal monthly installments from the general fund of the county.

(c) Sections 152.0002, 152.0003, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Wilson County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2541. WINKLER COUNTY. (a) The Winkler County Juvenile Board is composed of the county judge and the district judges in Winkler County.

(b) The juvenile court judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the board chairman additional annual compensation of $1,200 for the added duties imposed on the chairman. The commissioners court may pay the other members of the board additional annual compensation of not more than $1,200. The additional compensation shall be paid in equal monthly installments from the general fund or any other available fund of the county.

(d) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board of Winkler County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2551. WISE COUNTY. (a) Wise County is included in the juvenile board in Jack and Wise counties.

(b) Section 152.1251 applies to the juvenile board in Jack and Wise counties.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

Sec. 152.2561. WOOD COUNTY. (a) The juvenile board of Wood County is composed of the county judge, the district judges in the county, and the judge of any statutory court in the county designated as a juvenile court.

(b) The juvenile board shall elect one of its members as chairman at its first regular meeting of each calendar year.

(c) The board may agree to operate with the juvenile board of another county to provide services and to receive and disburse funds.

(d) The board shall hold regular meetings each year on dates set by the board, and special meetings at the call of the chairman.

(e) Service on a juvenile board by a judge is an additional duty of office. The commissioners court shall pay each juvenile board member an annual salary of not less than $4,800, payable in

equal monthly installments from any funds available to the county or to the juvenile board.

(f) The commissioners court shall reimburse a juvenile board member for the member's actual and necessary expenses incurred in performing the member's duties. The commissioners court shall set the rate of reimbursement and shall pay the expenses from funds allocated or received from any source.

(g) The juvenile board shall appoint necessary juvenile probation department personnel. The juvenile board may discharge the employees of the juvenile probation department.

(h) The juvenile board shall provide each juvenile probation officer or juvenile probation department employee with an automobile or an automobile allowance for use of a personal automobile on official business.

(i) The juvenile board shall pay the salaries, allowances, and other necessary expenses from the juvenile probation budget to the extent of the state aid received. The commissioners court shall pay the remaining salaries, allowances, and other necessary expenses from the general fund or other available funds of the county.

(j) The juvenile board shall set the annual rate of increase in the salaries of juvenile probation department personnel. If any portion of an employee's salary is to be paid from the general fund, the commissioners court shall approve the salary as presented to the commissioners court by the chairman of the juvenile board. For purposes of this subsection, "salary" means only the fixed compensation paid to an employee and does not include health insurance, allowances, or any other benefit.

(k) The board may accept state aid and grants or gifts from other political subdivisions of the state or associations for the sole purpose of financing adequate and effective juvenile programs. The fiscal officer shall deposit funds received under this subsection in a special account.

(l) The board shall make available to the commissioners court the financial and statistical reports required by the Texas Juvenile Justice Department.

(m) Sections 152.0002, 152.0004, 152.0005, 152.0008, and 152.0009 do not apply to the juvenile board of Wood County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1236 (H.B. 2502), Sec. 2, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 131, eff. September 1, 2015.

Sec. 152.2571. YOAKUM COUNTY. (a) The Yoakum County Juvenile Board is composed of the county judge, the district judges in Yoakum County, and the judge of any statutory court in the county designated as a juvenile court.

(b) The juvenile board shall elect one of its members as chairman at the beginning of each year.

(c) The commissioners court shall pay the juvenile board members an annual salary set by the commissioners court at not more than $1,200, payable in equal monthly installments from the general fund or any other available fund of the county.

(d) Section 152.0005(b) does not apply to the juvenile board of Yoakum County.

Added by Acts 1989, 71st Leg., ch. 352, Sec. 1, eff. Sept. 1, 1989.

TITLE 11. AGING, COMMUNITY-BASED, AND LONG-TERM CARE SERVICES
CHAPTER 161. DEPARTMENT OF AGING AND DISABILITY SERVICES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 161.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Commissioner" means the commissioner of aging and disability services.

(3) "Council" means the Aging and Disability Services Council.

(4) "Department" means the Department of Aging and Disability Services.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.13A.

Sec. 161.003. SUNSET PROVISION. Unless the commission is

continued in existence as provided by Chapter 325, Government Code, after the review required by Section 531.004, Government Code, this chapter expires on the date the commission is abolished under that section.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.13A.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.08, eff. June 15, 2007.
Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 2.15, eff. July 10, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 2.21, eff. June 17, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.440, eff. April 2, 2015.
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 4.06, eff. September 1, 2015.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS
SUBCHAPTER C. PERSONNEL

Sec. 161.0515. ASSISTANT COMMISSIONER FOR STATE SUPPORTED LIVING CENTERS. (a) The commissioner shall employ an assistant commissioner for state supported living centers. The assistant commissioner must be selected based on education, training, experience, and demonstrated ability.

(b) The assistant commissioner reports directly to the commissioner.

(c) The assistant commissioner shall supervise the operation of the state supported living centers. As part of that duty, the assistant commissioner shall:

(1) verify that quality health and medical services are being provided in state supported living centers;

(2) verify and certify employee qualifications for employees of a state supported living center; and

(3) work with the commissioner to create administrative guidelines for proper implementation of federal and state statutory law and judicial decisions.

(d) The assistant commissioner shall coordinate with the appropriate staff of the Department of State Health Services to

ensure that the ICF-IID component of the Rio Grande State Center implements and enforces state law and rules that apply to the operation of state supported living centers.

(e) The assistant commissioner shall consult with the appropriate staff at the Department of State Health Services to ensure that an individual with a dual diagnosis of mental illness and an intellectual disability who is a resident of a state supported living center or the ICF-IID component of the Rio Grande State Center is provided with appropriate care and treatment.

Added by Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 36, eff. June 11, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.444, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.445, eff. April 2, 2015.

Sec. 161.0541. MAINTENANCE OF MERIT SYSTEM. The merit system established as provided by Section 161.054 may be maintained in conjunction with other state agencies that are required by federal law to operate under a merit system.

Acts 1979, 66th Leg., p. 2338, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.
Transferred, redesignated and amended from Human Resources Code, Section 21.007 by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.006, eff. April 2, 2015.

Sec. 161.057. CRIMINAL BACKGROUND CHECKS. (a) In this section, "eligible person" means a person whose criminal history record information the department is entitled to obtain from the Department of Public Safety under Section 411.13861, Government Code.

(b) The department may obtain criminal history record information regarding an eligible person as provided by Section 411.13861, Government Code. Criminal history record information obtained under Section 411.13861 is subject to the restrictions and requirements of that section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1209 (S.B. 1540), Sec. 4, eff. June 19, 2015.

SUBCHAPTER D. POWERS AND DUTIES OF DEPARTMENT

Sec. 161.071. GENERAL POWERS AND DUTIES OF DEPARTMENT. The department is responsible for administering human services programs for the aging and persons with disabilities, including:

(1) administering and coordinating programs to provide community-based care and support services to promote independent living for populations that would otherwise be institutionalized;

(2) providing institutional care services, including services through convalescent and nursing homes and related institutions under Chapter 242, Health and Safety Code;

(3) providing and coordinating programs and services for persons with disabilities, including programs for the treatment, rehabilitation, or benefit of persons with developmental disabilities or an intellectual disability;

(4) operating state facilities for the housing, treatment, rehabilitation, or benefit of persons with disabilities, including state supported living centers for persons with an intellectual disability;

(5) serving as the state unit on aging required by the federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) and its subsequent amendments, including performing the general functions under Section 101A.052 to ensure:

(A) implementation of the federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) and its subsequent amendments, including implementation of services and volunteer opportunities under that Act for older residents of this state through area agencies on aging;

(B) advocacy for residents of nursing facilities through the office of the state long-term care ombudsman;

(C) fostering of the state and community infrastructure and capacity to serve older residents of this state; and

(D) availability of a comprehensive resource for state government and the public on trends related to and services and programs for an aging population;

(6) performing all licensing and enforcement activities and functions related to long-term care facilities, including licensing

and enforcement activities related to convalescent and nursing homes and related institutions under Chapter 242, Health and Safety Code;

(7) performing all licensing and enforcement activities related to assisted living facilities under Chapter 247, Health and Safety Code;

(8) performing all licensing and enforcement activities related to intermediate care facilities for persons with an intellectual disability under Chapter 252, Health and Safety Code;

(9) performing all licensing and enforcement activities and functions related to home and community support services agencies under Chapter 142, Health and Safety Code; and

(10) serving as guardian of the person or estate, or both, for an incapacitated individual as provided by Subchapter E of this chapter and Title 3, Estates Code.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.13A.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.03, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.447, eff. April 2, 2015.

Sec. 161.073. RULES. The executive commissioner may adopt rules reasonably necessary for the department to administer this chapter, consistent with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

Added by Acts 2003, 78th Leg., ch. 198, Sec. 1.13A.

Sec. 161.074. COMPETITIVE GRANT PROGRAM. (a) The department shall establish a competitive grant program that promotes innovation in the delivery of aging and disability services and improves the quality of life for individuals receiving those services.

(b) A grant awarded by the department under the program shall be used to:

(1) test innovative practices in the provision of aging and disability services; or

(2) disseminate information regarding innovative practices

being used to provide aging and disability services.

(c) The department shall request proposals for the award of a grant under the program. The department shall evaluate the proposals and award a grant based on a proposal's academic soundness, quantifiable effectiveness, and potentially positive impact on the delivery of aging and disability services.

(d) A grant awarded under Subsection (b)(1) must be made to an institution of higher education working in cooperation with a private entity that has committed resources to the project described in the proposal.

(e) A grant recipient may use grant money received under this section only to pay for activities directly related to the purpose of the grant program as described by Subsection (b) and may not use grant money for fees or advertising.

(f) The department shall establish procedures to administer the grant program, including a procedure for the submission of a proposal and a procedure to be used by the department to evaluate a proposal.

(g) The department shall enter into a contract that includes performance requirements with each grant recipient. The department shall monitor and enforce the terms of the contract. The contract must authorize the department to recoup grant money from a grant recipient for failure of the grant recipient to comply with the terms of the contract.

(h) The department shall post on its website a summary of each grant awarded under this section.

(i) The legislature may appropriate money described by Sections 142.0174, 242.0695, 247.0458, and 252.069, Health and Safety Code, including unexpended and unobligated amounts collected during a previous state fiscal biennium, to fund the grant program authorized by this section.

Added by Acts 2005, 79th Leg., Ch. 786 (S.B. 52), Sec. 5, eff. September 1, 2005.

Sec. 161.075. IMMUNITY FOR AREA AGENCIES ON AGING AND AGENCY EMPLOYEES AND VOLUNTEERS. (a) In this section:

(1) "Area agency on aging" means an agency described by 42 U.S.C. Section 3002(6) and through which the department ensures the implementation of services and volunteer opportunities for older

persons in this state as provided by Section 161.071(5)(A).

(2) "Texas nonprofit organization" means a nonprofit corporation:

(A) that is organized under the Texas Nonprofit Corporation Law as described by Section 1.008(d), Business Organizations Code; and

(B) the funding of which is managed by an organization that is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) of that code.

(3) "Volunteer" means a person who:

(A) renders services for or on behalf of an area agency on aging under the supervision of an area agency on aging employee; and

(B) does not receive compensation that exceeds the authorized expenses the person incurs in performing those services.

(b) An area agency on aging that conducts an election on behalf of a Texas nonprofit organization is not civilly or criminally liable for any act or omission, including an act or omission relating to verifying the qualifications of candidates and determining and reporting election results, that relates to a duty or responsibility with respect to conducting the election if the agency acted in good faith and within the scope of the agency's authority.

(c) An area agency on aging employee or volunteer who performs an act related to the conduct of an election described by Subsection (b) is not civilly or criminally liable for the act or any omission that relates to a duty or responsibility with respect to conducting the election if the person acted in good faith and within the scope of the person's authority.

Added by Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 12, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.449, eff. April 2, 2015.

Sec. 161.076. ON-SITE SURVEYS OF CERTAIN PROVIDERS. At least every 12 months, the department shall conduct an unannounced on-site survey in each group home, other than a foster home, at which a Home

and Community-based Services (HCS) provider provides services.

Added by Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 37, eff. June 11, 2009.

Sec. 161.077. INVESTIGATION DATABASE. (a) The department, in consultation with the Department of Family and Protective Services, shall develop and maintain an electronic database to collect and analyze information regarding the investigation and prevention of abuse, neglect, and exploitation of individuals with an intellectual disability who reside in a publicly or privately operated intermediate care facility for persons with an intellectual disability or in a group home, other than a foster home, at which a Home and Community-based Services (HCS) provider provides services and the results of regulatory investigations or surveys performed by the department regarding those facilities or providers.

(b) The information collected in the database regarding investigations must be detailed, be easily retrievable, and include information relating to abuse, neglect, and exploitation investigations performed by either department and regulatory investigations performed by the department that are capable of being sorted by home, provider, and facility.

(c) The database must facilitate the entry of required information and the sharing of information between the department and the Department of Family and Protective Services. At a minimum, the database must include the following information regarding investigations of abuse, neglect, or exploitation:

(1) the number of allegations of abuse, neglect, or exploitation received relating to a facility or group home, other than a foster home; and

(2) the number of allegations relating to a facility or group home, other than a foster home, substantiated through an investigation.

(d) Each allegation involving a unique individual in a facility or group home, other than a foster home, is considered a separate allegation for purposes of Subsection (c).

(e) The department shall ensure that information related to findings concerning failure to comply with regulatory standards directly related to the prevention of abuse, neglect, or exploitation

in a facility or group home, other than a foster home, is collected and stored in the database and may be disaggregated by home, provider, and facility.

(f) The department and the Department of Family and Protective Services may not release or distribute information in the database in a form that contains personally identifiable information related to an individual in a facility or group home or to a victim of abuse, neglect, or exploitation.

Added by Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 37, eff. June 11, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.450, eff. April 2, 2015.

Sec. 161.078. ELIGIBILITY FOR DEAF-BLIND WITH MULTIPLE DISABILITIES WAIVER PROGRAM. (a) Subject to the availability of funds appropriated for that purpose, the department shall provide home-based and community-based services under the deaf-blind with multiple disabilities waiver program without regard to a person's age if the person applies for and is otherwise eligible to receive services under the waiver program.

(b) Subsection (a) does not prevent the department from establishing an age requirement with respect to other programs or services offered to persons who are deaf-blind with multiple disabilities, including the summer outdoor training program for individuals who are deaf-blind with multiple disabilities established under Section 22.036(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 269 (S.B. 37), Sec. 1, eff. May 30, 2009.
Redesignated from Human Resources Code, Section 161.076 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(35), eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.451, eff. April 2, 2015.

Sec. 161.079. INFORMAL CAREGIVER SERVICES. (a) In this

section:

(1) "Area agency on aging" has the meaning assigned by Section 161.075.

(2) "Local entity" means an area agency on aging or other entity that provides services and support for older persons or persons with disabilities and their caregivers.

(b) The department shall coordinate with area agencies on aging and, to the extent considered feasible by the department, may coordinate with other local entities to coordinate public awareness outreach efforts regarding the role of informal caregivers in long-term care situations, including efforts to raise awareness of support services available in this state for informal caregivers.

(c) The department shall perform the following duties to assist a local entity with outreach efforts under this section:

(1) expand an existing department website to provide a link through which a local entity may post and access best practices information regarding informal caregiver support; and

(2) create a document template that a local entity may adapt as necessary to reflect resources available to informal caregivers in the area supported by the entity.

(d) The department shall create or modify a form to be included in the functional eligibility determination process for long-term care benefits for older persons under the Medicaid program and, to the extent considered feasible by the department, may include a form in systems for other long-term care support services. The department shall use the form to identify informal caregivers for the purpose of enabling the department to refer the caregivers to available support services. The form may be based on an existing form, may include optional questions for an informal caregiver, or may include questions from similar forms used in other states.

(e) The department shall coordinate with area agencies on aging and, to the extent considered feasible by the department, may coordinate with other local entities to develop and implement a protocol to evaluate the needs of certain informal caregivers. The protocol must:

(1) provide guidance on the type of caregivers who should receive an assessment; and

(2) include the use of a standardized assessment tool that may be based on similar tools used in other states, including the Tailored Caregiver Assessment and Referral process.

(f) The department shall require area agencies on aging and, to the extent considered feasible by the department, other local entities to use the protocol and assessment tool under Subsection (e) and report the data gathered from the assessment tool to the department.

(g) The department shall analyze the data reported under Subsection (f) and collected from the form under Subsection (d) and shall submit a report not later than December 1 of each even-numbered year to the governor and the Legislative Budget Board that summarizes the data analysis.

(h) The department shall use the data analyzed under Subsection (g) to:

(1) evaluate the needs of assessed informal caregivers;

(2) measure the effectiveness of certain informal caregiver support interventions;

(3) improve existing programs;

(4) develop new services as necessary to sustain informal caregivers; and

(5) determine the effect of informal caregiving on employment and employers.

Added by Acts 2009, 81st Leg., R.S., Ch. 726 (S.B. 271), Sec. 1, eff. June 19, 2009.
Redesignated from Human Resources Code, Section 161.076 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(36), eff. September 1, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.452, eff. April 2, 2015.

Sec. 161.080. CONTRACTS FOR SERVICES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES. (a) A person that provides services to individuals with developmental disabilities may contract with a state supported living center for the center to provide services and resources to support those individuals.

(b) Notwithstanding any other law, a state supported living center may provide nonresidential services to support an individual if the provision of services to the individual does not interfere with the provision of services to a resident of the state supported

living center.

(c) The executive commissioner by rule shall establish:

(1) a list of services a state supported living center may provide under a contract described by Subsection (a); and

(2) procedures for the commission to create, maintain, and amend as needed a schedule of fees that a state supported living center may charge for a service included in the list described by Subdivision (1).

(d) In creating a schedule of fees, the commission shall:

(1) use the reimbursement rate for the applicable service under the Medicaid program; or

(2) modify that rate with a written justification for the modification and after holding a public hearing on the issue of the modification.

(e) Notwithstanding Subsection (c), a state supported living center, based on negotiations between the center and a managed care organization, as defined by Section 533.001, Government Code, may charge a fee for a service other than the fee provided by the schedule of fees created by the commission under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 904 (H.B. 748), Sec. 1, eff. June 19, 2009.
Redesignated from Human Resources Code, Section 161.077 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(37), eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 320 (H.B. 1760), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.453, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 300 (S.B. 547), Sec. 1, eff. May 29, 2017.

Sec. 161.081. LONG-TERM CARE MEDICAID WAIVER PROGRAMS: STREAMLINING AND UNIFORMITY. (a) In this section, "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) The department, in consultation with the commission, shall streamline the administration of and delivery of services through

Section 1915(c) waiver programs. In implementing this subsection, the department, subject to Subsection (c), may consider implementing the following streamlining initiatives:

(1) reducing the number of forms used in administering the programs;

(2) revising program provider manuals and training curricula;

(3) consolidating service authorization systems;

(4) eliminating any physician signature requirements the department considers unnecessary;

(5) standardizing individual service plan processes across the programs;

(6) if feasible:

(A) concurrently conducting program certification and billing audit and review processes and other related audit and review processes;

(B) streamlining other billing and auditing requirements;

(C) eliminating duplicative responsibilities with respect to the coordination and oversight of individual care plans for persons receiving waiver services; and

(D) streamlining cost reports and other cost reporting processes; and

(7) any other initiatives that will increase efficiencies in the programs.

(c) The department shall ensure that actions taken under Subsection (b) do not conflict with any requirements of the commission under Section 531.0218, Government Code.

(d) The department and the commission shall jointly explore the development of uniform licensing and contracting standards that would:

(1) apply to all contracts for the delivery of Section 1915(c) waiver program services;

(2) promote competition among providers of those program services; and

(3) integrate with other department and commission efforts to streamline and unify the administration and delivery of the program services, including those required by this section or Section 531.0218, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 759 (S.B. 705), Sec. 1, eff. June 19, 2009.
Redesignated from Human Resources Code, Section 161.077 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(38), eff. September 1, 2011.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.06(a), eff. September 28, 2011.

Sec. 161.082. LONG-TERM CARE MEDICAID WAIVER PROGRAMS: UTILIZATION REVIEW. (a) In this section, "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) The department shall perform a utilization review of services in all Section 1915(c) waiver programs. The utilization review must include, at a minimum, reviewing program recipients' levels of care and any plans of care for those recipients that exceed service level thresholds established in the applicable waiver program guidelines.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.06(b), eff. September 28, 2011.

Sec. 161.083. CORRECTIONS MEDICATION AIDES. (a) The executive commissioner shall establish:

(1) minimum standards and procedures for the approval of corrections medication aide training programs, including curricula, developed under Section 501.1485, Government Code;

(2) minimum requirements for the issuance, denial, renewal, suspension, and revocation of a permit to a corrections medication aide, including the payment of an application or renewal fee in an amount necessary to cover the costs incurred by the department in administering this section; and

(3) the acts and practices that are within and outside the scope of a permit issued under this section.

(b) Not later than the 90th day after receipt of an application for approval of a corrections medication aide training program developed under Section 501.1485, Government Code, the department

shall:

(1) approve the program, if the program meets the minimum standards and procedures established under Subsection (a)(1); or

(2) provide notice to the Texas Department of Criminal Justice that the program is not approved and include in the notice a description of the actions that are required for the program to be approved.

(c) The department shall issue a permit to or renew the permit of an applicant who meets the minimum requirements established under Subsection (a)(2). The department shall coordinate with the Texas Department of Criminal Justice in the performance of the department's duties and functions under this subsection.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 65.06, eff. September 28, 2011.

Sec. 161.084. MEDICAID SERVICE OPTIONS PUBLIC EDUCATION INITIATIVE. (a) In this section, "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) The department, in cooperation with the commission, shall educate the public on:

(1) the availability of home and community-based services under a Medicaid state plan program, including the primary home care and community attendant services programs, and under a Section 1915(c) waiver program; and

(2) the various service delivery options available under the Medicaid program, including the consumer direction models available to recipients under Section 531.051, Government Code.

(c) The department may coordinate the activities under this section with any other related activity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1057 (S.B. 222), Sec. 3, eff. September 1, 2011.

Sec. 161.085. INTEREST LIST REPORTING. The department shall post on the department's Internet website historical data, categorized by state fiscal year, on the percentages of individuals who elect to receive services under a program for which the department maintains an interest list once their names reach the top

of the list.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1057 (S.B. 222), Sec. 3, eff. September 1, 2011.

Sec. 161.086. ELECTRONIC VISIT VERIFICATION SYSTEM. If it is cost-effective, the department shall implement an electronic visit verification system under appropriate programs administered by the department under the Medicaid program that allows providers to electronically verify and document basic information relating to the delivery of services, including:

(1) the provider's name;

(2) the recipient's name;

(3) the date and time the provider begins and ends the delivery of services; and

(4) the location of service delivery.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.07, eff. September 28, 2011.

Sec. 161.087. GIFTS AND GRANTS. (a) The department may accept gifts and grants of money, personal property, and real property from public or private sources to expand and improve the human services programs for the aging and persons with disabilities available in this state.

(b) The department shall use a gift or grant of money, personal property, or real property made for a specific purpose in accordance with the purpose expressly prescribed by the donor. The department may decline the gift or grant if the department determines that it cannot be economically used for that purpose.

(c) The department shall keep a record of each gift or grant in the department's central office in the city of Austin.

Added by Acts 2013, 83rd Leg., R.S., Ch. 320 (H.B. 1760), Sec. 2, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.454, eff. April 2, 2015.

Sec. 161.088. TRAUMA-INFORMED CARE TRAINING. (a) The department shall develop or adopt trauma-informed care training for employees who work directly with individuals with intellectual and developmental disabilities in state supported living centers and intermediate care facilities. The executive commissioner by rule shall require new employees to complete the training before working with individuals with intellectual and developmental disabilities.

(b) The training required under this section may be provided through an Internet website.

Added by Acts 2015, 84th Leg., R.S., Ch. 796 (H.B. 2789), Sec. 1, eff. September 1, 2015.

Sec. 161.089. ADMINISTRATIVE PENALTIES. (a) This section applies to the following waiver programs established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)), and administered by the commission to serve persons with an intellectual or developmental disability:

(1) the home and community-based services (HCS) waiver program; and

(2) the Texas home living (TxHmL) waiver program.

(b) The commission may assess and collect an administrative penalty against a provider who participates in a program to which this section applies for a violation of a law or rule relating to the program. If the commission assesses an administrative penalty against a provider for a violation of a law or rule, the commission may not impose a payment hold against or otherwise withhold contract payments from the provider for the same violation of a law or rule.

(c) After consulting with appropriate stakeholders, the executive commissioner shall develop and adopt rules regarding the imposition of administrative penalties under this section. The rules must:

(1) specify the types of violations that warrant imposition of an administrative penalty;

(2) establish a schedule of progressive administrative penalties in accordance with the relative type, frequency, and seriousness of a violation;

(3) prescribe reasonable amounts to be imposed for each violation giving rise to an administrative penalty, subject to

Subdivision (4);

(4) authorize the imposition of an administrative penalty in an amount not to exceed $5,000 for each violation;

(5) provide that a provider commits a separate violation each day the provider continues to violate the law or rule;

(6) ensure standard and consistent application of administrative penalties throughout the state; and

(7) provide for an administrative appeals process to adjudicate claims and appeals relating to the imposition of an administrative penalty under this section that is in accordance with Chapter 2001, Government Code.

(d) In determining the types of violations that warrant imposition of an administrative penalty and in establishing the schedule of progressive administrative penalties and penalty amounts under Subsection (c), the executive commissioner must consider:

(1) the seriousness of a violation, including:

(A) the nature, circumstances, extent, and gravity of the violation; and

(B) the hazard to the health or safety of recipients resulting from the violation;

(2) the provider's history of previous violations;

(3) whether the provider:

(A) had prior knowledge of the violation, including whether the provider identified the violation through the provider's internal quality assurance process; and

(B) made any efforts to mitigate or correct the identified violation;

(4) the penalty amount necessary to deter future violations; and

(5) any other matter justice may require.

(e) Except as provided by Subsection (f), the executive commissioner by rule shall provide to a provider who has implemented a plan of correction a reasonable period of time following the date the commission sends notice to the provider of the violation to correct the violation before the commission may assess an administrative penalty. The period may not be less than 45 days.

(f) The commission may assess an administrative penalty without providing a reasonable period of time to a provider to correct the violation if the violation:

(1) represents a pattern of violation that results in

actual harm;

(2) is widespread in scope and results in actual harm;

(3) is widespread in scope and constitutes a potential for actual harm;

(4) constitutes an immediate threat to the health or safety of a recipient;

(5) substantially limits the provider's ability to provide care; or

(6) is a violation in which a provider:

(A) wilfully interferes with the work of a representative of the commission or the enforcement of a law relating to a program to which this section applies;

(B) fails to pay a penalty assessed by the commission under this section not later than the 10th day after the date the assessment of the penalty becomes final, subject to Section 161.0891; or

(C) fails to submit a plan of correction not later than the 10th day after the date the provider receives a statement of the violation.

(g) Notwithstanding any other provision of this section, an administrative penalty ceases to be incurred on the date a violation is corrected.

(h) In this section:

(1) "Actual harm" means a negative outcome that compromises a recipient's physical, mental, or emotional well-being.

(2) "Immediate threat to the health or safety of a recipient" means a situation that causes, or is likely to cause, serious injury, harm, or impairment to or the death of a recipient.

(3) "Pattern of violation" means repeated, but not pervasive, failures of a provider to comply with a law relating to a program to which this section applies that:

(A) result in a violation; and

(B) are found throughout the services provided by the provider or that affect or involve the same recipients or provider employees or volunteers.

(4) "Recipient" means a person served by a program to which this section applies.

(5) "Widespread in scope" means a violation of a law relating to a program to which this section applies that:

(A) is pervasive throughout the services provided by

the provider; or

(B) represents a systemic failure by the provider that affects or has the potential to affect a large portion of or all of the recipients.

Added by Acts 2015, 84th Leg., R.S., Ch. 826 (H.B. 4001), Sec. 15, eff. September 1, 2015.
Added by Acts 2015, 84th Leg., R.S., Ch. 1200 (S.B. 1385), Sec. 1, eff. September 1, 2015.
Redesignated from Human Resources Code, Section 161.088 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(29), eff. September 1, 2017.
Redesignated and amended from Human Resources Code, Section 161.088 by Acts 2017, 85th Leg., R.S., Ch. 487 (H.B. 2590), Sec. 1, eff. September 1, 2017.

For expiration of this section, see Subsection (h).

Sec. 161.0891. AMELIORATION PROCESS. (a) In lieu of demanding payment of an administrative penalty assessed under Section 161.089, the commission may, in accordance with this section, allow the provider subject to the penalty to use, under the supervision of the commission, any portion of the amount of the penalty to ameliorate the violation or to improve services in the waiver program in which the provider participates.

(b) The commission shall offer amelioration to a provider under this section not later than the 10th day after the date the provider receives from the commission a final notification of the assessment of an administrative penalty that is sent to the provider after an informal dispute resolution process but before an administrative hearing.

(c) A provider to whom amelioration has been offered must file a plan for amelioration not later than the 45th day after the date the provider receives the offer of amelioration from the commission. In submitting the plan, the provider must agree to waive the provider's right to an administrative hearing if the commission approves the plan.

(d) At a minimum, a plan for amelioration must:

(1) propose changes to the management or operation of the waiver program in which the provider participates that will improve

services to or quality of care for recipients under the program;

(2) identify, through measurable outcomes, the ways in which and the extent to which the proposed changes will improve services to or quality of care for recipients under the waiver program;

(3) establish clear goals to be achieved through the proposed changes;

(4) establish a timeline for implementing the proposed changes; and

(5) identify specific actions necessary to implement the proposed changes.

(e) The commission may require that an amelioration plan propose changes that would result in conditions that exceed the requirements of a law or rule relating to the waiver program in which the provider participates.

(f) The commission shall approve or deny an amelioration plan not later than the 45th day after the date the commission receives the plan. On approval of a provider's plan, the commission or the State Office of Administrative Hearings, as appropriate, shall deny a pending request for a hearing submitted by the provider.

(g) The commission may not offer amelioration to a provider:

(1) more than three times in a two-year period;

(2) more than one time in a two-year period for the same or similar violation; or

(3) for a violation that resulted in hazard to the health or safety of a recipient, including serious harm or death, or that substantially limits the provider's ability to provide care.

(h) This section expires September 1, 2023.

Added by Acts 2017, 85th Leg., R.S., Ch. 487 (H.B. 2590), Sec. 2, eff. September 1, 2017.

Sec. 161.0892. INFORMAL DISPUTE RESOLUTION. (a) The executive commissioner by rule shall establish an informal dispute resolution process in accordance with this section. The process must provide for adjudication by an appropriate disinterested person of disputes relating to a proposed enforcement action or related proceeding of the commission against a provider participating in a waiver program described by Section 161.089. The informal dispute resolution

process must require:

(1) a provider participating in a waiver program described by Section 161.089 to request informal dispute resolution not later than the 10th calendar day after the date of notification by the commission of the violation of a law or rule relating to the program; and

(2) the commission to complete the process not later than the 30th calendar day after the date of receipt of a request from a provider for informal dispute resolution.

(b) As part of the informal dispute resolution process established under this section, the commission shall contract with an appropriate disinterested person to adjudicate disputes between a provider participating in a waiver program described by Section 161.089 and the commission concerning a statement of violations prepared by the commission. Section 2009.053, Government Code, does not apply to the selection of an appropriate disinterested person under this subsection. The person with whom the commission contracts shall adjudicate all disputes described by this subsection.

(c) The executive commissioner shall adopt rules to adjudicate claims in contested cases.

(d) The commission may not delegate its responsibility to administer the informal dispute resolution process established by this section to another state agency.

Added by Acts 2017, 85th Leg., R.S., Ch. 487 (H.B. 2590), Sec. 2, eff. September 1, 2017.

SUBCHAPTER D-1. ADMINISTRATION OF MEDICATION FOR CLIENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

Sec. 161.091. DEFINITIONS. In this subchapter:

(1) "Administration of medication" means:

(A) removing a unit or dose of medication from a previously dispensed, properly labeled container;

(B) verifying the medication with the medication order;

(C) giving the proper medication in the proper dosage to the proper client at the proper time by the proper administration route; and

(D) recording the time of administration and dosage administered.

(2) "Client" means a person with an intellectual and developmental disability who is receiving services from a facility or program listed in Section 161.092.

(3) "Unlicensed person" means an individual not licensed as a health care provider who provides services at or for a facility or program listed in Section 161.092, including:

(A) a nurse aide, orderly, assistant, attendant, technician, home health aide, medication aide with a permit issued by a state agency, or other individual who provides personal health care-related services;

(B) a person who is monetarily compensated to perform certain health-related tasks and functions in a complementary or assistive role to a licensed nurse who provides direct client care or performs common nursing functions;

(C) a person who performs those tasks and functions as a volunteer but does not qualify as a friend providing gratuitous nursing care of the sick under Section 301.004, Occupations Code; or

(D) a person who is a professional nursing student who provides care for monetary compensation and not as part of a formal educational program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 677 (S.B. 1857), Sec. 1, eff. June 17, 2011.

Sec. 161.092. APPLICABILITY. This subchapter applies only to administration of medication provided to certain persons with intellectual and developmental disabilities who are served:

(1) in a small facility with not less than one and not more than eight beds that is licensed or certified under Chapter 252, Health and Safety Code;

(2) in a medium facility with not less than 9 and not more than 13 beds that is licensed or certified under Chapter 252, Health and Safety Code; or

(3) by one of the following Section 1915(c) waiver programs administered by the department to serve persons with intellectual and developmental disabilities:

(A) the Home and Community-Based Services waiver program; or

(B) the Texas Home Living waiver program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 677 (S.B. 1857), Sec. 1, eff. June 17, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.455, eff. April 2, 2015.

Sec. 161.093. ADMINISTRATION OF MEDICATION. (a) Notwithstanding other law, an unlicensed person may provide administration of medication to a client without the requirement that a registered nurse delegate or oversee each administration if:

(1) the medication is:

(A) an oral medication;

(B) a topical medication; or

(C) a metered dose inhaler;

(2) the medication is administered to the client for a stable or predictable condition;

(3) the client has been personally assessed by a registered nurse initially and in response to significant changes in the client's health status, and the registered nurse has determined that the client's health status permits the administration of medication by an unlicensed person; and

(4) the unlicensed person has been:

(A) trained by a registered nurse or licensed vocational nurse under the direction of a registered nurse regarding proper administration of medication; or

(B) determined to be competent by a registered nurse or licensed vocational nurse under the direction of a registered nurse regarding proper administration of medication, including through a demonstration of proper technique by the unlicensed person.

(b) The administration of medication other than the medications described by Subsection (a)(1) is subject to the rules of the Texas Board of Nursing regarding the delegation of nursing tasks to unlicensed persons in independent living environments such as the facilities and programs listed in Section 161.092.

Added by Acts 2011, 82nd Leg., R.S., Ch. 677 (S.B. 1857), Sec. 1, eff. June 17, 2011.

Sec. 161.094. DEPARTMENT DUTIES. (a) The department shall ensure that:

(1) administration of medication by an unlicensed person under this subchapter is reviewed at least annually and after any significant change in a client's condition by a registered nurse or a licensed vocational nurse under the supervision of a registered nurse; and

(2) a facility or program listed in Section 161.092 has policies to ensure that the determination of whether an unlicensed person may provide administration of medication to a client under Section 161.093 may be made only by a registered nurse.

(b) The department shall verify that:

(1) each client is assessed to identify the client's needs and abilities regarding the client's medications;

(2) the administration of medication by an unlicensed person to a client is performed only by an unlicensed person who is authorized to perform that administration under Section 161.093; and

(3) the administration of medication to each client is performed in such a manner as to ensure the greatest degree of independence, including the use of an adaptive or assistive aid, device, or strategy as allowed under program rules.

(c) The department shall enforce this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 677 (S.B. 1857), Sec. 1, eff. June 17, 2011.

Sec. 161.095. LIABILITY. (a) A registered nurse performing a client assessment required under Section 161.093, or a registered nurse or licensed vocational nurse training an unlicensed person or determining whether an unlicensed person is competent to perform administration of medication under Section 161.093, may be held accountable or civilly liable only in relation to whether the nurse properly:

(1) performed the assessment;

(2) conducted the training; and

(3) determined whether the unlicensed person is competent to provide administration of medication to clients.

(b) The Texas Board of Nursing may take disciplinary action against a registered nurse or licensed vocational nurse under this

subchapter only in relation to whether:

(1) the registered nurse properly performed the client assessment required by Section 161.093;

(2) the registered nurse or licensed vocational nurse properly trained the unlicensed person in the administration of medication; and

(3) the registered nurse or licensed vocational nurse properly determined whether an unlicensed person is competent to provide administration of medication to clients.

(c) A registered nurse or licensed vocational nurse may not be held accountable or civilly liable for the acts or omissions of an unlicensed person performing administration of medication.

Added by Acts 2011, 82nd Leg., R.S., Ch. 677 (S.B. 1857), Sec. 1, eff. June 17, 2011.

Sec. 161.096. CONFLICT WITH OTHER LAW. This subchapter controls to the extent of a conflict with other law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 677 (S.B. 1857), Sec. 1, eff. June 17, 2011.

SUBCHAPTER E. GUARDIANSHIP SERVICES

Sec. 161.101. GUARDIANSHIP SERVICES. (a) The department shall file an application under Section 1101.001 or 1251.003, Estates Code, to be appointed guardian of the person or estate, or both, of a minor referred to the department under Section 48.209(a)(1) for guardianship services if the department determines:

(1) that the minor, because of a mental or physical condition, will be substantially unable to provide for the minor's own food, clothing, or shelter, to care for the minor's own physical health, or to manage the individual's own financial affairs when the minor becomes an adult; and

(2) that a less restrictive alternative to guardianship is not available for the minor.

(b) The department shall conduct a thorough assessment of the conditions and circumstances of an elderly person or person with a disability referred to the department under Section 48.209(a)(2) for guardianship services to determine whether a guardianship is

appropriate for the individual or whether a less restrictive alternative is available for the individual. In determining whether a guardianship is appropriate, the department may consider the resources and funds available to meet the needs of the elderly person or person with a disability. The executive commissioner shall adopt rules for the administration of this subsection.

(c) Subject to Subsection (c-1), if after conducting an assessment of an elderly person or person with a disability under Subsection (b) the department determines that:

(1) guardianship is appropriate for the elderly person or person with a disability, the department shall:

(A) file an application under Section 1101.001 or 1251.003, Estates Code, to be appointed guardian of the person or estate, or both, of the individual; or

(B) if the department determines that an alternative person or program described by Section 161.102 is available to serve as guardian, refer the individual to that person or program as provided by that section; or

(2) a less restrictive alternative to guardianship is available for the elderly person or person with a disability, the department shall pursue the less restrictive alternative instead of taking an action described by Subdivision (1).

(c-1) Not later than the 70th day after the date the department receives a referral under Section 48.209(a)(2) for guardianship services, the department shall make the determination required by Subsection (c) and, if the department determines that guardianship is appropriate and that the department should serve as guardian, file the application to be appointed guardian under Section 1101.001 or 1251.003, Estates Code. If the department determines that an alternative person or program described by Section 161.102 is available to serve as guardian, the department shall refer the elderly person or person with a disability to that alternative person or program in a manner that would allow the alternative person or program sufficient time to file, not later than the 70th day after the date the department received the referral, an application to be appointed guardian.

(c-2) With the approval of the Department of Family and Protective Services, the department may extend, by not more than 30 days, a period prescribed by Subsection (c-1) if the extension is:

(1) made in good faith, including any extension for a

person or program described by Section 161.102 that intends to file an application to be appointed guardian; and

(2) in the best interest of the elderly person or person with a disability.

(d) The department may not be required by a court to file an application for guardianship, and except as provided by Subsection (f) and Section 1203.108(b), Estates Code, the department may not be appointed as permanent guardian for any individual unless the department files an application to serve or otherwise agrees to serve as the individual's guardian of the person or estate, or both.

(e) A guardianship created for an individual as a result of an application for guardianship filed under Subsection (a) may not take effect before the individual's 18th birthday.

(f) On appointment by a probate court under Section 1203.108(b), Estates Code, the department shall serve as the successor guardian of the person or estate, or both, of a ward described by that section.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 726 (S.B. 271), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 935 (H.B. 3112), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.456, eff. April 2, 2015.

Sec. 161.102. REFERRAL TO GUARDIANSHIP PROGRAM, COURT, OR OTHER PERSON. (a) If the department becomes aware of a guardianship program, private professional guardian, or other person willing and able to provide the guardianship services that would otherwise be provided by the department to an individual referred to the department by the Department of Family and Protective Services under Section 48.209, the department shall refer the individual to that person or program for guardianship services.

(b) If requested by a court, the department shall notify the court of any referral made to the department by the Department of Family and Protective Services relating to any individual who is

domiciled or found in a county where the requesting court has probate jurisdiction and who may be appropriate for a court-initiated guardianship proceeding under Chapter 1102, Estates Code. In making a referral under this subsection and if requested by the court, the department shall, to the extent allowed by law, provide the court with all relevant information in the department's records relating to the individual. The court, as part of this process, may not require the department to:

(1) perform the duties of a guardian ad litem or court investigator as prescribed by Chapter 1102, Estates Code; or

(2) gather additional information not contained in the department's records.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.457, eff. April 2, 2015.

Sec. 161.103. CONTRACT FOR GUARDIANSHIP SERVICES. If appropriate, the department may contract with a political subdivision of this state, a guardianship program as defined by Section 1002.016, Estates Code, a private agency, or another state agency for the provision of guardianship services under this section.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.458, eff. April 2, 2015.

Sec. 161.104. QUALITY ASSURANCE PROGRAM. The department shall develop and implement a quality assurance program for guardianship services provided by or on behalf of the department. If the department enters into a contract with a political subdivision, guardianship program, private agency, or other state agency under Section 161.103, the department shall establish a monitoring system as part of the quality assurance program to ensure the quality of guardianship services for which the department contracts under that

section.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.

Sec. 161.105. OATH. A representative of the department shall take the oath required by the Estates Code on behalf of the department if the department is appointed guardian of the person or estate, or both, of a ward under Title 3 of that code.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.459, eff. April 2, 2015.

Sec. 161.106. GUARDIANSHIP POWERS AND DUTIES. In serving as guardian of the person or estate, or both, for an incapacitated individual, the department has all the powers granted and duties prescribed to a guardian under Title 3, Estates Code, or any other applicable law.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.460, eff. April 2, 2015.

Sec. 161.107. EXEMPTION FROM GUARDIANSHIP BONDS, CERTAIN COSTS, FEES, AND EXPENSES. (a) The department or a political subdivision of this state or state agency with which the department contracts under Section 161.103 is not required to post a bond or pay any cost or fee associated with a bond otherwise required by the Estates Code in guardianship matters.

(b) The department is not required to pay any cost or fee otherwise imposed for court proceedings or other services, including:

(1) a filing fee or fee for issuance of service of process imposed by Section 51.317, 51.318(b)(2), or 51.319, Government Code;

(2) a court reporter service fee imposed by Section 51.601, Government Code;

(3) a judicial fund fee imposed by Section 51.702, Government Code;

(4) a judge's fee imposed by Section 25.0008 or 25.0029, Government Code;

(5) a cost or security fee imposed by Section 53.051, 53.052, 1053.051, or 1053.052, Estates Code; or

(6) a fee imposed by a county officer under Section 118.011 or 118.052, Local Government Code.

(c) The department may not be required to pay fees associated with the appointment of a guardian ad litem or attorney ad litem.

(d) A political subdivision of this state or state agency with which the department contracts under Section 161.103 is not required to pay any cost or fee otherwise required by the Estates Code.

(e) If the department is appointed guardian, the department is not liable for funding services provided to the department's ward, including long-term care or burial expenses.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.461, eff. April 2, 2015.

Sec. 161.108. SUCCESSOR GUARDIAN. The department shall review each of the department's pending guardianship cases at least annually to determine whether a more suitable person, including a guardianship program or private professional guardian, is willing and able to serve as successor guardian for a ward of the department. If the department becomes aware of any person's willingness and ability to serve as successor guardian, the department shall notify the court in which the guardianship is pending as required by Section 1203.151, Estates Code.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.462, eff. April 2, 2015.

Sec. 161.109. ACCESS TO RECORDS OR DOCUMENTS. (a) The department shall have access to all of the records and documents concerning an individual who is referred for guardianship services or to whom guardianship services are provided under this subchapter that are necessary to the performance of the department's duties under this subchapter, including:

(1) client-identifying information; and

(2) medical, psychological, educational, financial, and residential information.

(b) The department is exempt from the payment of a fee otherwise required or authorized by law to obtain a financial or medical record, including a mental health record, from any source if the request for a record is related to an assessment for guardianship services conducted by the department or the provision of guardianship services by the department.

(c) If the department cannot obtain access to a record or document that is necessary to properly perform a duty under this subchapter, the department may petition the probate court or the statutory or constitutional court having probate jurisdiction for access to the record or document.

(d) The court with probate jurisdiction shall, on good cause shown, order the person or entity who denied access to a record or document to allow the department to have access to the record or document under the terms and conditions prescribed by the court.

(e) A person or entity is entitled to notice of and a hearing on the department's petition for access as described by this section.

(f) Access to, or disclosure of, a confidential record or other confidential information under this section does not constitute a waiver of confidentiality for other purposes or as to other persons.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 599 (S.B. 220), Sec. 3, eff. September 1, 2011.

Sec. 161.110. LEGAL REPRESENTATION OF DEPARTMENT. (a) Except

as provided by Subsection (b), (c), or (f), the prosecuting attorney representing the state in criminal cases in the county court shall represent the department in any proceeding under this subchapter unless the representation would be a conflict of interest.

(b) If the attorney representing the state in criminal cases in the county court is unable to represent the department in an action under this subchapter because of a conflict of interest, the attorney general shall represent the department in the action.

(c) If the attorney general is unable to represent the department in an action under this subchapter, the attorney general shall deputize an attorney who has contracted with the department under Subsection (d) or an attorney employed by the department under Subsection (e) to represent the department in the action.

(d) Subject to the approval of the attorney general, the department may contract with a private attorney to represent the department in an action under this subchapter.

(e) The department may employ attorneys to represent the department in an action under this subchapter.

(f) In a county having a population of more than 2.8 million, the prosecuting attorney representing the state in civil cases in the county court shall represent the department in any proceeding under this subchapter unless the representation would be a conflict of interest. If such attorney is unable to represent the department in an action under this subchapter because of a conflict of interest, the attorney general shall represent the department in the action.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.

Sec. 161.111. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION. (a) All files, reports, records, communications, or working papers used or developed by the department in the performance of duties relating to the assessment for or the provision of guardianship services to an individual referred for guardianship services under this subchapter are confidential and not subject to disclosure under Chapter 552, Government Code.

(b) Confidential information may be disclosed only for a purpose consistent with this subchapter, as required by other state or federal law, or as necessary to enable the department to exercise

its powers and duties as guardian of the person or estate, or both, of an individual.

(c) A court may order disclosure of confidential information only if:

(1) a motion is filed with the court requesting release of the information and a hearing on that request;

(2) notice of the hearing is served on the department and each interested party; and

(3) the court determines after the hearing and an in camera review of the information that disclosure is essential to the administration of justice and will not endanger the life or safety of any individual who:

(A) is being assessed by the department for guardianship services under this subchapter;

(B) is a ward of the department; or

(C) provides services to a ward of the department.

(d) The executive commissioner shall establish a policy and procedures for the exchange of information with another state agency or governmental entity, including a court, with a local guardianship program to which an individual is referred for services, or with any other entity who provides services to a ward of the department, as necessary for the department, state agency, governmental entity, or other entity to properly execute its respective duties and responsibilities to provide guardianship services or other needed services to meet the needs of the ward under this subchapter or other law. An exchange of information under this subsection does not constitute a release for purposes of waiving the confidentiality of the information exchanged.

(e) To the extent consistent with department policies and procedures, the department on request may release confidential information in the record of an individual who is assessed by the department or is a former ward of the department to:

(1) the individual;

(2) the individual's guardian; or

(3) an executor or administrator of the individual's estate.

(f) Before releasing confidential information under Subsection (e), the department shall edit the information to protect the identity of the reporter to the Department of Family and Protective Services and to protect any other individual whose life or safety may

be endangered by the release. A release of information under Subsection (e) does not constitute a release for purposes of waiving the confidentiality of the information released.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 599 (S.B. 220), Sec. 4, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.463, eff. April 2, 2015.

Sec. 161.112. INDEMNIFICATION FOR LEGAL EXPENSES. If a present or former employee of the department who was involved in activities related to the provision of guardianship services under this subchapter is criminally prosecuted for conduct related to the person's misfeasance or nonfeasance in the course and scope of the person's employment and is found not guilty after a trial or appeal or if the complaint or indictment is dismissed without a plea of guilty or nolo contendere being entered, the department may indemnify the person or the person's estate for the reasonable attorney's fees incurred in defense of the prosecution up to a maximum of $10,000.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff. September 1, 2005.

Sec. 161.113. IMMUNITY. (a) In this section, "volunteer" means a person who:

(1) renders services for or on behalf of the department under the supervision of a department employee; and

(2) does not receive compensation that exceeds the authorized expenses the person incurs in performing those services.

(b) A department employee or an authorized volunteer who performs a department duty or responsibility under this subchapter is immune from civil or criminal liability for any act or omission that relates to the duty or responsibility if the person acted in good faith and within the scope of the person's authority.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.04, eff.

September 1, 2005.

Sec. 161.114. USE OF VOLUNTEERS. (a) In this section, "volunteer" has the meaning assigned by Section 161.113.

(b) The department shall encourage the involvement of volunteers in guardianships in which the department serves as guardian of the person or estate, or both. To encourage that involvement, the department shall identify issues and tasks with which a volunteer could assist the department in a guardianship, subject to Subsection (c).

(c) A volunteer may provide life enrichment activities, companionship, transportation services, and other services to or for the ward in a guardianship, except the volunteer may not provide services that would require the volunteer to be certified under Section 155.102, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 599 (S.B. 220), Sec. 5, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 2.27, eff. September 1, 2014.

SUBCHAPTER F. LIFESPAN RESPITE SERVICES PROGRAM

Sec. 161.151. DEFINITIONS. In this subchapter:

(1) "Chronic serious health condition" means a health condition that:

(A) requires periodic treatment by a health care provider, including a nurse as authorized by Chapter 301, Occupations Code, or a physician assistant as authorized by Chapter 204, Occupations Code; and

(B) continues over an extended period, including recurring episodes of a single underlying health condition such as asthma, diabetes, epilepsy, or multiple sclerosis.

(2) "Respite services" means support services, including in-home services or day activity and health services, that are provided for the purpose of temporarily giving relief to a primary caregiver who provides care to an individual with a chronic serious health condition or disability.

(3) "Respite services coordinator" means a community-based organization or local governmental entity with which the department enters into a contract to facilitate access to respite services under Section 161.154.

Added by Acts 2009, 81st Leg., R.S., Ch. 330 (H.B. 802), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1231 (S.B. 1999), Sec. 18, eff. June 19, 2015.

Sec. 161.152. LIFESPAN RESPITE SERVICES PROGRAM. The department shall implement the lifespan respite services program to promote the provision of respite services through contracts with eligible community-based organizations or local governmental entities.

Added by Acts 2009, 81st Leg., R.S., Ch. 330 (H.B. 802), Sec. 1, eff. September 1, 2009.

Sec. 161.153. ELIGIBILITY. (a) A person is eligible to participate in the program if the person:

(1) is the primary caregiver for a person who:

(A) is related to the caregiver within the second degree of consanguinity or affinity;

(B) has a chronic serious health condition or disability;

(C) requires assistance with one or more activities of daily living; and

(D) is not eligible for or not able to participate in any other existing program that provides respite services; and

(2) meets criteria specified in rules adopted by the executive commissioner.

(b) The executive commissioner may not specify criteria that limit a person's eligibility based on the type of chronic serious health condition or disability of the person receiving care.

Added by Acts 2009, 81st Leg., R.S., Ch. 330 (H.B. 802), Sec. 1, eff. September 1, 2009.

Sec. 161.154. RESPITE SERVICES CONTRACTS. (a) The department shall contract with at least three eligible community-based organizations or local governmental entities selected by the department to:

(1) provide respite services; and

(2) facilitate access to respite services.

(b) The department may award a contract under this section only after issuing a request for proposals for the contract.

(c) A community-based organization or local governmental entity is eligible to contract under this section only if the organization or entity has experience in and an existing procedure for:

(1) coordinating support services for multiple groups of persons who need support services, including persons with a physical or intellectual disability and elderly persons;

(2) connecting caregivers with respite services providers;

(3) maintaining and providing information regarding available respite services; and

(4) conducting public awareness activities regarding available respite services.

(d) The department shall include in each contract with a respite services coordinator provisions requiring the coordinator to:

(1) subject to the availability of money, provide vouchers for respite services to caregivers participating in the program who are not eligible for respite services provided through other programs; and

(2) connect caregivers participating in the program with available respite services.

(e) The department shall provide each community-based organization or local governmental entity with which the department contracts under this subchapter with:

(1) technical assistance; and

(2) policy and program development support.

(f) The department shall monitor a contractor's performance under a contract entered into under this subchapter using clearly defined and measurable performance objectives.

Added by Acts 2009, 81st Leg., R.S., Ch. 330 (H.B. 802), Sec. 1, eff. September 1, 2009.

Sec. 161.155. RESPITE SERVICES COORDINATOR FUNCTIONS. A respite services coordinator under contract with the department shall:

(1) maintain information regarding respite services providers;

(2) build partnerships with respite services providers; and

(3) implement public awareness activities regarding respite services.

Added by Acts 2009, 81st Leg., R.S., Ch. 330 (H.B. 802), Sec. 1, eff. September 1, 2009.

Sec. 161.156. RULES. The executive commissioner shall adopt rules necessary to implement this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 330 (H.B. 802), Sec. 1, eff. September 1, 2009.

SUBCHAPTER G. LEGISLATIVE COMMITTEE ON AGING

Sec. 161.251. DEFINITIONS. In this subchapter:

(1) "Committee" means the Legislative Committee on Aging.

(2) "Health and human services agency" has the meaning assigned by Section 531.001, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 318 (H.B. 610), Sec. 1, eff. September 1, 2009.

Sec. 161.252. LEGISLATIVE COMMITTEE ON AGING ESTABLISHED. The Legislative Committee on Aging is established to:

(1) study issues relating to the aging population of Texas, including issues related to the health care, income, transportation, housing, education, and employment needs of that population; and

(2) make recommendations to address those issues.

Added by Acts 2009, 81st Leg., R.S., Ch. 318 (H.B. 610), Sec. 1, eff. September 1, 2009.

Sec. 161.253. COMPOSITION OF COMMITTEE; PRESIDING OFFICER. (a) The committee is composed of:

(1) two members of the senate appointed by the lieutenant governor;

(2) two members of the house of representatives appointed by the speaker of the house of representatives; and

(3) two public members appointed by the governor.

(b) A member of the committee serves at the pleasure of the appointing official.

(c) The lieutenant governor and the speaker of the house of representatives shall appoint the presiding officer of the committee on an alternating basis. The presiding officer shall serve a two-year term expiring February 1 of each odd-numbered year.

Added by Acts 2009, 81st Leg., R.S., Ch. 318 (H.B. 610), Sec. 1, eff. September 1, 2009.

Sec. 161.254. COMMITTEE POWERS AND DUTIES. (a) The committee shall:

(1) meet at least biannually at the call of the presiding officer;

(2) conduct a continuing study of issues relating to the aging population, including issues that are affected by the demographic and geographic diversity of the aging population in this state;

(3) analyze the availability of, and unmet needs for, state and local services for the aging population; and

(4) request reports and other information relating to the aging population as necessary from the executive commissioner, the department, other health and human services agencies, the attorney general, and any other state agency.

(b) The executive commissioner, the department, other health and human services agencies, the attorney general, and any other applicable state agency shall fully cooperate with the committee in performing the committee's duties under this subchapter.

(c) The committee may issue process, in accordance with Section 301.024, Government Code, to compel attendance of witnesses and the

production of books, records, documents, and instruments required by the committee.

(d) The committee shall use the existing staff resources of the senate and the house of representatives to assist the committee in performing its duties under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 318 (H.B. 610), Sec. 1, eff. September 1, 2009.

Sec. 161.255. REPORT. (a) The committee shall report to the standing committees of the senate and the house of representatives having jurisdiction of issues related to the needs of the aging population not later than November 15 of each even-numbered year.

(b) The report must include:

(1) a summary of the hearings and studies conducted by the committee during the preceding year;

(2) a statement of findings based on the hearings and studies conducted by the committee; and

(3) recommendations, if any, for legislation.

Added by Acts 2009, 81st Leg., R.S., Ch. 318 (H.B. 610), Sec. 1, eff. September 1, 2009.

SUBCHAPTER H. CERTAIN INITIATIVES RELATING TO AGING

Sec. 161.301. DEFINITION. In this subchapter, "fund" means the Chris Kyker Endowment for Seniors Fund established under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 318 (H.B. 610), Sec. 1, eff. September 1, 2009.

Sec. 161.302. CONTRACT TO PROVIDE OUTREACH AND INPUT RELATING TO AGING POPULATION. (a) The executive commissioner may contract with an entity to:

(1) conduct local forums throughout this state to solicit input on and discuss policies regarding aging-related issues, including issues that are affected by the demographic and geographic diversity of the aging population in this state;

(2) provide analysis, education, and research services with respect to aging-related issues; and

(3) identify problems encountered by the aging population in this state and develop and recommend to the executive commissioner and the legislature solutions to those problems.

(b) If a contract entered into under this section includes a provision that allows a person performing duties under the contract on behalf of the entity to receive a per diem for days spent performing those duties and to be reimbursed for travel expenses incurred in performing those duties, the per diem and reimbursement for travel expenses incurred must be paid at the same rate set in the General Appropriations Act for state employees.

Added by Acts 2009, 81st Leg., R.S., Ch. 318 (H.B. 610), Sec. 1, eff. September 1, 2009.

Sec. 161.303. ESTABLISHMENT AND ADMINISTRATION OF FUND. (a) The Chris Kyker Endowment for Seniors Fund is a special fund outside the state treasury held by the comptroller.

(b) The comptroller shall deposit in the fund:

(1) money appropriated to the fund;

(2) grants, gifts, and donations from any other public or private source; and

(3) income and interest, including depository interest, as provided by Subsection (f).

(c) The comptroller shall administer and manage the assets of the fund in accordance with this section and the rules adopted by the executive commissioner under Section 161.304(c). In managing the assets of the fund, the comptroller may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(d) The expenses of managing fund investments shall be paid from the fund.

(e) On request, the comptroller shall fully disclose all

details concerning the investments of the fund.

(f) Interest earned on the fund shall be credited to the fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 318 (H.B. 610), Sec. 1, eff. September 1, 2009.

Sec. 161.304. USE OF FUND. (a) The following may be used only to fund a contract entered into under Section 161.302:

(1) contributions to the fund described by Section 161.303(b)(2); and

(2) income and interest earned on money in the fund described by Section 161.303(b)(3).

(b) Except as provided by Subsection (a), money in the fund may not be used for any purpose.

(c) The executive commissioner may adopt rules regarding distribution of money in the fund in accordance with this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 318 (H.B. 610), Sec. 1, eff. September 1, 2009.

SUBCHAPTER I. FALL PREVENTION AWARENESS

Sec. 161.351. LEGISLATIVE FINDINGS. The legislature finds that:

(1) in 2008, 1.14 million older Texans were expected to sustain falls;

(2) the risk factors associated with falling increase with age;

(3) approximately 20 to 30 percent of older adults who fall suffer moderate to severe injuries, resulting in almost 80,000 hospitalizations annually and constituting 40 percent of all nursing facility placements;

(4) according to the Centers for Disease Control and Prevention of the United States Public Health Service, the total direct cost of all fall-related injuries in 2000 for people 65 years of age and older exceeded $19 billion nationwide; and

(5) research shows that a well-designed fall prevention program that includes risk factor assessments, a focused physical activity program, and improvement of the home environment can reduce the incidence of falls by 30 to 50 percent.

Added by Acts 2009, 81st Leg., R.S., Ch. 95 (H.B. 703), Sec. 1, eff. May 23, 2009.
Redesignated from Human Resources Code, Section 161.151 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(39), eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.464, eff. April 2, 2015.

Sec. 161.352. FALL PREVENTION AWARENESS WEEK. The week that begins on the first Sunday of each year that falls after the date of the autumnal equinox is declared "Fall Prevention Awareness Week."

Added by Acts 2009, 81st Leg., R.S., Ch. 95 (H.B. 703), Sec. 1, eff. May 23, 2009.
Redesignated from Human Resources Code, Section 161.152 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(39), eff. September 1, 2011.

Sec. 161.353. FALL PREVENTION POLICY. The department may develop recommendations to:

(1) raise public awareness about fall prevention;

(2) educate older adults and individuals who provide care to older adults about best practices to reduce the incidence and risk of falls among older adults;

(3) encourage state and local governments and the private sector to promote policies and programs that help reduce the incidence and risk of falls among older adults;

(4) encourage area agencies on aging to include fall prevention education in their services;

(5) develop a system for reporting falls to improve available information on falls; and

(6) incorporate fall prevention guidelines into state and local planning documents that affect housing, transportation, parks, recreational facilities, and other public facilities.

Added by Acts 2009, 81st Leg., R.S., Ch. 95 (H.B. 703), Sec. 1, eff. May 23, 2009.
Redesignated from Human Resources Code, Section 161.153 by Acts 2011,

82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(39), eff. September 1, 2011.

TITLE 12. JUVENILE JUSTICE SERVICES AND FACILITIES
SUBTITLE A. TEXAS JUVENILE JUSTICE BOARD AND TEXAS JUVENILE JUSTICE DEPARTMENT
CHAPTER 201. GENERAL PROVISIONS

Sec. 201.001. DEFINITIONS. (a) In this title:

(1) "Board" means the Texas Juvenile Justice Board.

(2) "Child" means an individual:

(A) 10 years of age or older and younger than 18 years of age who is under the jurisdiction of a juvenile court; or

(B) 10 years of age or older and younger than 19 years of age who is committed to the department under Title 3, Family Code.

(3) "Court" means a juvenile court.

(4) "Department" means the Texas Juvenile Justice Department.

(5) "Executive director" means the executive director of the department.

(6) "Juvenile board" means a body established by law to provide juvenile probation services to a county.

(7) "State aid" means funds allocated by the department to a juvenile board to financially assist the juvenile board in achieving the purposes of this title and in conforming to the department's standards and policies.

(b) Effective December 1, 2011, a reference in other law to:

(1) the Texas Juvenile Probation Commission means the department; or

(2) the Texas Youth Commission means the department.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 201.002. PURPOSES AND INTERPRETATION. This title shall be construed to have the following public purposes:

(1) creating a unified state juvenile justice agency that works in partnership with local county governments, the courts, and communities to promote public safety by providing a full continuum of

effective supports and services to youth from initial contact through termination of supervision; and

(2) creating a juvenile justice system that produces positive outcomes for youth, families, and communities by:

(A) assuring accountability, quality, consistency, and transparency through effective monitoring and the use of systemwide performance measures;

(B) promoting the use of program and service designs and interventions proven to be most effective in rehabilitating youth;

(C) prioritizing the use of community-based or family-based programs and services for youth over the placement or commitment of youth to a secure facility;

(D) operating the state facilities to effectively house and rehabilitate the youthful offenders that cannot be safely served in another setting; and

(E) protecting and enhancing the cooperative agreements between state and local county governments.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 201.003. GOALS. The goals of the department and all programs, facilities, and services that are operated, regulated, or funded by the department are to:

(1) support the development of a consistent county-based continuum of effective interventions, supports, and services for youth and families that reduce the need for out-of-home placement;

(2) increase reliance on alternatives to placement and commitment to secure state facilities, consistent with adequately addressing a youthful offender's treatment needs and protection of the public;

(3) locate the facilities as geographically close as possible to necessary workforce and other services while supporting the youths' connection to their families;

(4) encourage regional cooperation that enhances county collaboration;

(5) enhance the continuity of care throughout the juvenile justice system; and

(6) use secure facilities of a size that supports effective youth rehabilitation and public safety.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 201.004. INTERAGENCY AND INTERGOVERNMENTAL COOPERATION. (a) To improve services to youth, the department may cooperate and contract with:

(1) the federal government;

(2) governmental agencies in this state and other states;

(3) political subdivisions of the state; and

(4) private agencies and foundations.

(b) The executive director, the commissioner of education, the commissioner of family and protective services, the commissioner of state health services, the executive commissioner of health and human services, and the chair of the workforce commission, or their designees, shall meet at least annually to:

(1) discuss mutual issues relating to at-risk youth and youthful offenders, and community support systems for families and youth;

(2) resolve conflicts in providing services to youth; and

(3) make recommendations to the governor and legislature.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

CHAPTER 202. ADMINISTRATIVE PROVISIONS

Sec. 202.001. COMPOSITION OF BOARD; PRESIDING OFFICER. (a) The board is composed of the following 13 members appointed by the governor with the advice and consent of the senate:

(1) one member who is a district court judge of a court designated as a juvenile court;

(2) three members who are members of a county commissioners court;

(3) one prosecutor in juvenile court;

(4) one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes fewer than 7,500 persons younger than 18 years of age;

(5) one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes at least 7,500 but fewer than 80,000 persons younger than 18 years of age;

(6) one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes 80,000 or more persons younger than 18 years of age;

(7) one adolescent mental health treatment professional licensed under Subtitle B or I, Title 3, Occupations Code;

(8) one educator, as that term is defined by Section 5.001, Education Code; and

(9) three members of the general public.

(b) Members serve staggered six-year terms, with the terms of four or five members expiring on February 1 of each odd-numbered year.

(c) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

(d) The governor shall make appointments to the board without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(e) A member appointed under Subsections (a)(1)-(6) may not hold office in the same county or judicial district as another member appointed under those subsections.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 202.002. RESTRICTIONS ON BOARD MEMBERSHIP AND DEPARTMENT EMPLOYMENT. (a) A person may not be a public member of the board if the person or the person's spouse:

(1) is employed in the field of criminal or juvenile justice;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) A person may not be a board member and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal or juvenile justice; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal or juvenile justice.

(c) A person may not be a board member or act as the general counsel to the board or the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

(d) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 202.003. PROVISIONS APPLICABLE TO JUDICIAL MEMBERS. (a) A judge's place on the board becomes vacant when the judge ceases to hold a judicial office.

(b) A judge's service on the board is an additional duty of office.

(c) At the time of appointment to the board, a judge must be a judge of:

(1) a court designated as a juvenile court; or

(2) a court that is one of several courts that rotate being the juvenile court.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 202.004. REMOVAL OF BOARD MEMBERS. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of taking office the qualifications required by Sections 202.001 and 202.003;

(2) does not maintain during service on the board the qualifications required by Sections 202.001 and 202.003;

(3) is ineligible for membership under Section 202.002;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that the action is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 202.005. BOARD MEMBER RECUSAL. (a) A chief juvenile probation officer who is a board member shall avoid the appearance of a conflict of interest by not voting or participating in any decision by the board that solely benefits or penalizes or otherwise solely

impacts the juvenile probation department over which the chief juvenile probation officer has authority. The chief juvenile probation officer may not vote or render any decisions regarding matters of abuse and neglect presented to the board regarding the chief juvenile probation officer's department.

(b) The board may adopt recusal requirements in addition to those described by Subsection (a), including requirements that are more restrictive than those described by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 202.006. TRAINING FOR BOARD MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department;

(2) the programs, functions, rules, and budget of the department;

(3) the results of the most recent formal audit of the department;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 202.007. REIMBURSEMENT. A board member is not entitled to

compensation for service on the board but is entitled to reimbursement for actual and necessary expenses incurred in performing official duties as a board member.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 202.008. MEETINGS; PUBLIC PARTICIPATION. (a) The board shall hold regular quarterly meetings on dates set by the board and special meetings at the call of the presiding officer.

(b) The board shall adopt rules regulating the board's proceedings.

(c) The board shall keep a public record of the board's decisions at the board's general office.

(d) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the department.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 202.009. AUDIT; AUTHORITY OF STATE AUDITOR. (a) The department is subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(b) The state auditor, on request of the office of inspector general, may provide information or other assistance to the office of inspector general that the state auditor determines is appropriate. The office of inspector general may coordinate with the state auditor to review or schedule a plan for an investigation under Subchapter C, Chapter 242, or share other information.

(c) The state auditor may access all information maintained by the office of inspector general, such as vouchers, electronic data, and internal records, including information that is otherwise confidential under law. Information obtained by the state auditor under this subsection is confidential and is not subject to disclosure under Chapter 552, Government Code.

(d) Any provision of this title relating to the operations of the office of inspector general does not:

(1) supersede the authority of the state auditor to conduct

an audit under Chapter 321, Government Code; or

(2) prohibit the state auditor from:

(A) conducting an audit, investigation, or other review; or

(B) having full and complete access to all records and other information concerning the department, including any witness statement or electronic data, that the state auditor considers necessary for the audit, investigation, or review.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 202.010. SUNSET PROVISION. The Texas Juvenile Justice Board and the Texas Juvenile Justice Department are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2023.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 938 (H.B. 3123), Sec. 1.02, eff. June 18, 2015.

Acts 2015, 84th Leg., R.S., Ch. 962 (S.B. 1630), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 2.04, eff. June 10, 2019.

CHAPTER 203. GENERAL POWERS AND DUTIES OF BOARD AND DEPARTMENT

Sec. 203.001. CONTROL OVER DEPARTMENT; DEPARTMENT MISSION. (a) The board is the governing body of the department and is responsible for the operations of the department.

(b) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the department.

(c) The board shall establish the mission of the department with the goal of establishing a cost-effective continuum of youth services that emphasizes keeping youth in their home communities

while balancing the interests of rehabilitative needs with public safety. The board shall establish funding priorities for services that support this mission and that do not provide incentives to incarcerate youth.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.002. EXECUTIVE DIRECTOR. The board shall:

(1) employ an executive director to administer the department; and

(2) supervise the director's administration of the department.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.003. ACCESSIBILITY TO PROGRAMS AND FACILITIES. (a) The department shall comply with federal and state laws related to program and facility accessibility.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the department's programs and services.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.004. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for

the use of alternative dispute resolution by state agencies.

(c) The department shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.005. GIFTS AND GRANTS. (a) The department may apply for and accept gifts and grants from any public or private source.

(b) The department shall deposit money received under this section in the state treasury. The department may use the money for the purpose of funding any activity under this title.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.006. MEDICAID BENEFITS. The department shall:

(1) identify areas in which federal Medicaid program benefits could be used in a manner that is cost-effective for juveniles in the juvenile justice system;

(2) develop a program to encourage application for and receipt of Medicaid benefits;

(3) provide technical assistance to counties relating to eligibility for Medicaid benefits; and

(4) monitor the extent to which counties make use of Medicaid benefits.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.0065. PREVENTION AND INTERVENTION SERVICES. (a) In this section, "prevention and intervention services" means programs and services intended to prevent or intervene in at-risk behaviors

that lead to delinquency, truancy, dropping out of school, or referral to the juvenile justice system.

(b) The department shall provide prevention and intervention services for:

(1) at-risk youth who are six years of age or older and younger than 18 years of age and who are:

(A) subject to compulsory school attendance under the Education Code; or

(B) under the jurisdiction of the juvenile court; and

(2) the family of an at-risk youth described by Subdivision (1).

(c) The prevention and intervention services provided under Subsection (b) must:

(1) consolidate prevention and intervention services within the department to avoid fragmentation and duplication of programs and services; and

(2) increase accountability for the delivery and administration of the programs and services.

(d) The department shall, to the extent funds are available:

(1) plan, develop, and administer a comprehensive and unified statewide delivery system of the prevention and intervention services to at-risk youth and their families;

(2) improve the efficiency and responsiveness of prevention and intervention services by facilitating greater coordination and flexibility in the use of funds by state and local service providers;

(3) ensure program effectiveness by funding evidence-based or research-based programs;

(4) provide accountability for the provision of services in order to demonstrate the impact or public benefit of a program by adopting outcomes measures;

(5) assist local communities in the coordination and development of prevention and intervention services in order to maximize access to federal, state, and local resources; and

(6) provide funding for prevention and intervention services through a competitive process to entities, including private service providers, local juvenile boards, municipal and justice courts, schools, and non-profit organizations.

(e) The department may seek, through a competitive process, an independent services provider with demonstrated experience in administration of similar statewide projects in Texas to effectively

and efficiently provide prevention and intervention services and implement the duties under Subsection (d).

(f) The department shall periodically evaluate the continued effectiveness of prevention and intervention services provided under this section.

(g) The records related to a youth who was provided prevention and intervention services under this section are confidential and may only be inspected or copied by an individual or entity to whom the youth is referred for treatment or services.

(h) An individual or entity that receives information under this section may not disclose the information unless otherwise authorized by law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 131 (H.B. 1760), Sec. 11, eff. September 1, 2019.

Sec. 203.007. STUDIES; STATISTICAL RECORDS. (a) The department may conduct or participate in studies relating to corrections methods and systems and to treatment and therapy programs at the governor's request or on the department's own initiative.

(b) The department shall continuously study the problem of juvenile delinquency in this state and the effectiveness of services provided or regulated by the department under Subtitle B or C and shall report the department's findings to the governor and the legislature before each regular legislative session.

(c) The department shall keep records relating to juveniles within the juvenile justice system that participate in research programs or studies.

(d) The records must show, for each calendar quarter and for each calendar year:

(1) the number of juveniles participating in research programs or studies for the appropriate reporting period;

(2) the type of research program or study in which each juvenile is participating;

(3) the name of the principal investigator conducting the research program or study; and

(4) the entity sponsoring the research program or study.

(e) The department shall submit a report that contains the information in the records kept under Subsection (d) on or before the 15th day after the last day of the appropriate reporting period to the:

(1) governor;

(2) lieutenant governor;

(3) speaker of the house of representatives; and

(4) members of the senate and house of representatives.

(f) A report submitted under this section is public information under Chapter 552, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.008. AUTHORITY TO ISSUE SUBPOENA, ADMINISTER OATH, RECEIVE EVIDENCE, AND GATHER INFORMATION. (a) In this section, "evidence" means any record, book, paper, document, data, or other evidence maintained by electronic or other means.

(b) The department may issue a subpoena requiring the attendance of a witness or the production of evidence that the department considers necessary for the investigation of:

(1) abuse, neglect, or exploitation allegations;

(2) complaints;

(3) financial and programmatic audits of juvenile probation programs, services, and facilities, including juvenile justice alternative education programs; or

(4) any other matter under the authority of the department, including a determination of treatment under Section 244.005.

(c) The department may issue a subpoena under Subsection (b) only if the subpoena is signed by:

(1) the presiding officer of the board or, if the presiding officer is unavailable, the presiding officer's designee; and

(2) at least two other members of the board, including a board member who is a judge.

(d) A hearings examiner appointed by the department may issue a subpoena requiring the attendance of a witness or the production of any record, book, paper, or document the hearings examiner considers necessary for a determination of treatment under Section 244.005.

The hearings examiner may sign a subpoena.

(e) Any peace officer, department investigator, other department official, or person authorized under Article 24.01, Code of Criminal Procedure, may serve the subpoena in the same manner that similar process in a court of record having original jurisdiction of criminal actions is served.

(f) A subpoena under this section shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which the witness is called, unless the proceeding for which the service or payment is made is under Chapter 2001, Government Code, in which case the service or payment shall be made as provided in that chapter. Witnesses subpoenaed at the instance of the department shall be paid their fees and mileage by the department out of funds appropriated for that purpose.

(g) On application of the department, a court of record having original jurisdiction of criminal actions may compel the attendance of a witness, the production of material, or the giving of testimony before the department, by an attachment for contempt or in the same manner as the court may otherwise compel the production of evidence.

(h) The presiding officer or a member of the board may administer an oath to a witness in attendance before the department or before an authorized representative of the department.

(i) If a witness in attendance before the department or before an authorized representative refuses without reasonable cause to be examined or answer a legal or pertinent question, or to produce evidence when ordered by the department, the department may apply to the district court for a rule or order returnable in not less than two or in more than five days, directing the witness to show cause before the judge why the witness should not be punished for contempt. The department may apply to the district court of any county where the witness is in attendance, on proof by affidavit of the fact, unless the order of contempt is sought under Chapter 2001, Government Code, in which case the department shall apply to a district court of Travis County, as provided by that chapter. On return of the order, the judge hearing the matter shall examine the witness under oath and the witness shall be given an opportunity to be heard. If the judge determines that the witness has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce evidence that the witness was ordered to bring or produce, the judge may immediately find the witness in contempt of

court.

(j) The department shall be granted access at any reasonable time to any evidence that is related to any matter the department or executive director considers necessary to administer the department's functions, powers, and duties.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.0081. ADVISORY COUNCIL ON JUVENILE SERVICES. (a) The advisory council on juvenile services consists of:

(1) the executive director of the department or the executive director's designee;

(2) the director of probation services of the department or the director's designee;

(3) the director of state programs and facilities of the department or the director's designee;

(4) the executive commissioner of the Health and Human Services Commission or the commissioner's designee;

(5) one representative of the county commissioners courts appointed by the board;

(6) two juvenile court judges appointed by the board; and

(7) seven chief juvenile probation officers appointed by the board as provided by Subsection (b).

(b) The board shall appoint to the advisory council one chief juvenile probation officer from each regional chiefs association in this state from a list of nominees submitted to the board by each regional chiefs association. To the greatest extent practicable, a regional chiefs association shall include in its list of nominees:

(1) one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes fewer than 7,500 persons younger than 18 years of age;

(2) one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes at least 7,500 but fewer than 80,000 persons younger than 18 years of age; and

(3) one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes 80,000 or more persons younger than 18 years of age.

(c) Advisory council members, other than ex officio members, serve staggered two-year terms, with the terms of one-half of the members, as nearly as practicable, expiring on February 1 of each year.

(d) The advisory council shall report to the board any determinations made under Subsection (e).

(e) The advisory council shall assist the department in:

(1) determining the needs and problems of county juvenile boards and probation departments;

(2) conducting long-range strategic planning;

(3) reviewing and proposing revisions to existing or newly proposed standards affecting juvenile probation programs, services, or facilities;

(4) analyzing the potential cost impact on juvenile probation departments of new standards proposed by the board; and

(5) advising the board on any other matter on the request of the board.

(f) The advisory council is not subject to Chapter 2110, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 5, eff. September 1, 2013.

Sec. 203.0082. FEES. If the General Appropriations Act does not specify the amount of the fee, the board by rule may establish fees that:

(1) are reasonable and necessary;

(2) produce revenue sufficient for the administration of this chapter; and

(3) do not produce unnecessary revenue.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.009. PUBLIC INTEREST INFORMATION. The department shall prepare information of public interest describing the functions

of the department and describing the procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the public and appropriate state agencies.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.010. COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints received by the department by or on behalf of a juvenile relating to the programs, services, or facilities of the department or a local juvenile probation department.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) Criminal complaints initially referred to the office of the inspector general relating to juvenile probation programs, services, or facilities shall be sent to the appropriate local law enforcement agency. Any other complaint shall be referred to the appropriate division of the department. The board by rule shall establish policies for the referral of noncriminal complaints.

(d) The department shall provide immediate notice to a local juvenile probation department of a complaint received by the department relating to the programs, services, or facilities of the local juvenile probation department.

(e) The department shall periodically notify the complaint parties of the status of the complaint until final disposition, unless the notice would jeopardize an undercover investigation. If the complaint relates to a claim of abuse, neglect, or exploitation involving a local juvenile probation department, the department shall provide monthly updates on the status of the complaint and immediate updates regarding department decisions to the local juvenile probation department.

(f) The department shall keep information about each written complaint filed with the department. The information must include:

(1) the subject matter of the complaint;

(2) the parties to the complaint;

(3) a summary of the results of the review or investigation of the complaint;

(4) the period of time between the date the complaint is received and the date the complaint is closed; and

(5) the disposition of the complaint.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.0105. DATA. Any data compiled by a local juvenile probation department related to abuse, neglect, or exploitation of youth, or to complaints regarding juvenile probation programs, that is required by this chapter or by any rule to be reported to the department or local juvenile probation board shall be provided to the office of the independent ombudsman.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.011. APPEALS FROM DECISION OF EXECUTIVE DIRECTOR. A juvenile probation department that is aggrieved by a decision of the executive director, including a decision relating to standards affecting juvenile probation programs, services, or facilities, may appeal the executive director's decision to the board. The decision of the board is final and cannot be appealed.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.012. ANNUAL FINANCIAL REPORT. The department shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.013. INTERNAL AUDIT; REPORT. (a) The department shall regularly conduct internal audits of the department, including audits of:

(1) facilities operated by and under contract with the department; and

(2) medical services provided to children in the custody of the department.

(b) The department shall on a quarterly basis report the results of the audits to:

(1) the committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities; and

(2) the state auditor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.014. TOLL-FREE NUMBER. (a) The department shall establish a permanent, toll-free number for the purpose of receiving any information concerning the abuse, neglect, or exploitation of children in the custody of the department or housed in a local probation facility.

(b) The department shall ensure that:

(1) the toll-free number is prominently displayed in each department facility and each local probation facility;

(2) children in the custody of the department or housed in a local probation facility and employees of the department and the facility have confidential access to telephones for the purpose of calling the toll-free number; and

(3) the toll-free number is in operation and answered by staff 24 hours a day, every day of the year.

(c) The department shall share the complaints received on the toll-free number with the office of inspector general and the office of the independent ombudsman.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Sec. 203.015. PROGRAMS AND SERVICES EVALUATION SYSTEM. The

department shall establish and implement a system to evaluate the effectiveness of county and state programs and services for youth.

Added by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.002, eff. September 1, 2011.

Text of section as added by Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), and Ch. 1184 (S.B. 1003). Under Acts 2013, 83rd Leg., R.S., Ch. 1184 (S.B. 1003), Sec. 7, this section expires February 1, 2015; Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), does not provide for expiration of this section.

Sec. 203.016. DATA REGARDING PLACEMENT IN DISCIPLINARY SECLUSION. (a) In this section:

(1) "Disciplinary seclusion" means the separation of a resident from other residents for disciplinary reasons and the placement of the resident alone in an area from which egress is prevented for more than 90 minutes.

(2) "Juvenile facility" means a facility that serves juveniles under juvenile court jurisdiction and that is operated as a pre-adjudication secure detention facility, a short-term detention facility, or a post-adjudication secure correctional facility.

(b) The department shall collect the following data during the annual registration of juvenile facilities and make the data publicly available:

(1) the number of placements in disciplinary seclusion lasting at least 90 minutes but less than 24 hours;

(2) the number of placements in disciplinary seclusion lasting 24 hours or more but less than 48 hours; and

(3) the number of placements in disciplinary seclusion lasting 48 hours or more.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1184 (S.B. 1003), Sec. 1, eff. September 1, 2013.
Added by Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), Sec. 35, eff. September 1, 2013.

Sec. 203.017. REGIONALIZATION PLAN. (a) The department shall develop and the board shall adopt a regionalization plan for keeping

children closer to home in lieu of commitment to the secure facilities operated by the department under Subtitle C.

(b) The department shall consult with juvenile probation departments in developing a regionalization plan, including the identification of:

(1) post-adjudication facility capacity that may be dedicated to support the plan; and

(2) resources needed to implement the plan.

(c) The regionalization plan must define regions of the state to be served by facilities operated by juvenile probation departments, counties, halfway houses, or private operators, based on the post-adjudication facilities identified as being available for the purpose of the plan.

(d) The department shall ensure that each region has defined, appropriate, research-based programs for the target populations under the regionalization plan.

(e) The regionalization plan must:

(1) include a budget review, redirection of staff, and funding mechanisms necessary to support the plan;

(2) create a new division of the department responsible for administering the regionalization plan and monitoring program quality and accountability;

(3) include sufficient mechanisms to divert at least:

(A) 30 juveniles from commitment to secure facilities operated by the department for the state fiscal year beginning September 1, 2015; and

(B) 150 juveniles from commitment to secure facilities operated by the department for the state fiscal year beginning September 1, 2016; and

(4) for the state fiscal year beginning September 1, 2017, and each subsequent state fiscal year, include any savings that are generated by the decreases in the population of the secure facilities operated by the department under Subtitle C that exceed the cost of implementing the plan.

(f) The division created under Subsection (e)(2) shall:

(1) approve plans and related protocols to administer the developed regional model;

(2) provide training on best practices for all local probation departments affected by the regionalization plan;

(3) assist in research-based program development;

(4) monitor contract and program measures for the regionalization plan;

(5) analyze department data to provide clear guidance to local probation departments on outcome measures; and

(6) report on performance of specific programs and placements to assist in implementing best practices and maximize the impact of state funds.

(g) A region is eligible for funding to support evidence-based, intensive in-home services only if the region meets the performance standards established by the department and adopted in contracts for placement and services.

(h) The department shall adopt rules to allow the local probation departments implementing the regionalization plan to access the data submitted by those departments in the state juvenile case management system for planning and research purposes.

Added by Acts 2015, 84th Leg., R.S., Ch. 962 (S.B. 1630), Sec. 4, eff. September 1, 2015.

Sec. 203.018. SPECIALIZED PROGRAMS AND SPECIAL PROJECTS. (a) The department shall develop specialized programs for children with a determinate sentence and children committed under Section 54.04013, Family Code. The programs must ensure safety and security for committed children and provide developmentally appropriate program strategies.

(b) The department shall establish performance-based goals related to improved outcomes that:

(1) must include measures to reduce recidivism; and

(2) shall include other well-being outcome measures.

(c) The department shall use case review strategies to identify children in department facilities who can safely and appropriately be transferred to alternative local placements or halfway houses, placed on parole, or discharged from the department.

(d) The department shall study and report to the board on the potential for repurposing existing secure facilities for the confinement of children with a determinate sentence or children committed under Section 54.04013, Family Code, or for other purposes.

(e) The department or any local probation department may not use or contract with a facility that was constructed or previously

used for the confinement of adult offenders.

Added by Acts 2015, 84th Leg., R.S., Ch. 962 (S.B. 1630), Sec. 4, eff. September 1, 2015.

Sec. 203.019. REPORT TO LEGISLATURE. Not later than August 15 of each year, the Texas Juvenile Justice Department shall submit to the lieutenant governor, the speaker of the house of representatives, and the governor a report that contains the following statistical information relating to children referred to a juvenile court during the preceding year:

(1) the ages, races, and counties of residence of the children transferred to a district court or criminal district court for criminal proceedings; and

(2) the ages, races, and counties of residence of the children committed to the Texas Juvenile Justice Department, placed on probation, or discharged without any disposition.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 53, eff. Jan. 1, 1996.
Amended by Acts 2001, 77th Leg., ch. 1297, Sec. 40, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 66, eff. September 1, 2015.
Transferred and redesignated from Family Code, Section 58.112 by Acts 2017, 85th Leg., R.S., Ch. 746 (S.B. 1304), Sec. 19, eff. September 1, 2017.

SUBTITLE B. PROBATION SERVICES; PROBATION FACILITIES

CHAPTER 221. ASSISTANCE TO COUNTIES AND REGULATION OF JUVENILE BOARDS AND JUVENILE PROBATION DEPARTMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 221.001. PROVISION OF PROBATION AND DETENTION SERVICES. (a) The department shall assist counties in providing probation and juvenile detention services by encouraging the continued operation of county and multi-county juvenile boards or probation offices.

(b) If a county discontinues the provision of juvenile probation services, the department may directly provide probation or detention services in the county.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.002. GENERAL RULES GOVERNING JUVENILE BOARDS, PROBATION DEPARTMENTS, PROBATION OFFICERS, PROGRAMS, AND FACILITIES. (a) The board shall adopt reasonable rules that provide:

(1) minimum standards for personnel, staffing, case loads, programs, facilities, record keeping, equipment, and other aspects of the operation of a juvenile board that are necessary to provide adequate and effective probation services;

(2) a code of ethics for probation and detention officers and for the enforcement of that code;

(3) appropriate educational, preservice and in-service training, and certification standards for probation and detention officers or court-supervised community-based program personnel;

(4) subject to Subsection (d), minimum standards for public and private juvenile pre-adjudication secure detention facilities, public juvenile post-adjudication secure correctional facilities that are operated under the authority of a juvenile board or governmental unit, private juvenile post-adjudication secure correctional facilities operated under a contract with a governmental unit, except those facilities exempt from certification by Section 42.052(g), and nonsecure correctional facilities operated by or under contract with a governmental unit;

(5) minimum standards for juvenile justice alternative education programs created under Section 37.011, Education Code, in collaboration and conjunction with the Texas Education Agency, or its designee; and

(6) minimum standards for the operation of substance abuse facilities or programs that are juvenile justice facilities or juvenile justice programs, as defined by Section 261.405, Family Code.

(b) In adopting the rules, the board shall consider local information and evidence gathered through public review and comment.

(c) The department shall operate a statewide registry for all public and private juvenile pre-adjudication secure detention facilities and all public and private juvenile post-adjudication secure correctional facilities.

(c-1) In adopting rules under Subsection (a)(3), the board shall require probation officers, juvenile supervision officers, and court-supervised community-based program personnel to receive trauma-informed care training. The training must provide knowledge, in line with best practices, of how to interact with juveniles who have experienced traumatic events.

(d) In adopting rules under Subsection (a)(4), the board shall ensure that the minimum standards for facilities described by Subsection (a)(4) are designed to ensure that juveniles confined in those facilities are provided the rights, benefits, responsibilities, and privileges to which a juvenile is entitled under the United States Constitution, federal law, and the constitution and laws of this state. The minimum standards must include a humane physical and psychological environment, safe conditions of confinement, protection from harm, adequate rehabilitation and education, adequate medical and mental health treatment, and due process of law.

(e) A juvenile board that does not accept state aid funding from the department under Section 223.001 shall report to the department each month on a form provided by the department the same data as that required of counties accepting state aid funding regarding juvenile justice activities under the jurisdiction of the juvenile board. If the department makes available free software to a juvenile board for the automation and tracking of juveniles under the jurisdiction of the juvenile board, the department may require the monthly report to be provided in an electronic format adopted by rule by the board.

(f) A substance abuse facility or program operating under the standards adopted under this section is not required to be licensed or otherwise approved by any other state or local agency.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1351 (S.B. 1356), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 747 (S.B. 1314), Sec. 2, eff. September 1, 2017.

Sec. 221.003. RULES CONCERNING MENTAL HEALTH SCREENING INSTRUMENT AND RISK AND NEEDS ASSESSMENT INSTRUMENT; ADMISSIBILITY OF STATEMENTS. (a) The board by rule shall require juvenile probation departments to use the mental health screening instrument selected by the department for the initial screening of children under the jurisdiction of probation departments who have been formally referred to a juvenile probation department. The department shall give priority to training in the use of this instrument in any preservice or in-service training that the department provides for probation officers. The rules adopted by the board under this section must allow a clinical assessment by a licensed mental health professional to be substituted for the mental health screening instrument selected by the department if the clinical assessment is performed in the time prescribed by the department.

(b) A juvenile probation department must, before the disposition of a child's case and using a validated risk and needs assessment instrument or process provided or approved by the department, complete a risk and needs assessment for each child under the jurisdiction of the juvenile probation department.

(b-1) Any risk and needs assessment instrument or process that is provided or approved by the department for a juvenile probation department to use under Subsection (b) must be a validated instrument or process.

(c) Any statement made by a child and any mental health data obtained from the child during the administration of the mental health screening instrument or the initial risk and needs assessment instruments under this section is not admissible against the child at any adjudication hearing. The person administering the mental health screening instrument or initial risk and needs assessment instruments shall inform the child that any statement made by the child and any mental health data obtained from the child during the administration of the instrument is not admissible against the child at any adjudication hearing.

(d) A juvenile probation department shall report data from the use of the screening instrument or clinical assessment under Subsection (a) and the risk and needs assessment under Subsection (b) to the department in the format and at the time prescribed by the department.

(e) The board shall adopt rules to ensure that youth in the juvenile justice system are assessed using the screening instrument

or clinical assessment under Subsection (a) and the risk and needs assessment under Subsection (b).

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), Sec. 36, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 962 (S.B. 1630), Sec. 5, eff. September 1, 2015.

Sec. 221.0035. BEST PRACTICES TO IDENTIFY AND ASSESS VICTIMS OF SEX TRAFFICKING. (a) In this section, "sex trafficking" means an offense under Section 20A.02(a)(7), Penal Code.

(b) The department shall evaluate the practices and screening procedures used by juvenile probation departments for the early identification of juveniles who are victims of sex trafficking for the purpose of developing a recommended set of best practices that may be used by a juvenile probation department to improve the juvenile probation department's ability to identify a juvenile who is a victim of sex trafficking.

(c) Best practices may include:

(1) examining a juvenile's referral history, including whether the juvenile has a history of running away from home or has been adjudicated for previous offenses;

(2) making inquiries into a juvenile's history of sexual abuse;

(3) assessing a juvenile's need for services, including counseling through a rape crisis center or other counseling; and

(4) asking the juvenile a series of questions designed to determine whether the juvenile is at high risk of being a victim of sex trafficking.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1351 (S.B. 1356), Sec. 2, eff. September 1, 2013.

Sec. 221.004. STANDARDS RELATING TO LOCAL PROBATION DEPARTMENTS. (a) The board shall adopt rules that provide:

(1) standards for the collection and reporting of information about juvenile offenders by local probation departments;

(2) performance measures to determine the effectiveness of probation services provided by local probation departments; and

(3) case management standards for all probation services provided by local probation departments.

(b) The department shall monitor local probation departments for compliance with the standards and measures that the board adopts.

(c) The department shall provide technical assistance to local probation departments to aid compliance with the standards and measures that the board adopts.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.005. TRAINING AND ASSISTANCE TO LOCAL AUTHORITIES. (a) The department shall provide educational training and technical assistance to counties, juvenile boards, and probation offices to:

(1) promote compliance with the standards required under this chapter; and

(2) assist the local authorities in improving the operation of probation, parole, and detention services.

(b) The department shall encourage compliance with educational service standards and rights prescribed by state or federal law by:

(1) facilitating interagency coordination and collaboration among juvenile probation departments, school districts, and the Texas Education Agency; and

(2) developing and supporting a plan to ensure continuity of educational services to juvenile offenders, including special educational services for juveniles with disabilities.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.006. VIOLENCE PREVENTION AND CONFLICT RESOLUTION TRAINING. The department shall:

(1) provide training on request to juvenile probation

departments and juvenile boards in violence prevention and conflict resolution programs that include discussion of domestic violence and child abuse issues; and

(2) encourage the inclusion of a violence prevention and conflict resolution program as a condition of probation.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.0061. TRAUMA-INFORMED CARE TRAINING. The department shall provide trauma-informed care training during the preservice training the department provides for juvenile probation officers, juvenile supervision officers, juvenile correctional officers, and juvenile parole officers. The training must provide knowledge, in line with best practices, of how to interact with juveniles who have experienced traumatic events.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1351 (S.B. 1356), Sec. 3, eff. September 1, 2013.

Sec. 221.007. JUVENILE BOARD RECORDS AND REPORTS. Each juvenile board in the state shall:

(1) keep the financial, programmatic, and statistical records the department considers necessary; and

(2) submit periodic financial, programmatic, and statistical reports to the department as required by the department and in the format specified by the department, including electronic submission.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.0071. CHARTER SCHOOL. (a) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education may grant a charter on the application of a detention,

correctional, or residential facility established only for juvenile offenders under Section 51.12, 51.125, or 51.126, Family Code, or an eligible entity that has entered into a contract with a facility described by this subsection.

(b) If a local detention, correctional, or residential facility described by Subsection (a) or an eligible entity that has entered into a contract with a facility described by Subsection (a) applies for a charter, the facility or the eligible entity must provide all educational opportunities and services, including special education instruction and related services, that a school district is required under state or federal law to provide for students residing in the district through a charter school operated in accordance with and subject to Subchapter D, Chapter 12, Education Code.

(c) The commissioner of education shall adopt a form and procedure to allow a detention, correctional, or residential facility described by Subsection (a) or an eligible entity that has entered into a contract with a facility described by Subsection (a) to apply for a charter. The application form and procedure must be comparable to the applicable requirements of Section 12.110, Education Code, and must include any requirements provided under Subchapter D, Chapter 12, Education Code.

(d) A charter school operating under a charter granted under this section is entitled to receive open-enrollment charter school funding under Chapter 48, Education Code, in the same manner as an open-enrollment charter school operating under Subchapter D, Chapter 12, Education Code.

(e) The commissioner of education shall adopt rules necessary to implement this section, including rules that modify the requirements for charter schools provided under Chapter 12, Education Code, as necessary to allow a charter school to operate in a detention, correctional, or residential facility described by Subsection (a).

(f) In this section, "eligible entity" has the meaning assigned by Section 12.101(a), Education Code.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1140 (S.B. 2), Sec. 44, eff.

September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 418 (S.B. 1177), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.084, eff. September 1, 2019.

Sec. 221.008. INSPECTIONS AND AUDITS. (a) The department may inspect and evaluate a juvenile board and probation department and audit the juvenile board's financial, programmatic, and statistical records at reasonable times to determine compliance with the board's rules.

(b) The department may inspect any program or facility operated on behalf of and under the authority of the juvenile board by the probation department, a governmental entity, or private vendor.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.009. STRATEGIC PLAN; ADOPTION OF PLAN. (a) The board shall develop a strategic plan. The plan must:

(1) identify short-term and long-term policy goals;

(2) identify time frames and strategies for meeting the goals identified under Subdivision (1);

(3) estimate population projections, including projections of population characteristics;

(4) estimate short-term and long-term capacity, programmatic, and funding needs;

(5) describe intensive service and surveillance parole pilot programs to be developed;

(6) include an evaluation of aftercare services emphasizing concrete outcome measures, including recidivism and educational progress;

(7) identify objective criteria for the various decision points throughout the continuum of juvenile justice services and sanctions to guard against disparate treatment of minority youth;

(8) identify outcome measures by which to evaluate the effectiveness of services provided to youth in the juvenile justice

system;

(9) include a plan of implementation for the development of common data sources and data sharing among the department, juvenile probation departments, the Department of Family and Protective Services, the Department of State Health Services, the Health and Human Services Commission, the Texas Education Agency, and other state agencies that serve youth in the juvenile justice system;

(10) include the development of new, or the improvement of existing, validated risk assessment instruments;

(11) include strategies to determine which programs are most effective in rehabilitating youth in the juvenile justice system;

(12) include planning for effective aftercare programs and services, including ensuring that youth in the juvenile justice system have personal identification and appropriate referrals to service providers; and

(13) track performance measures to illustrate the costs of different levels of treatment and to identify the most cost-effective programs in each component of the juvenile justice system in this state.

(b) The board shall make its best effort to develop regularly updated performance measures of the effectiveness of programs and services on outcomes for youths, public safety, and victims, make those measures publicly available online, and use those measures in determining funding levels for programs and services.

(c) The board shall review and adopt the strategic plan as provided by Section 2056.002, Government Code.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.010. COMPLAINTS RELATING TO JUVENILE BOARDS. (a) The department shall maintain a system to promptly and efficiently act on a complaint filed with the department relating to a juvenile board funded by the department. The department shall maintain information about parties to the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

(b) The department shall make information available describing the department's procedures for the investigation and resolution of a complaint filed with the department relating to a juvenile board funded by the department.

(c) The department shall investigate the allegations in the complaint and make a determination of whether there has been a violation of the department's rules relating to juvenile probation programs, services, or facilities.

(d) If a written complaint is filed with the department relating to a juvenile board funded by the department, the department shall periodically notify the complainant and the juvenile board of the status of the complaint until final disposition, unless notice would jeopardize an undercover investigation.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.011. INVESTIGATORS. (a) The department may employ and commission investigators as peace officers for the purpose of investigating allegations of abuse, neglect, and exploitation in juvenile justice programs and facilities under Section 261.405, Family Code.

(b) Peace officers employed and commissioned under Subsection (a) must be certified by the Texas Commission on Law Enforcement under Chapter 1701, Occupations Code.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.42, eff. May 18, 2013.

Sec. 221.012. ANNUAL REPORTS. (a) The department shall report annually to the governor and the legislature on the department's operations and the condition of probation services in the state during the previous year. The report:

(1) may include recommendations; and

(2) must include:

(A) an evaluation of the effectiveness of the community-based programs operated under Section 54.0401, Family Code; and

(B) information comparing the cost of a child participating in a program described by Paragraph (A) with the cost of committing the child to the department.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(26), eff. September 1, 2013.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(26), eff. September 1, 2013.

SUBCHAPTER B. CONTRACT STANDARDS AND MONITORING

Sec. 221.051. CONTRACT STANDARDS. (a) In each contract with counties for local probation services, the department shall include:

(1) clearly defined contract goals, outputs, and measurable outcomes that relate directly to program objectives;

(2) clearly defined sanctions or penalties for failure to comply with or perform contract terms or conditions; and

(3) clearly specified accounting, reporting, and auditing requirements applicable to money received under the contract.

(b) The department shall require each local juvenile probation department:

(1) to include the provisions of Subsection (a) in its contracts with private service providers that involve the use of state funds; and

(2) to use data relating to the performance of private service providers in prior contracts as a factor in selecting providers to receive contracts.

(c) The department shall consider the past performance of a juvenile board when contracting with the juvenile board for local probation services other than basic probation services. In addition to the contract standards described by Subsection (a), a contract with a juvenile board for probation services other than basic

probation services must:

(1) include specific performance targets for the juvenile board based on the juvenile board's historic performance of the services; and

(2) require a juvenile board to report on the juvenile board's success in meeting the performance targets described by Subdivision (1).

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.052. CONTRACT MONITORING. The department shall establish a formal program to monitor contracts under Section 221.051 made by the department. The department must:

(1) monitor compliance with financial and performance requirements using a risk assessment methodology; and

(2) obtain and evaluate program cost information to ensure that each cost, including an administrative cost, is reasonable and necessary to achieve program objectives.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.053. CONTRACTS FOR OUT-OF-STATE JUVENILE INMATES. (a) The only entities other than the state authorized to operate a correctional facility to house in this state juvenile inmates convicted of offenses committed against the laws of another state of the United States are:

(1) a county or municipality; and

(2) a private vendor operating a correctional facility under a contract with a county or municipality.

(b) The board shall develop rules, procedures, and minimum standards applicable to county or private correctional facilities housing out-of-state juvenile inmates. A contract made under Subsection (a) shall require the county, municipality, or private vendor to operate the facility in compliance with minimum standards adopted by the board.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.054. DATA COLLECTION. (a) The department shall collect comprehensive data concerning the outcomes of local probation programs throughout the state.

(b) Data collected under Subsection (a) must include:

(1) a description of the types of programs and services offered by a juvenile probation department, including a description of the components of each program or service offered; and

(2) to the extent possible, the rate at which juveniles who enter or complete juvenile probation are later committed to the custody of the state.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.055. QUARTERLY REPORT ON ABUSE, NEGLECT, AND EXPLOITATION. (a) The department shall prepare and deliver a quarterly report to the board concerning the final outcome of any complaint received under Section 261.405, Family Code, that concerns the abuse, neglect, or exploitation of a juvenile. The report must include a summary of the actions performed by the department and any applicable juvenile board or juvenile probation department in resolving the complaint.

(b) A report prepared under Subsection (a) is public information under Chapter 552, Government Code, only to the extent authorized by that chapter.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.056. RESIDENTIAL TREATMENT FACILITY. (a) The department may contract with a local mental health and mental retardation authority for the establishment of a residential

treatment facility for juveniles with mental illness or emotional injury who, as a condition of juvenile probation, are ordered by a court to reside at the facility and receive education services at the facility. The department may work in cooperation with the local mental health and mental retardation authority to provide mental health residential treatment services for juveniles residing at a facility established under this section.

(b) A residential treatment facility established under this section must provide juveniles receiving treatment at the facility:

(1) a short-term program of mental health stabilization that does not exceed 150 days in duration; and

(2) all educational opportunities and services, including special education instruction and related services, that a school district is required under state or federal law to provide for students residing in the district through a charter school operated in accordance with and subject to Subchapter D, Chapter 12, Education Code.

(c) If a residential treatment facility established under this section is unable to provide adequate and sufficient educational opportunities and services to juveniles residing at the facility, the facility may not continue to operate beyond the end of the school year in which the opportunities or services provided by the facility are determined to be inadequate or insufficient.

(d) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education shall grant a charter on the application of a residential treatment facility established under this section for a school chartered for the purposes of this section.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1140 (S.B. 2), Sec. 45, eff. September 1, 2013.

CHAPTER 222. STANDARDS FOR AND REGULATION OF CERTAIN OFFICERS AND EMPLOYEES

SUBCHAPTER A. STANDARDS FOR AND GENERAL REGULATION OF OFFICERS

Sec. 222.001. MINIMUM STANDARDS FOR PROBATION OFFICERS. (a) To be eligible for appointment as a probation officer, a person who was not employed as a probation officer before September 1, 1981, must:

(1) be of good moral character;

(2) have acquired a bachelor's degree conferred by a college or university accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board;

(3) have either:

(A) one year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or other field of instruction approved by the department; or

(B) one year of experience in full-time case work, counseling, or community or group work:

(i) in a social service, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons; and

(ii) that the department determines provides the kind of experience necessary to meet this requirement;

(4) have satisfactorily completed the course of preservice training or instruction and any continuing education required by the department;

(5) have passed the tests or examinations required by the department; and

(6) possess the level of certification required by the department.

(b) The board by rule may authorize the waiver of the requirement of a year of graduate study or full-time employment experience if the authority responsible for employing the officer establishes to the satisfaction of the department that, after a diligent search, the authority cannot locate a person meeting that requirement to fill a job opening.

(c) The board by rule may authorize the temporary employment of a person who has not completed a course of preservice training, passed the examination, or attained the required level of certification, contingent on the person meeting those requirements within the time specified by the board.

(d) A person must possess the level of training, experience, and certification required by the department to be eligible for employment in a probation office in a position supervising other

probation officers. The department may require several levels of certification to reflect increasing levels of responsibility. A department rule relating to levels of certification does not affect the continued employment of a probation officer in a supervisory position if the person holds that position on the date on which the rule takes effect.

(e) The department may waive any certification requirement, except a fee requirement, for an applicant who has a valid certification from another state that has certification requirements that are substantially equivalent to the requirements in this state.

(f) The department may waive the degree accreditation requirement in Subsection (a)(2) if the applicant possesses a foreign or other degree that the department determines is the substantial equivalent of a bachelor's degree. The board shall adopt rules defining the procedures to be used to request a waiver of the accreditation requirement in Subsection (a)(2).

Redesignated and amended from Human Resources Code, Subchapter D, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 222.002. MINIMUM STANDARDS FOR DETENTION OFFICERS. To be eligible for appointment as a detention officer, a person who was not employed as a detention officer before September 1, 2005, must:

(1) be of good moral character;

(2) be at least 21 years of age;

(3) have acquired a high school diploma or its equivalent;

(4) have satisfactorily completed the course of preservice training or instruction required by the department;

(5) have passed the tests or examinations required by the department; and

(6) possess the level of certification required by the department.

Redesignated and amended from Human Resources Code, Subchapter D, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 222.003. MINIMUM STANDARDS FOR CERTAIN EMPLOYEES OF

NONSECURE CORRECTIONAL FACILITIES. (a) The board by rule shall adopt certification standards for persons who are employed in nonsecure correctional facilities that accept juveniles and that are operated by or under contract with a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code.

(b) The certification standards adopted under Subsection (a) must be substantially similar to the certification requirements for detention officers under Section 222.002.

Redesignated and amended from Human Resources Code, Subchapter D, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), Sec. 37, eff. September 1, 2013.

Sec. 222.004. PERSONS WHO MAY NOT ACT AS CHIEF ADMINISTRATIVE, JUVENILE PROBATION, OR DETENTION OFFICERS. (a) A peace officer, prosecuting attorney, or other person who is employed by or who reports directly to a law enforcement or prosecution official may not act as a chief administrative, juvenile probation, or detention officer or be made responsible for supervising a juvenile on probation.

(b) For purposes of this section, a chief administrative officer, regardless of title, is the person who is:

(1) hired or appointed by or under contract with the juvenile board; and

(2) responsible for the oversight of the operations of the juvenile probation department or any juvenile justice program operated by or under the authority of the juvenile board.

Redesignated and amended from Human Resources Code, Subchapter D, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 222.005. CARRYING OF FIREARM BY CERTAIN OFFICERS PROHIBITED. (a) A juvenile probation, detention, or corrections officer may not carry a firearm in the course of the person's official duties.

(b) This section does not apply to:

(1) an employee of the department; or

(2) a juvenile probation officer authorized to carry a firearm under Section 142.006.

Redesignated and amended from Human Resources Code, Subchapter D, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 222.006. PROBATION OFFICER: COUNTY EMPLOYEE. A juvenile probation officer whose jurisdiction covers only one county is considered to be an employee of that county.

Redesignated and amended from Human Resources Code, Subchapter D, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

SUBCHAPTER B. CERTIFICATION AND EXAMINATION

Sec. 222.051. NOTICE OF CERTIFICATION EXAMINATION RESULTS. (a) Except as provided by Subsection (b), the department shall notify each person taking a certification examination of the results of the examination not later than the 30th day after the date on which the examination is administered.

(b) The department shall notify a person taking an examination graded or reviewed by a national testing service of the results not later than the 14th day after the date on which the department receives the results from the testing service.

(c) If the notice of the examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before that 90th day.

Redesignated and amended from Human Resources Code, Subchapter D, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 222.052. ANALYSIS OF EXAMINATION PERFORMANCE. The department shall furnish a person who fails a certification test

administered under this chapter with an analysis of the person's performance on the examination if the person requests the analysis in writing.

Redesignated and amended from Human Resources Code, Subchapter D, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 222.053. REVOCATION OR SUSPENSION OF CERTIFICATION. (a) The department may revoke or suspend a certification, or reprimand a certified officer:

(1) for a violation of this chapter or a department rule; or

(2) if, under Subsection (c), a panel determines that continued certification of the person threatens juveniles in the juvenile justice system.

(b) The department may place on probation a person whose certification is suspended. If the suspension is probated, the department may require the person to:

(1) report regularly to the department on matters that are the basis of the probation; and

(2) continue or review professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

(c) The executive director may convene, in person or telephonically, a panel of three board members to determine if a person's continued certification threatens juveniles in the juvenile justice system. If the panel determines that the person's continued certification threatens juveniles in the juvenile justice system, the person's license is temporarily suspended until an administrative hearing is held as soon as possible under Subsection (d). The executive director may convene a panel under this subsection only if the danger posed by the person's continued certification is imminent. The panel may hold a telephonic meeting only if immediate action is required and convening the panel at one location is inconvenient for any member of the panel.

(d) A person is entitled to a hearing before the State Office of Administrative Hearings if the department proposes to suspend or revoke the person's certification.

(e) A person may appeal a ruling or order issued under this section to a district court in the county in which the person resides or in Travis County. The standard of review is under the substantial evidence rule.

Redesignated and amended from Human Resources Code, Subchapter D, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

CHAPTER 223. STATE AID

Sec. 223.001. DETERMINATION OF AMOUNT OF STATE AID. (a) The department shall annually allocate funds for financial assistance to juvenile boards to provide juvenile services according to current estimates of the number of juveniles in each county, a basic probation funding formula for departments that clearly defines what basic probation entails and which services are provided, and other factors the department determines are appropriate.

(b) The legislature may appropriate the amount of state aid necessary to supplement local funds to maintain and improve statewide juvenile services that comply with department standards and to initiate and support the regionalization plan under Section 203.017 so that savings are generated by decreases in the population of department facilities operated under Subtitle C.

(c) The department shall set aside a portion of the funds appropriated to the department for discretionary state aid to fund programs designed to address special needs or projects of local juvenile boards, including projects dedicated to specific target populations based on risk and needs, and with established recidivism reduction goals. The department shall develop discretionary grant funding protocols based on documented, data-driven, and research-based practices.

(d) The department shall reimburse counties for the placement of children in the regional specialized program at a rate that offers a savings to the state in relation to the average cost per day for confining a child in a department facility operated under Subtitle C.

(e) The department may not adversely impact the state aid for a juvenile board or a juvenile probation department that does not enter into a contract to serve youth from other counties, or does not act as a regional facility.

(f) A juvenile board or juvenile probation department may not be required to accept a child for placement in a post-adjudication correctional facility, unless the child is subject to an order issued by a juvenile court served by that board or department.

Redesignated and amended from Human Resources Code, Subchapter E, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 962 (S.B. 1630), Sec. 6, eff. September 1, 2015.

Sec. 223.002. MAINTENANCE OF LOCAL FINANCIAL SUPPORT. (a) To receive the full amount of state aid funds for which a juvenile board may be eligible, a juvenile board must demonstrate to the department's satisfaction that the amount of local or county funds budgeted for juvenile services is at least equal to the amount spent, excluding construction and capital outlay expenses, for those services in the 1994 county fiscal year. The department may waive this requirement only if the juvenile board demonstrates to the department that unusual, catastrophic, or exceptional circumstances existed during the relevant year to affect adversely the level of county funding. If the required amount of local funding is not budgeted and the department does not grant a waiver, the department shall reduce the allocation of state aid funds to the juvenile board by the amount equal to the amount that the county funding is below the required funding.

(b) For purposes of Subsection (a), the amount spent on juvenile detention and correctional facilities is included in determining the amount of local or county funds. The amount spent for construction or renovation is not included.

(c) The department must be satisfied at the end of each county fiscal year that the juvenile board actually spent local or county funds for juvenile services in the amount demonstrated to the department at the beginning of the fiscal year.

(d) The department may require a rebate of state aid, or withhold state aid to which the juvenile board would otherwise be entitled, as necessary to satisfy the requirement that a juvenile board spend funds as demonstrated.

Redesignated and amended from Human Resources Code, Subchapter E, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 223.003. SPECIAL RULES FOR MULTI-COUNTY JURISDICTIONS. If necessary, the board by rule may provide for:

(1) the payment of compensation, insurance, retirement, fringe benefits, and related matters to a juvenile probation officer whose jurisdiction covers more than one county;

(2) the centralization of administrative responsibility associated with the state aid program in a county included in a multi-county jurisdiction; and

(3) the application of Section 223.001 to a multi-county jurisdiction.

Redesignated and amended from Human Resources Code, Subchapter E, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 223.004. PAYMENT OF STATE AID. (a) When the department determines that a juvenile board complies with the department's standards, the department shall submit to the comptroller a voucher for payment to a juvenile board of the amount of state aid to which the board is entitled.

(b) The juvenile board's fiscal officer shall deposit all state aid received under this chapter in a special fund. The juvenile board may use the funds solely to provide juvenile probation services.

(c) A juvenile board receiving state aid under this chapter is subject to audit by:

(1) the Legislative Budget Board;

(2) the governor's budget, policy, and planning office;

(3) the state auditor; and

(4) the comptroller.

(d) A juvenile board receiving state aid under this chapter shall submit reports as required by the department.

Redesignated and amended from Human Resources Code, Subchapter E, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec.

1.004, eff. September 1, 2011.

Sec. 223.005. REFUSAL, REDUCTION, OR SUSPENSION OF STATE AID. (a) The department may refuse, reduce, or suspend payment of state aid to:

(1) a juvenile board that fails to comply with the department's rules or fails to maintain local financial support; or

(2) a county that fails to comply with the minimum standards provided under Section 221.002(a)(4).

(b) The department shall provide for notice and a hearing in a case in which the department refuses, reduces, or suspends state aid.

Redesignated and amended from Human Resources Code, Subchapter E, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 223.006. FUNDING AND CONSTRUCTION OF POST-ADJUDICATION FACILITIES. (a) The department may provide state aid to a county to acquire, construct, and equip post-adjudication residential or day-treatment centers from money appropriated for those purposes. The facilities may be used for children who are placed on probation by a juvenile court under Section 54.04, Family Code, as an alternative to commitment to the facilities of the department.

(b) State funds provided to counties under Subsection (a) must be matched by local funds equal to at least one-fourth of the state funds.

(c) From money appropriated for construction of the facilities described by Subsection (a), the department shall contract with the Texas Department of Criminal Justice for construction management services, including:

(1) evaluation of project plans and specifications; and

(2) review and comment on the selection of architects and engineers, change orders, and sufficiency of project inspection.

(d) On completion of the review of project plans and specifications under Subsection (c), the Texas Department of Criminal Justice shall issue a comprehensive report that states in detail the proposed cost of the project. The department shall use the report in making a comparative evaluation of proposed projects and shall give

priority to the projects the department finds are the most effective and economical.

(e) The department may not award money for a capital construction project for a facility under this section unless the department receives from the commissioners court of the county intending to use the facility a written commitment that the commissioners court has reviewed and accepted the conditions of the award. If more than one county intends to use the facility, the department must receive from each county a written commitment that the county will agree with the other counties to an interlocal contract to operate the facility in accordance with the conditions of the award.

(f) A county receiving state aid under this section shall adhere to department standards for the construction and operation of a post-adjudication secure residential facility.

(g) For a facility constructed under this section, not more than 25 percent of the operating costs of the facility may be reimbursed by the department.

(h) It is the intent of the legislature to appropriate the full amount of money authorized under Subsection (g).

(i) In this section, "operating costs" means the operating costs of a facility at an 80-percent occupancy rate.

Redesignated and amended from Human Resources Code, Subchapter E, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

SUBTITLE C. SECURE FACILITIES
CHAPTER 241. GENERAL PROVISIONS

Sec. 241.001. COOPERATION OF OTHER AGENCIES. To effectuate the purpose of this subtitle and to make maximum use of existing facilities and personnel, all departments and agencies of the state and all officers and employees of the state, when requested by the department, shall cooperate with the department in all activities consistent with their proper functions.

Transferred, redesignated and amended from Human Resources Code, Subchapter G, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.006, eff. September 1, 2011.

Sec. 241.0015. STRATEGIC PLAN. The department shall biennially develop a strategic plan in the manner described by Section 221.009.

Transferred, redesignated and amended from Human Resources Code, Subchapter G, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.006, eff. September 1, 2011.

Sec. 241.002. NO FORFEITURE OF CERTAIN CIVIL RIGHTS. Commitment of a child to the custody of the department does not disqualify the child in any future examination, appointment, or application for public service under the government of the state or of any political subdivision of the state.

Transferred, redesignated and amended from Human Resources Code, Subchapter G, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.006, eff. September 1, 2011.

Sec. 241.003. YOUTH DEVELOPMENT COUNCIL FUND. The youth development council fund exists in the treasury as a special fund for the purposes provided by law.

Transferred, redesignated and amended from Human Resources Code, Subchapter G, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.006, eff. September 1, 2011.

Sec. 241.004. REQUEST FOR CERTAIN RECORDS. For the purpose of offering a record as evidence in the punishment phase of a criminal proceeding, a prosecuting attorney may obtain the record of a defendant's adjudication that is admissible under Section 3(a), Article 37.07, Code of Criminal Procedure, by submitting a request for the record to the department. If the department has a record to which the prosecuting attorney is entitled under this section, the department shall furnish a copy of the record to the prosecuting attorney. Otherwise, the department shall notify the prosecuting attorney that the department does not have a record to which the attorney is entitled under this section.

Transferred, redesignated and amended from Human Resources Code,

Subchapter G, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.006, eff. September 1, 2011.

Sec. 241.005. LIABILITY OF VOLUNTEERS. (a) Except as provided by Subsection (b), a volunteer is not liable for damages arising from an act or omission that results in personal injury, death, or property damage if the act or omission is:

(1) in the course and scope of the volunteer's duties as a volunteer; and

(2) not intentional or grossly negligent.

(b) A volunteer is liable for personal injury, death, or property damage proximately caused by an act or omission related to the operation or use of any motor-driven equipment to the extent of the greater of:

(1) the amount of financial responsibility required for the motor-driven equipment, if any, under Chapter 601, Transportation Code; or

(2) the amount of any liability insurance coverage that applies to the act or omission.

(c) In this section, "volunteer" means an individual rendering services for or on behalf of the department who does not receive compensation in excess of reimbursement for expenses incurred.

Transferred, redesignated and amended from Human Resources Code, Subchapter G, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.006, eff. September 1, 2011.

Sec. 241.006. APPLICATION OF LAW RELATING TO FREE EXERCISE OF RELIGION. For purposes of Chapter 110, Civil Practice and Remedies Code, an ordinance, rule, order, decision, or practice that applies to a person in the custody of a juvenile detention facility or other correctional facility operated by or under a contract with the department, a county, or a juvenile probation department is presumed to be in furtherance of a compelling governmental interest and the least restrictive means of furthering that interest. The presumption may be rebutted.

Transferred, redesignated and amended from Human Resources Code, Subchapter G, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B.

653), Sec. 1.006, eff. September 1, 2011.

Sec. 241.007. CERTAIN CRIMES CONCERNING THE DEPARTMENT. (a) In this section, "special prosecution unit" means the special prosecution unit established under Subchapter E, Chapter 41, Government Code.

(b) As appropriate, the district attorney, criminal district attorney, or county attorney representing the state in criminal matters before the district or inferior courts of the county who would otherwise represent the state in the prosecution of an offense or delinquent conduct concerning the department and described by Article 104.003(a), Code of Criminal Procedure, may request that the special prosecution unit prosecute, or assist in the prosecution of, the offense or delinquent conduct.

(c) The office of inspector general operated under Subchapter C, Chapter 242, shall on a quarterly basis prepare and deliver to the board of directors of the special prosecution unit a report concerning:

(1) any alleged criminal offense or delinquent conduct concerning the department and described by Article 104.003(a), Code of Criminal Procedure, that occurred during the preceding calendar quarter; and

(2) the disposition of any case involving a criminal offense or delinquent conduct concerning the department and described by Article 104.003(a), Code of Criminal Procedure, that occurred during the preceding calendar quarter.

(d) Notwithstanding Subsection (c), the office of inspector general shall immediately provide the special prosecution unit with a report concerning an alleged criminal offense or delinquent conduct concerning the department and described by Article 104.003(a), Code of Criminal Procedure, if the chief inspector general reasonably believes the offense or conduct is particularly serious and egregious.

(e) The chief inspector general of the office of inspector general, at the direction of the board of directors of the special prosecution unit, shall notify the foreperson of the appropriate grand jury, in the manner provided by Article 20A.051, Code of Criminal Procedure, if:

(1) the chief inspector general receives credible evidence

of illegal or improper conduct by department officers, employees, or contractors that the inspector general reasonably believes jeopardizes the health, safety, and welfare of children in the custody of the department;

(2) the chief inspector general reasonably believes the conduct:

(A) could constitute an offense under Article 104.003(a), Code of Criminal Procedure; and

(B) involves the alleged physical or sexual abuse of a child in the custody of a department facility or an investigation related to the alleged abuse; and

(3) the chief inspector general has reason to believe that information concerning the conduct has not previously been presented to the appropriate grand jury.

Transferred, redesignated and amended from Human Resources Code, Subchapter G, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.006, eff. September 1, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.56, eff. January 1, 2021.

Sec. 241.008. DUTY TO FILE COMPLAINT WITH LAW ENFORCEMENT AGENCY. If the executive director has reasonable cause to believe that a child in the custody of the department is the victim of a crime committed at a department facility operated under this subtitle, the executive director shall immediately file a complaint with the appropriate law enforcement agency.

Transferred, redesignated and amended from Human Resources Code, Subchapter G, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.006, eff. September 1, 2011.

CHAPTER 242. OPERATION OF SECURE FACILITIES

SUBCHAPTER A. GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 242.001. STUDY OF TREATMENT METHODS; STATISTICAL RECORDS. (a) The department shall conduct continuing inquiry into the effectiveness of the treatment methods the department employs in the reformation of children. To this end, the department shall maintain

a record of arrests and commitments of its wards subsequent to their discharge from the jurisdiction of the department and shall tabulate, analyze, and publish biennially the data for use in evaluating the relative merits of treatment methods.

(b) The department shall cooperate with courts and private and public agencies in the collection of statistics and information regarding juvenile delinquency, arrests made, complaints, informations, and petitions filed, and the dispositions made of them, and other information useful in determining the amount and causes of juvenile delinquency in this state.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.002. EVALUATION OF TREATMENT PROGRAMS; AVAILABILITY. (a) The department shall annually review the effectiveness of the department's programs for the rehabilitation and reestablishment in society of children committed to the department, including programs for sex offenders, capital offenders, children who are chemically dependent, emotionally disturbed children, and females.

(b) On or before December 31 of each even-numbered year, the department shall make a report on the effectiveness of the programs to the Legislative Budget Board.

(c) The department shall offer or make available programs described by Subsection (a) in an adequate manner so that a child in the custody of the department receives appropriate rehabilitation services recommended for the child by the court committing the child to the department.

(d) If the department is unable to offer or make available programs described by Subsection (a) in the manner provided by Subsection (c), the department shall, not later than December 31 of each even-numbered year, provide the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a report explaining:

(1) which programs are not offered or are unavailable; and

(2) the reason the programs are not offered or are unavailable.

(e) The department shall periodically review, document, and

compare the accessibility and funding of treatment programs provided to female children committed to the department to the accessibility and funding of treatment provided to male children committed to the department.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 6, eff. September 1, 2013.

Sec. 242.003. POLICIES AND RULES. (a) The board is responsible for the review and approval of all policies and shall make rules appropriate to the proper accomplishment of the department's functions. The board may delegate to the executive director the board's responsibility for the adoption of certain policies as appropriate for the proper accomplishment of the department's functions relating to state-operated facilities and the department's personnel.

(b) The board shall adopt rules for the government of the schools, facilities, and programs under the department's authority under this subtitle and shall see that the schools, facilities, and programs are conducted according to law and to the board's rules.

(c) The purpose of the rules and of all education, work, training, discipline, and recreation adopted under this section and of all other activities in the schools, facilities, and programs is to restore and increase the self-respect and self-reliance of the children under the authority of the department and to qualify those children for good citizenship and honorable employment.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.004. EMPLOYEES. (a) Within the limits specified by legislative appropriation, the department may employ and compensate personnel necessary to carry out the department's duties.

(b) Except as otherwise provided by this subchapter, an

employee of the department is employed on an at-will basis.

(c) The department shall establish procedures and practices governing:

(1) employment-related grievances submitted by department employees; and

(2) disciplinary actions within the department, including a procedure allowing a department employee to elect to participate in an independent dismissal mediation if the employee is recommended for dismissal.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.005. PROFESSIONAL INFORMATION FOR ADVISORY BOARD MEMBERS AND EMPLOYEES. The executive director shall provide to members of any applicable advisory board and to department employees, as often as is necessary, information regarding qualifications for office or employment under this chapter and responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.006. INTRA-AGENCY CAREER LADDER PROGRAM. The program shall require intra-agency posting of all positions concurrently with any public postings.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.007. JOB PERFORMANCE EVALUATIONS. The executive director shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for department employees must be based on the system established under

this section.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.008. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. (a) The executive director shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement shall include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the department's work force that meets federal or state laws, rules, and regulations and instructions promulgated directly from those laws, rules, and regulations;

(3) procedures by which a determination can be made about the extent of underuse in the department's work force of all persons of whom federal or state laws, rules, and regulations and instructions promulgated directly from those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated annually, be reviewed by the Texas Workforce Commission for compliance with Subsection (a)(1), and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.009. JUVENILE CORRECTIONAL OFFICERS; STAFFING. (a) In this section, "juvenile correctional officer" means a department employee whose primary duties include the custodial supervision of children in the custody of the department.

(b) The department shall provide competency-based training to each juvenile correctional officer employed by the department, which must include on-the-job training. Each officer must complete at least 300 hours of training in the officer's first year of employment, with at least 240 hours of training before the officer independently commences the officer's duties at the facility. The officer must demonstrate competency in the trained subjects as required by the department. The training must provide the officer with information and instruction related to the officer's duties, including information and instruction concerning:

(1) the juvenile justice system of this state, including the juvenile correctional facility system;

(2) security procedures;

(3) the supervision of children committed to the department;

(4) signs of suicide risks and suicide precautions;

(5) signs and symptoms of the abuse, assault, neglect, and exploitation of a child, including sexual abuse, sexual assault, and human trafficking, and the manner in which to report the abuse, assault, neglect, or exploitation of a child;

(6) the neurological, physical, and psychological development of adolescents;

(7) department rules and regulations, including rules, regulations, and tactics concerning the use of force;

(8) appropriate restraint techniques;

(9) the Prison Rape Elimination Act of 2003 (42 U.S.C. Section 15601, et seq.);

(10) the rights and responsibilities of children in the custody of the department;

(11) interpersonal relationship skills;

(12) the social and cultural lifestyles of children in the custody of the department;

(13) first aid and cardiopulmonary resuscitation;

(14) counseling techniques;

(15) conflict resolution and dispute mediation, including de-escalation techniques;

(16) behavior management;

(17) mental health issues;

(18) employee rights, employment discrimination, and sexual harassment; and

(19) trauma-informed care.

(c) The department may employ part-time juvenile correctional officers. A part-time juvenile correctional officer is subject to the training requirements of this section.

(d) In each correctional facility operated by the department that has a dormitory, including an open-bay dormitory, the department must maintain a ratio of not less than one juvenile correctional officer performing direct supervisory duties for every 12 persons committed to the facility.

(e) The department shall consider the age of a juvenile correctional officer or other department employee who performs direct supervisory duties when determining the placement of the officer or employee in a department facility so that, to the extent practicable, an officer or employee is not supervising a child who is not more than three years younger than the officer or employee or is otherwise a similar age to the officer or employee.

(f) The department shall rotate the assignment of each juvenile correctional officer at an interval determined by the department so that a juvenile correctional officer is not assigned to the same station for an extended period of time.

(g) The department shall ensure that at least one juvenile correctional officer is assigned to supervise in or near a classroom or other location in which children receive education services or training at the time the children are receiving the education services or training.

(h) The board shall adopt rules necessary to administer this section.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1351 (S.B. 1356), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 773 (H.B. 2372), Sec. 1, eff. September 1, 2015.

Sec. 242.010. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) In this section, "national criminal history record information" means criminal history record information obtained from the Department of Public Safety under Subchapter F, Chapter 411, Government Code, and from the Federal Bureau of Investigation under Section 411.087, Government Code.

(b) The department shall review the national criminal history record information, state criminal history record information maintained by the Department of Public Safety, and previous and current employment references of each person who:

(1) is an employee, volunteer, ombudsman, or advocate working for the department or working in a department facility or a facility under contract with the department;

(2) is a contractor or an employee or subcontractor of a contractor who has direct access to children in department facilities;

(3) provides direct delivery of services to children in the custody of the department; or

(4) has access to records in department facilities or offices.

(b-1) The department may review criminal history record information of:

(1) a person requesting visitation access to a department facility; or

(2) any person, as necessary to conduct an evaluation of the home under Section 245.051(a).

(b-2) The department may not deny visitation access to an immediate family member of a child committed to the department based solely on a review of criminal history record information under Subsection (b-1)(1).

(b-3) If visitation access is denied or limited based in part on a review of criminal history record information under Subsection (b-1)(1), the department shall retain the criminal history record information of the person for whom access is denied or limited until the child the person requested visitation access to is released from the department.

(c) To enable the department to conduct the review, the board shall adopt rules requiring a person described by Subsection (b) to

electronically provide the Department of Public Safety with a complete set of the person's fingerprints in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation.

(d) For each person described by Subsection (b), the department shall review on an annual basis the person's national criminal history record information.

(e) The department shall ensure that the system used to check state criminal history record information maintained by the Department of Public Safety is capable of providing real time arrest information.

(f) The board by rule may require a person described by Subsection (b) to pay a fee related to the first national criminal history record information review conducted under this section. The amount of the fee may not exceed the administrative costs incurred by the department in conducting the initial review, including the costs of obtaining the person's fingerprints.

(g) The board shall adopt rules necessary to administer this section.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 7, eff. September 1, 2013.

Sec. 242.011. BIENNIAL BUDGET. The executive director shall prepare a biennial budget of all funds necessary to be appropriated by the legislature to the department to carry out the purposes of this subtitle. The budget shall be submitted and filed by the executive director in the form and manner and within the time prescribed by law.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

SUBCHAPTER B. SECURE FACILITIES; SERVICES

Sec. 242.051. ADMINISTRATION OF INSTITUTIONS; CHARGE OF CHILDREN. (a) The department shall:

(1) administer the training, diagnostic treatment, and supervisory facilities and services of the state for children committed to the department; and

(2) manage and direct all institutions and training school facilities under the authority of the department.

(b) The department shall have general charge of and be responsible for the welfare, custody, and rehabilitation of the children in a school, facility, or program operated or funded by the department. The department shall seek to establish relationships and to organize a way of life that will meet the spiritual, moral, physical, emotional, intellectual, and social needs of the children under the department's care as those needs would be met in an adequate home.

(c) The department shall see that the buildings and premises are kept in good sanitary condition.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.052. BUILDINGS AND IMPROVEMENTS. (a) The department may design, construct, equip, furnish, and maintain buildings and improvements at facilities under the department's jurisdiction.

(b) The department may employ architects or engineers, or both, to prepare plans and specifications and to supervise the construction and improvements described by Subsection (a).

(c) The board shall promulgate rules relating to the award of contracts for the construction of buildings and improvements. The rules shall provide for the award of contracts for the construction of buildings and improvements to the qualified bidder making the lowest and best bid. A construction contract may not be awarded for a sum in excess of the amount of funds available for the project. The department may reject any and all bids submitted.

(d) If a project is financed wholly or partly by federal funds, any standards required by the enabling federal statute or required by the rules of the administering federal agency control over this section.

(e) The department may employ professional, technical, and clerical personnel to carry out the design and construction functions required by this section.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.053. USE OF EXISTING INSTITUTIONS AND AGENCIES. (a) In carrying out the department's duties, the department may make use of law-enforcement, detention, supervisory, medical, educational, correctional, and other facilities, institutions, and agencies in the state. This section does not authorize the department to assume control of any other agency, institution, or facility in the state, or to require any agency, institution, or facility to serve the department in a manner inconsistent with the authority or function of the agency, institution, or facility or with any law or regulation governing the activity of the agency, institution, or facility.

(b) When funds are available for the purpose, the department may enter into agreements with appropriate public or private agencies for the separate care and treatment of persons subject to the control of the department. The department may not make use of any private institution or agency without its consent. The department shall make reasonable efforts to ensure that the expenditure of appropriations for the purchase of contract residential care for children, not including the purchase of care in foster family homes, be allocated to providers on a fixed monthly basis if that allocation is cost-effective and the number, type, needs, and conditions of the children to be served is reasonably constant.

(c) The department shall periodically inspect all public and private institutions and agencies whose facilities the department is using. Every public and private institution and agency shall allow the department reasonable opportunity to examine and consult with children who have been committed to the department and who are in the custody of the institution or agency.

(d) Placement of a child in, or the release of a child by, any institution not operated by the department does not terminate the authority of the department over the child. No child placed in an institution or under an agency by the department may be released by

the institution or agency without the approval of the department.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.054. HALFWAY HOUSE PROGRAM. (a) The department may not develop a halfway house to be operated by the department if an appropriate private halfway house program is contractually available and the costs under the contract are less than the costs would be if the department provided the services.

(b) Before the department contracts for the development of a halfway house program, the department shall send prospective service providers a request for a proposal that identifies the program services desired, the population to be served, and potential locations for the program. The department shall select the service provider that submits the proposal that best meets the department's needs according to standards established by the department. If the department does not receive a proposal that meets its needs, the department may request funds from the legislature for the development of a halfway house to be operated by the department.

(c) This section does not apply to halfway houses operated by the department on September 1, 1987.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.055. CRISIS INTERVENTION AND ASSESSMENT CENTERS. The department may establish a children's crisis intervention and assessment center at a facility owned or operated by the department. The department may contract with another entity for the provision or use of services at the center.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.056. ADVOCACY AND SUPPORT GROUPS. (a) The department shall allow advocacy and support groups whose primary functions are to benefit children, inmates, girls and women, the mentally ill, or victims of sexual assault to provide on-site information, support, and other services for children confined in department facilities.

(b) The department shall adopt security and privacy procedures for advocacy and support groups that provide on-site information, support, and other services under this section. The security and privacy procedures may not be designed to deny an advocacy or support group access to children confined in department facilities.

(c) The department shall adopt standards consistent with standards adopted by the Texas Department of Criminal Justice regarding the confidential correspondence of children confined in department facilities with external entities, including advocacy and support groups.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.057. DEPARTMENT PROGRAMS. (a) The department shall develop and use standards based on performance to evaluate and compare programs operated by the department.

(b) When practicable and feasible, the department shall provide specific performance standards for a program serving 10 or more children through an agreement entered into under Section 242.053. In the performance standards, the department shall include outcome measures for evaluating the quality of services provided under the agreement.

(c) For the purposes of comparison, the department shall use performance standards that are as consistent as practicable with those used to evaluate and compare programs operated by the department, that measure the benefits and cost-effectiveness of the respective programs, and that measure the average length of stay and rate of recidivism of the children in the program.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.058. SERVICES FOR CHILDREN NOT COMMITTED TO THE DEPARTMENT. The department may provide services to a child not committed to the department if the department contracts with a local juvenile probation department, the Health and Human Services Commission, or the Department of Family and Protective Services to provide services to the child.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.059. ADDITIONAL FACILITIES; PAROLE SUPERVISION. When funds are available, the department may:

(1) establish and operate places for detention and diagnosis of children committed to it;

(2) establish and operate additional treatment and training facilities, including forestry or parks-maintenance camps and ranches, necessary to classify and treat children committed to the department according to their needs;

(3) establish active parole supervision to aid children given conditional release to find homes and employment and to become reestablished in the community; and

(4) assist in establishing training facilities and programs owned and operated by private individuals or organizations which agree to provide services to children committed to the department, including programs for children needing long-term residential care.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.060. COMPUTATION OF DAILY COSTS OF FACILITY. In computing the daily costs of a residential facility operated by the department, the department shall use a standard method that is:

(1) consistent with methods used by other state agencies; and

(2) designed to reflect the actual cost to the state of operating the facility.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.061. REFERRALS FROM FEDERAL COURT. The department may enter into agreements with the federal government to accept children from the federal court for an agreed compensation.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.062. SPECIAL ACCOUNTS. (a) Proceeds from the operation of canteens and vending machines at facilities under the jurisdiction of the department shall be deposited to the credit of a special account in the General Revenue Fund called the canteen revolving fund. The proceeds shall be used to pay the actual expenses of maintaining and operating the canteens and vending machines.

(b) Proceeds in excess of the amount required for the expenses described by Subsection (a), donations for student activities, and proceeds from children's fundraising projects shall be deposited to the credit of a special account in the General Revenue Fund called the student benefit fund and may be used only to:

(1) provide education, recreation, and entertainment to children committed to the department; or

(2) reimburse children committed to the department for personal property lost or damaged as a result of negligence by the staff of the department.

(c) Proceeds from shop projects at the facilities under the department's jurisdiction shall be deposited to the credit of a special account in the General Revenue Fund called the vocational shop fund and may be used only to:

(1) purchase and maintain parts, tools, and other supplies necessary for the shop projects; and

(2) compensate the students who participate in the projects.

(d) Registration fees from seminars and conferences conducted

by the department shall be deposited to the credit of a special account in the General Revenue Fund called the conference account and may be used only to pay the costs of conducting seminars and conferences.

(e) Money in the special accounts described by this section is appropriated for the purposes indicated in this section and shall be expended on warrants drawn by the comptroller on the order of the department.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.063. STUDENT TRUST FUND; CONTRABAND MONEY. (a) Except as provided by Subsection (b), money belonging to a child committed to the department in excess of the amount the department allows in a child's possession shall be deposited in a trust fund established by the facility operated by the department to which the child is assigned. The board shall adopt rules governing the administration of the trust fund.

(b) Money possessed by a child committed to the department that is determined to be contraband money as defined by department rule shall be deposited in the student benefit fund described by Section 242.062(b). The department shall notify each child committed to the department that the possession of contraband money is subject to confiscation by the department under this subsection.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.064. DEBIT CARD SUSPENSE ACCOUNTS. (a) The department may establish debit card suspense accounts necessary to operate magnetic debit card systems at facilities under the jurisdiction of the department to enable the students, employees, and visitors to make purchases of:

(1) merchandise from vending machines or canteens within the facilities;

(2) meals from cafeterias within the facilities; and

(3) services that the facilities are authorized to provide.

(b) Cash received from cash-to-card machines and amounts electronically transferred for card use from the students' trust fund accounts shall be deposited to debit card suspense accounts in local depositories and held pending card purchases.

(c) Transfers of cash based on card use for purchases of merchandise or services shall be made from the debit card suspense accounts to the appropriate vendors and to accounts in the state treasury in accordance with laws governing receipt of state revenues.

(d) Unused debit card balances shall be refunded to the card holders from the debit card suspense accounts.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.065. RELIGIOUS TRAINING. The department shall provide for the religious and spiritual training of children in its custody according to the children's individual choices.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.066. EMPLOYMENT OR DESIGNATION OF CHAPLAIN AT CERTAIN DEPARTMENT FACILITIES. The department shall ensure that a chaplain is employed or formally designated for each department correctional facility that is an institution.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.067. VIOLENCE PREVENTION AND CONFLICT RESOLUTION EDUCATION. The department shall provide education in violence prevention and conflict resolution that includes discussion of domestic violence and child abuse issues to all children in its custody.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.068. FIRE PROTECTION ACTIVITIES. (a) The department may perform fire protection, fire prevention, and fire suppression activities at department facilities.

(b) The department may prescribe circumstances under which, for the benefit of the public safety and welfare, department employees using department equipment may assist municipal or volunteer fire departments in the performance of fire protection, fire prevention, or fire suppression activities near department facilities.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.069. CLIENT SERVICE CONTRACT STANDARDS. In each contract for the purchase of residential program-related client services, the department shall include:

(1) clearly defined contract goals, outputs, and measurable outcomes that relate directly to program objectives;

(2) clearly defined sanctions or penalties for failure to comply with or perform contract terms or conditions; and

(3) clearly specified accounting, reporting, and auditing requirements applicable to money received under the contract.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.070. CONTRACT MONITORING. The department shall establish a formal program to monitor residential program-related client services contracts made by the department. The department must:

(1) monitor compliance with financial and performance requirements using a risk assessment methodology; and

(2) obtain and evaluate program cost information to ensure

that each cost, including an administrative cost, is reasonable and necessary to achieve program objectives.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.071. SALE OR LICENSE OF TREATMENT PROGRAMS. (a) The department may sell or license to an individual or a private or public entity the right to use a treatment program developed by the department.

(b) Proceeds from the sale or license of a treatment program shall be deposited to the credit of the fund that provided the money to finance the development of the treatment program.

(c) At the end of each fiscal year, any unexpended proceeds from the sale or license of a treatment program shall be carried over to the next fiscal year to the credit of the fund that provided the money to finance the development of the treatment program.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

SUBCHAPTER C. ABUSE OR CRIMES COMMITTED AT DEPARTMENT FACILITIES OR BY DEPARTMENT EMPLOYEES

Sec. 242.101. ZERO-TOLERANCE POLICY. (a) The department shall adopt and enforce a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact, of children in the custody of the department.

(b) The department shall establish standards for reporting and collecting data on the sexual abuse of children in the custody of the department.

(c) The department shall establish a procedure for children in the custody of the department and department employees to report incidents of sexual abuse involving a child in the custody of the department. The procedure must designate a person employed at the department facility in which the abuse is alleged to have occurred as well as a person who is employed at the department's headquarters to whom a person may report an incident of sexual abuse.

(d) The department shall prominently display the following notice in the office of the chief administrator of each department facility, the employees' break room of each department facility, the cafeteria of each department facility, and at least six additional locations in each department facility:

THE TEXAS LEGISLATURE HAS ADOPTED A ZERO-TOLERANCE POLICY REGARDING THE SEXUAL ABUSE, INCLUDING CONSENSUAL SEXUAL CONTACT, OF A CHILD IN THE CUSTODY OF THE DEPARTMENT. ANY SUCH VIOLATION MUST BE REPORTED TO _____.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 242.102. OFFICE OF INSPECTOR GENERAL. (a) The office of inspector general is established at the department under the direction of the board as a law enforcement agency for the purpose of:

(1) preventing and investigating:

(A) crimes committed by department employees, including parole officers employed by or under a contract with the department; and

(B) crimes and delinquent conduct committed at a facility operated by the department, a residential facility operated by another entity under a contract with the department, or any facility in which a child committed to the custody of the department is housed or receives medical or mental health treatment, including:

(i) unauthorized or illegal entry into a department facility;

(ii) the introduction of contraband into a department facility;

(iii) escape from a secure facility; and

(iv) organized criminal activity; and

(2) investigating complaints received under Section 203.010 involving allegations of abuse, neglect, or exploitation of children in juvenile justice programs or facilities.

(b) The office of inspector general shall prepare and deliver a report concerning the results of any investigation conducted under this section to:

(1) the board;
(2) the executive director;
(3) any applicable advisory board;
(4) the governor;
(5) the lieutenant governor;
(6) the speaker of the house of representatives;
(7) the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities;
(8) the special prosecution unit;
(9) the state auditor; and
(10) any other appropriate state agency responsible for licensing or certifying department employees or facilities.

(c) The report prepared under Subsection (b) must include a summary of the actions performed by the office of inspector general in conducting the investigation, a statement of whether the investigation resulted in a finding that a criminal offense or delinquent conduct occurred, and a description of the finding. The report is public information under Chapter 552, Government Code, only to the extent authorized under that chapter and other law.

(d) The office of inspector general may employ and commission inspectors general as peace officers for the purpose of carrying out the duties described by this section. An inspector general shall have all of the powers and duties given to peace officers under Article 2.13, Code of Criminal Procedure.

(e) Peace officers employed and commissioned under Subsection (d) must:
(1) be certified by the Texas Commission on Law Enforcement under Chapter 1701, Occupations Code; and
(2) complete advanced courses relating to the duties of peace officers employed and commissioned under Subsection (d) as part of any continuing education requirements for the peace officers.

(f) The board shall select a commissioned peace officer as chief inspector general. The chief inspector general:
(1) operates directly under the authority of the board;
(2) is subject to the requirements of this section; and
(3) may only be discharged by the board for cause.

(g) The chief inspector general shall on a quarterly basis prepare and deliver a report concerning the operations of the office of inspector general to:

(1) the board;
(2) the executive director;
(3) any applicable advisory board;
(4) the governor;
(5) the lieutenant governor;
(6) the speaker of the house of representatives;
(7) the standing committees of the senate and house of representatives with primary jurisdiction over correctional facilities;
(8) the state auditor; and
(9) the comptroller.

(h) A report prepared under Subsection (g) is public information under Chapter 552, Government Code, to the extent authorized under that chapter and other law, and the department shall publish the report on the department's Internet website. A report must be both aggregated and disaggregated by individual facility and include information relating to:

(1) the types of investigations conducted by the office of inspector general, such as whether an investigation concerned narcotics or an alleged incident of sexual abuse;
(2) the relationship of a victim to a perpetrator, if applicable; and
(3) the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of the department.

(i) The office of inspector general shall immediately report to the board, the governor's general counsel, and the state auditor:

(1) any particularly serious or flagrant problem concerning the administration of a department program or operation; or
(2) any interference by the executive director, an employee of the department, a facility described by Subsection (a)(2), or an officer or employee of a facility described by Subsection (a)(2) with an investigation conducted by the office.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.43, eff. May 18, 2013.

Acts 2019, 86th Leg., R.S., Ch. 907 (H.B. 3689), Sec. 2, eff. September 1, 2019.

Sec. 242.103. DETECTION AND MONITORING OF CELLULAR TELEPHONES. (a) The department may own and the office of the inspector general may possess, install, operate, or monitor an interception device, as defined by Article 18A.001, Code of Criminal Procedure.

(b) The inspector general shall designate in writing the commissioned officers of the office of inspector general who are authorized to possess, install, operate, and monitor interception devices for the department.

(c) An investigative or law enforcement officer or other person, on request of the office of inspector general, may assist the office in the operation and monitoring of an interception of wire, oral, or electronic communications if the investigative or law enforcement officer or other person:

(1) is designated by the executive director for that purpose; and

(2) acts in the presence and under the direction of a commissioned officer of the inspector general.

Transferred, redesignated and amended from Human Resources Code, Subchapter C, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 3.16, eff. January 1, 2019.

CHAPTER 243. ADMISSION AND COMMITMENT; ESCAPE

SUBCHAPTER A. ADMISSION AND COMMITMENT

Sec. 243.001. PLACEMENT IN DEPARTMENT FACILITIES. (a) The department may not assign a child younger than 15 years of age to the same correctional facility dormitory as a person who is at least 17 years of age unless the department determines that the placement is necessary to ensure the safety of children in the custody of the department. This subsection does not apply to a dormitory that is used exclusively for short-term assessment and orientation purposes.

(b) The board by rule shall adopt scheduling, housing, and

placement procedures for the purpose of protecting vulnerable children in the custody of the department. The procedures must address the age, physical condition, and treatment needs of a child as well as any other relevant factor.

(c) The department shall consider the proximity of the residence of a child's family in determining the appropriate department facility in which to place a child.

Transferred, redesignated and amended from Human Resources Code, Subchapter D, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 243.002. ESTABLISHMENT OF MINIMUM LENGTH OF STAY. (a) The department shall establish a minimum length of stay for each child committed to the department without a determinate sentence.

(b) In establishing a minimum length of stay for a child, the department shall consider:

(1) the nature of and seriousness of the conduct engaged in by the child; and

(2) the danger the child poses to the community.

Transferred, redesignated and amended from Human Resources Code, Subchapter D, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 243.003. CONVEYANCE OF CHILD TO DEPARTMENT. (a) When a child is to be conveyed to a facility designated by the department, the juvenile court shall assign an officer or other suitable person to accompany the child. The person assigned to accompany a female must be a woman.

(b) The cost of conveying the child shall be paid by the county from which the child is committed, except that no compensation shall be allowed other than for the actual and necessary expenses of the child and the person accompanying the child.

Transferred, redesignated and amended from Human Resources Code, Subchapter D, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 243.004. NOTIFICATION AND DUTY TO FURNISH INFORMATION. (a) When a juvenile court commits a child to the department, the court shall forward to the department a certified copy of the order of commitment.

(b) The court, the probation officer, the prosecuting and police authorities, the school authorities, and other public officials shall make available to the department all pertinent information in their possession regarding the case.

(c) If requested by the department, the reports required by this section shall be made on forms furnished by the department or according to an outline furnished by the department.

Transferred, redesignated and amended from Human Resources Code, Subchapter D, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 243.005. INFORMATION PROVIDED BY COMMITTING COURT. In addition to the information provided under Section 243.004, a court that commits a child to the department shall provide the department with a copy of the following documents:

(1) the petition and the adjudication and disposition orders for the child, including the child's thumbprint;

(2) if the commitment is a result of revocation of probation, a copy of the conditions of probation and the revocation order;

(3) the social history report for the child;

(4) any psychological or psychiatric reports concerning the child;

(5) the contact information sheet for the child's parents or guardian;

(6) any law enforcement incident reports concerning the offense for which the child is committed;

(7) any sex offender registration information concerning the child;

(8) any juvenile probation department progress reports concerning the child;

(9) any assessment documents concerning the child;

(10) the computerized referral and case history for the child, including case disposition;

(11) the child's birth certificate;

(12) the child's social security number or social security card, if available;

(13) the name, address, and telephone number of the court administrator in the committing county;

(14) Title IV-E eligibility screening information for the child, if available;

(15) the address in the committing county for forwarding funds collected to which the committing county is entitled;

(16) any of the child's school or immunization records that the committing county possesses;

(17) any victim information concerning the case for which the child is committed;

(18) any of the child's pertinent medical records that the committing court possesses;

(19) the Texas Juvenile Justice Department standard assessment tool results for the child;

(20) the Department of Public Safety CR-43J form or tracking incident number concerning the child; and

(21) documentation that the committing court has required the child to provide a DNA sample to the Department of Public Safety.

Transferred, redesignated and amended from Human Resources Code, Subchapter D, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), Sec. 38, eff. September 1, 2013.

Sec. 243.006. COMMITMENT RECORDS. A commitment to the department may not be received in evidence or used in any way in any proceedings in any court except in:

(1) subsequent proceedings under Title 3 of the Family Code against the same child;

(2) imposing sentence in any criminal proceedings against the same person; or

(3) subsequent civil commitment proceedings under Chapter 841, Health and Safety Code, regarding the same person.

Transferred, redesignated and amended from Human Resources Code,

Subchapter D, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 243.007. INFORMATION PROVIDED TO COMMITTING COURT. (a) If a court that commits a child to the department requests, in the commitment order, that the department keep the court informed of the progress the child is making while committed to the department, the department shall provide the court with periodic updates on the child's progress.

(b) A report provided under Subsection (a) may include any information the department determines to be relevant in evaluating the child's progress, including, as applicable, information concerning the child's treatment, education, and health.

(c) A report provided under this section may not include information that is protected from disclosure under state or federal law.

Transferred, redesignated and amended from Human Resources Code, Subchapter D, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 243.008. INFORMATION CONCERNING FOSTER CARE HISTORY. (a) In this section, "foster care" means the placement of a child in the conservatorship of a state agency responsible for providing child protective services.

(b) The department, during the admission process, shall determine whether a child committed to the department has at any time been in foster care. The department shall record the following on the child's intake form:

(1) whether the child is currently in foster care; and

(2) if applicable, the number of times the child has previously been placed in foster care.

(c) The Department of Family and Protective Services shall, not later than the 14th day after receiving a request from a local juvenile probation department, provide the following information regarding a child in the custody of the probation department:

(1) whether the child is currently or has been in foster care; and

(2) if applicable, the number of times the child has previously been placed in foster care.

(e) Not later than January 31 of each even-numbered year, the department shall submit a report to the governor, the lieutenant governor, and each member of the legislature. The department shall also make the report available to the public on the department's Internet website. The report must summarize statistical information concerning the total number and percentage of children in the custody of the department during the preceding two years who have at any time been in foster care. Data in the report must be disaggregated by:

(1) age;

(2) sex;

(3) race or ethnicity;

(4) the conduct for which children were committed to the department; and

(5) children entering the juvenile justice system for the first time.

Added by Acts 2017, 85th Leg., R.S., Ch. 246 (H.B. 932), Sec. 1, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 806 (H.B. 2229), Sec. 1, eff. June 10, 2019.

SUBCHAPTER B. ESCAPE AND VIOLATION OF RELEASE CONDITIONS

Sec. 243.051. APPREHENSION AFTER ESCAPE OR VIOLATION OF RELEASE CONDITIONS. (a) If a child who has been committed to the department and placed by the department in any institution or facility has escaped or has been released under supervision and broken the conditions of release:

(1) a sheriff, deputy sheriff, constable, special investigator, or peace officer may, without a warrant, arrest the child; or

(2) a department employee designated by the executive director may, without a warrant or other order, take the child into the custody of the department.

(b) A child who is arrested or taken into custody under Subsection (a) may be detained in any suitable place, including an adult jail facility if the person is 17 years of age or older, until

the child is returned to the custody of the department or transported to a department facility.

(c) Notwithstanding Section 58.005, Family Code, the department may disseminate to the public the following information relating to a child who has escaped from custody:

(1) the child's name, including other names by which the child is known;

(2) the child's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;

(3) a photograph of the child; and

(4) if necessary to protect the welfare of the community, any other information that reveals dangerous propensities of the child or expedites the apprehension of the child.

Transferred, redesignated and amended from Human Resources Code, Subchapter D, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 906 (H.B. 3688), Sec. 1, eff. September 1, 2019.

Sec. 243.052. APPREHENSION SPECIALISTS. (a) The department may employ and commission apprehension specialists as peace officers for the purpose of apprehending a child under Section 243.051.

(b) Peace officers employed and commissioned under Subsection (a) must be certified by the Texas Commission on Law Enforcement under Chapter 1701, Occupations Code.

Transferred, redesignated and amended from Human Resources Code, Subchapter D, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.44, eff. May 18, 2013.

CHAPTER 244. CARE AND TREATMENT OF CHILDREN

SUBCHAPTER A. GENERAL CARE AND TREATMENT OF CHILDREN

Sec. 244.001. INITIAL EXAMINATION. (a) The department shall

examine and make a study of each child committed to it within three business days after commitment. The study shall be made according to rules established by the board and shall include:

(1) long-term and specialized treatment planning for the child; and

(2) consideration of the child's:

(A) medical history;

(B) substance abuse;

(C) treatment history;

(D) psychiatric history;

(E) sex offender history; and

(F) violent offense history.

(a-1) As soon as possible, the department shall develop a written treatment plan for the child which outlines the specialized treatment needs identified by the study described by Subsection (a), makes recommendations for meeting the child's specialized treatment needs, and makes an individually tailored statement of treatment goals, objectives, and timelines.

(b) For a child for whom a minimum length of stay is established under Section 243.002 of one year or longer, the initial examination must include a comprehensive psychiatric evaluation unless the department had received the results of a comprehensive evaluation of the child conducted not more than 90 days before the date of the initial examination.

(c) The department shall administer comprehensive psychological assessments to a child as part of the child's initial examination, including assessments designed to identify whether a child is in need of a psychiatric evaluation. If the results of a child's psychological assessments indicate that the child is in need of a psychiatric evaluation, the department shall as soon as practicable conduct a psychiatric evaluation of the child.

(d) The board shall establish rules for the periodic review and reevaluation of the written treatment plan as described by Subsection (a-1).

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.002. REEXAMINATION. (a) The department shall periodically reexamine each child under its control, except those on release under supervision or in foster homes, for the purpose of determining whether a rehabilitation plan made by the department concerning the child should be modified or continued.

(b) The reexamination must include a study of all current circumstances of a child's personal and family situation and an evaluation of the progress made by the child since the child's last examination.

(c) The reexamination of a child may be made as frequently as the department considers necessary, but shall be made at intervals not exceeding six months.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.003. RECORDS OF EXAMINATIONS AND TREATMENT. (a) The department shall keep written records of all examinations and conclusions based on them and of all orders concerning the disposition or treatment of each child subject to its control.

(b) Except as provided by Section 243.051(c), these records and all other information concerning a child, including personally identifiable information, are not public and are available only according to the provisions of Section 58.005, Family Code, Section 244.051 of this code, and Chapter 67, Code of Criminal Procedure.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 4.14, eff. January 1, 2019.

Sec. 244.004. FAILURE TO EXAMINE OR REEXAMINE. (a) Failure of the department to examine or reexamine a child as required by this subchapter does not entitle the child to be discharged from the control of the department, but the child may petition the committing court for discharge.

(b) After due notice to the department, the committing court shall discharge the child from the control of the department unless the department satisfies the court that further control is necessary.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.005. DETERMINATION OF TREATMENT. When a child has been committed to the department, the department may:

(1) permit the child liberty under supervision and on conditions the department believes conducive to acceptable behavior;

(2) order the child's confinement under conditions the department believes best designed for the child's welfare and the interests of the public;

(3) order reconfinement or renewed release as often as conditions indicate to be desirable;

(4) revoke or modify any order of the department affecting a child, except an order of final discharge, as often as conditions indicate; or

(5) discharge the child from control when the department is satisfied that discharge will best serve the child's welfare and the protection of the public.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.006. TYPE OF TREATMENT PERMITTED. (a) As a means of correcting the socially harmful tendencies of a child committed to the department, the department may:

(1) require the child to participate in moral, academic, vocational, physical, and correctional training and activities;

(2) require the modes of life and conduct that seem best adapted to fit the child for return to full liberty without danger to the public;

(3) provide any medical or psychiatric treatment that is necessary; and

(4) place physically fit children in parks-maintenance

camps, forestry camps, or ranches owned by the state or the United States and require the performance of suitable conservation and maintenance work.

(b) The dominant purpose of placing children in camps is to benefit and rehabilitate the children rather than to make the camps self-sustaining. Children placed in camps may not be exploited.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.007. FAMILY PROGRAMS. The department shall develop programs that encourage family involvement in the rehabilitation of the child.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.0075. RESTRAINT OF PREGNANT JUVENILE. (a) The department may not use restraints to control the movement of a pregnant child who is committed to the department at any time during which the child is in labor or delivery or recovering from delivery, unless the executive director or executive director's designee determines that the use of restraints is necessary to:

(1) ensure the safety and security of the child or her infant, department or medical personnel, or any member of the public; or

(2) prevent a substantial risk that the child will attempt escape.

(b) If a determination to use restraints is made under Subsection (a), the type of restraint used and the manner in which the restraint is used must be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.008. INFANT CARE AND PARENTING PROGRAM. (a) In this section, "child" means the child of a person who is committed to the department.

(b) The department may establish child care and parenting programs for persons committed to the department who are parents.

(c) The department may permit a mother to have possession of her child in a residential program that has an infant care and parenting program or to have possession of her child in a department-funded independent living residence for up to six months if:

(1) the child's father or another relative or guardian of the child agrees in advance of the child's placement with the child's mother to assume possession of the child immediately upon notice by the department to do so;

(2) the child's parents and any other person having a duty of support acknowledge that by permitting the mother to have possession of the child while the mother is confined in a residential facility or placed in an independent living residence, the department assumes no responsibility for the child's care beyond the responsibility of care that is ordinarily due the child's mother and the reasonable accommodations that are necessary for the mother's care of her child;

(3) the child's parents and any other person having a duty of support agree to indemnify and hold the department harmless from any claims that may be made against the department for the child's support, including medical support; and

(4) the department determines that the placement is in the best interest of both the mother and her child.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.009. HEALTH CARE DELIVERY SYSTEM. (a) In providing medical care, behavioral health care, or rehabilitation services, the department shall integrate the provision of those services in an integrated comprehensive delivery system.

(b) The delivery system may be used to deliver any medical, behavioral health, or rehabilitation services provided to a child in the custody of the department, including:

(1) health care;
(2) dental care;
(3) behavioral health care;
(4) substance abuse treatment;
(5) nutrition;
(6) programming;
(7) case management; and
(8) general rehabilitation services, including educational, spiritual, daily living, recreational, and security services.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.010. DEPARTMENT CASEWORKERS. (a) The department shall assign a caseworker to a child committed to the department. A department caseworker shall:

(1) explore family issues and needs with the parent or guardian of a child committed to the department;
(2) as needed, provide the parent or guardian of a child committed to the department with information concerning programs and services provided by the department or another resource; and
(3) perform other duties required by the department.

(b) A department caseworker shall:

(1) at least once a month, attempt to contact the child's parent or guardian by phone, in person while the parent or guardian is visiting the facility, or, if necessary, by mail;
(2) if unsuccessful in contacting the child's parent or guardian under Subdivision (1), attempt at least one additional time each month to contact the child's parent or guardian; and
(3) document successful as well as unsuccessful attempts to contact the child's parent or guardian.

(c) To the extent practicable, a caseworker or another facility administrator shall attempt to communicate with a parent or guardian who does not speak English in the language of choice of the parent or guardian.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.0105. REPORT CONCERNING FOSTER CHILDREN COMMITTED TO DEPARTMENT. (a) Not later than the 10th day before the date of a permanency hearing under Subchapter D, Chapter 263, Family Code, or Subchapter F, Chapter 263, Family Code, regarding a child for whom the Department of Family and Protective Services has been appointed managing conservator, a department caseworker shall submit a written report regarding the child's commitment to the department to:

(1) the court;

(2) the Department of Family and Protective Services;

(3) any attorney ad litem or guardian ad litem appointed for the child; and

(4) any volunteer advocate appointed for the child.

(b) The report required by Subsection (a) must include:

(1) the results of any assessments of the child during the child's commitment to the department, including assessments of the child's emotional, mental, educational, psychological, psychiatric, medical, or physical needs;

(2) information regarding the child's placement in particular programs administered by the department; and

(3) a description of the child's progress in programs administered by the department.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 84, eff. September 1, 2015.

Sec. 244.0106. RULES REGARDING SERVICES FOR FOSTER CHILDREN. (a) The board and the executive commissioner of the Health and Human Services Commission shall jointly adopt rules to ensure that a child for whom the Department of Family and Protective Services has been appointed managing conservator receives appropriate services while the child is committed to the department or released under supervision by the department.

(b) The rules adopted under this section must require the

department and the Department of Family and Protective Services to cooperate in providing appropriate services to a child for whom the Department of Family and Protective Services has been appointed managing conservator while the child is committed to the department or released under supervision by the department, including:

(1) medical care, as defined by Section 266.001, Family Code;

(2) mental health treatment and counseling;

(3) education, including special education;

(4) case management;

(5) drug and alcohol abuse assessment or treatment;

(6) sex offender treatment; and

(7) trauma informed care.

(c) The rules adopted under this section must require:

(1) the Department of Family and Protective Services to:

(A) provide the department with access to relevant health and education information regarding a child; and

(B) require a child's caseworker to visit the child in person at least once each month while the child is committed to the department;

(2) the department to:

(A) provide the Department of Family and Protective Services with relevant health and education information regarding a child;

(B) permit communication, including in person, by telephone, and by mail, between a child committed to the department and:

(i) the Department of Family and Protective Services; and

(ii) the attorney ad litem, the guardian ad litem, and the volunteer advocate for the child; and

(C) provide the Department of Family and Protective Services and any attorney ad litem or guardian ad litem for the child with timely notice of the following events relating to the child:

(i) a meeting designed to develop or revise the individual case plan for the child;

(ii) in accordance with any participation protocols to which the Department of Family and Protective Services and the department agree, a medical appointment at which a person authorized to consent to medical care must participate as required by Section

266.004(i), Family Code;

(iii) an education meeting, including admission, review, or dismissal meetings for a child receiving special education;

(iv) a grievance or disciplinary hearing for the child;

(v) a report of abuse or neglect of the child; and

(vi) a significant change in medical condition of the child, as defined by Section 264.018, Family Code; and

(3) the Department of Family and Protective Services and the department to participate in transition planning for the child through release from detention, release under supervision, and discharge.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 722 (H.B. 1309), Sec. 4, eff. June 17, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 85, eff. September 1, 2015.

Sec. 244.011. CHILDREN WITH MENTAL ILLNESS OR MENTAL RETARDATION. (a) The department shall accept a child committed to the department who is mentally ill or mentally retarded.

(b) Unless a child is committed to the department under a determinate sentence under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, the department shall discharge a child who is mentally ill or mentally retarded from its custody if:

(1) the child has completed the minimum length of stay for the child's committing offense; and

(2) the department determines that the child is unable to progress in the department's rehabilitation programs because of the child's mental illness or mental retardation.

(c) If a child who is discharged from the department under Subsection (b) as a result of mental illness is not receiving court-ordered mental health services, the child's discharge is effective on the earlier of:

(1) the date the court enters an order regarding an application for mental health services filed under Section 244.012(b); or

(2) the 30th day after the date the application is filed.

(d) If a child who is discharged from the department under Subsection (b) as a result of mental illness is receiving court-ordered mental health services, the child's discharge from the department is effective immediately. If the child is receiving mental health services outside the child's home county, the department shall notify the mental health authority located in that county of the discharge not later than the 30th day after the date that the child's discharge is effective.

(e) If a child who is discharged from the department under Subsection (b) as a result of mental retardation is not receiving mental retardation services, the child's discharge is effective on the earlier of:

(1) the date the court enters an order regarding an application for mental retardation services filed under Section 244.012(b); or

(2) the 30th day after the date that the application is filed.

(f) If a child who is discharged from the department under Subsection (b) as a result of mental retardation is receiving mental retardation services, the child's discharge from the department is effective immediately.

(g) If a child who is mentally ill or mentally retarded is discharged from the department under Subsection (b), the child is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments under Chapter 614, Health and Safety Code.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.012. EXAMINATION BEFORE DISCHARGE. (a) The department shall establish a system that identifies children in the department's custody who are mentally ill or mentally retarded.

(b) Before a child who is identified as mentally ill is

discharged from the department's custody under Section 244.011(b), a department psychiatrist shall examine the child. The department shall refer a child requiring outpatient psychiatric treatment to the appropriate mental health authority. For a child requiring inpatient psychiatric treatment, the department shall file a sworn application for court-ordered mental health services, as provided in Subchapter C, Chapter 574, Health and Safety Code, if:

(1) the child is not receiving court-ordered mental health services; and

(2) the psychiatrist who examined the child determines that the child is mentally ill and the child meets at least one of the criteria listed in Section 574.034 or 574.0345, Health and Safety Code.

(c) Before a child who is identified as mentally retarded under Chapter 593, Health and Safety Code, is discharged from the department's custody under Section 244.011(b), the department shall refer the child for mental retardation services if the child is not receiving mental retardation services.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 582 (S.B. 362), Sec. 25, eff. September 1, 2019.

Sec. 244.0125. TRANSFER OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) The department may petition the juvenile court that entered the order of commitment for a child for the initiation of mental health commitment proceedings if the child is committed to the department under a determinate sentence under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code.

(b) A petition made by the department shall be treated as a motion under Section 55.11, Family Code, and the juvenile court shall proceed in accordance with Subchapter B, Chapter 55, Family Code.

(c) The department shall cooperate with the juvenile court in any proceeding under this section.

(d) The juvenile court shall credit to the term of the child's commitment to the department any time the child is committed to an

inpatient mental health facility.

(e) A child committed to an inpatient mental health facility as a result of a petition filed under this section may not be released from the facility on a pass or furlough.

(f) If the term of an order committing a child to an inpatient mental health facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered, the inpatient mental health facility shall notify the juvenile court that entered the order of commitment committing the child to the department. The juvenile court may transfer the child to the custody of the department, transfer the child to the Texas Department of Criminal Justice, or release the child under supervision, as appropriate.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.013. NOTICE OF PENDING DISCHARGE. As soon as practicable after the department makes a decision to discharge a child or authorize the child's absence from the department's custody, the department shall give notice of the department's decision to the juvenile court and the office of the prosecuting attorney of the county in which the adjudication that the child engaged in delinquent conduct was made.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.014. REFERRAL OF DETERMINATE SENTENCE OFFENDERS FOR TRANSFER. (a) After a child sentenced to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years of age but before the child becomes 19 years of age, the department may refer the child to the juvenile court that entered the order of commitment for approval of the child's transfer to the Texas Department of Criminal Justice for confinement if:

(1) the child has not completed the sentence; and

(2) the child's conduct, regardless of whether the child was released under supervision under Section 245.051, indicates that the welfare of the community requires the transfer.

(b) The department shall cooperate with the court on any proceeding on the transfer of the child.

(c) If a child is released under supervision, a juvenile court adjudication that the child engaged in delinquent conduct constituting a felony offense, a criminal court conviction of the child for a felony offense, or a determination under Section 244.005(4) revoking the child's release under supervision is required before referral of the child to the juvenile court under Subsection (a).

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), Sec. 39, eff. September 1, 2013.

Sec. 244.015. EVALUATION OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES. (a) When a child who is sentenced to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 18 years of age, the department shall evaluate whether the child is in need of additional services that can be completed in the six-month period after the child's 18th birthday to prepare the child for release from the custody of the department or transfer to the Texas Department of Criminal Justice.

(b) This section does not apply to a child who is released from the custody of the department or who is transferred to the Texas Department of Criminal Justice before the child's 18th birthday.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

SUBCHAPTER B. PROVISION OF CERTAIN INFORMATION; RIGHTS OF PARENTS

Sec. 244.051. INFORMATION AVAILABLE TO CHILDREN, PARENTS, AND OTHERS. (a) In the interest of achieving the purpose of the

department and protecting the public, the department may disclose records and other information concerning a child to the child and the child's parent or guardian only if disclosure would not materially harm the treatment and rehabilitation of the child and would not substantially decrease the likelihood of the department receiving information from the same or similar sources in the future. Information concerning a person who is age 18 or older may not be disclosed to the person's parent or guardian without the person's consent.

(b) The department may disclose information regarding a child's location and committing court to a person having a legitimate need for the information.

(c) The department may disclose to a peace officer or law enforcement agency images of children recorded by an electronic recording device and incident reporting and investigation documents containing the names of children if the information is relevant to the investigation of a criminal offense alleged to have occurred in a facility operated by or under contract with the department.

(d) Notwithstanding Subsection (a), if the Department of Family and Protective Services has been appointed managing conservator for a child, the department shall disclose records and other information concerning the child to the Department of Family and Protective Services as provided by the rules of the Department of Family and Protective Services.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 244.052. RIGHTS OF PARENTS. (a) The department, in consultation with advocacy and support groups such as those described in Section 242.056(a), shall develop a parent's bill of rights for distribution to the parent or guardian of a child who is under 18 years of age and committed to the department. The parent's bill of rights must include:

(1) a description of the department's grievance policies and procedures, including contact information for the office of inspector general and the office of the independent ombudsman established under Chapter 261;

(2) a list of possible incidents that require parental notification;

(3) policies concerning visits and telephone conversations with a child committed to the department;

(4) a description of department caseworker responsibilities;

(5) a statement that the department caseworker assigned to a child may assist the child's parent or guardian in obtaining information and services from the department and other resources concerning:

(A) counseling, including substance abuse and mental health counseling;

(B) assistance programs, including financial and travel assistance programs for visiting a child committed to the department;

(C) workforce preparedness programs;

(D) parenting programs; and

(E) department seminars; and

(6) information concerning the indeterminate sentencing structure at the department, an explanation of reasons that a child's commitment at the department could be extended, and an explanation of the review process under Sections 245.101 and 245.104 for a child committed to the department without a determinate sentence.

(b) Not later than 48 hours after the time a child is admitted to a department facility, the department shall mail to the child's parent or guardian at the last known address of the parent or guardian:

(1) the parent's bill of rights; and

(2) the contact information of the department caseworker assigned to the child.

(c) The department shall on a quarterly basis provide to the parent, guardian, or designated advocate of a child who is in the custody of the department a report concerning the progress of the child at the department, including:

(1) the academic and behavioral progress of the child; and

(2) the results of any reexamination of the child conducted under Section 244.002.

(d) The department shall ensure that written information provided to a parent or guardian regarding the rights of a child in the custody of the department or the rights of a child's parent or guardian, including the parent's bill of rights, is clear and easy to

understand.

(e) The department shall ensure that if the Department of Family and Protective Services has been appointed managing conservator of a child, the Department of Family and Protective Services is given the same rights as the child's parent under the parent's bill of rights developed under this section.

Transferred, redesignated and amended from Human Resources Code, Subchapter E, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

CHAPTER 245. RELEASE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 245.001. PAROLE OFFICERS; PAROLE MANAGEMENT. (a) The department may employ parole officers to investigate, place, supervise, and direct the activities of a parolee to ensure the parolee's adjustment to society in accordance with the rules adopted by the board.

(b) Parole officers may work with local organizations, clubs, and agencies to formulate plans and procedures for the prevention of juvenile delinquency.

(c) The department shall develop a management system for parole services that objectively measures and provides for:

(1) the systematic examination of children's needs and the development of treatment plans to address those needs;

(2) the evaluation of homes, foster homes, and public and private institutions as constructive parole placements;

(3) the classification of children based on the level of children's needs and the degree of risk presented to the public;

(4) the objective measurement of parole officer workloads; and

(5) the gathering and analysis of information related to the effectiveness of parole services and to future parole requirements.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.002. CONTRACTS WITH COUNTIES. (a) The department may make a contract with a county to use the services of the county's juvenile probation department for the supervision of children within the county who are on furlough from a department facility or who are released under supervision from a department facility.

(b) Payments under a contract described by Subsection (a) shall be made to the county treasurer on a quarterly schedule.

(c) The department may not pay a county for supervision of a child for any time after the child:

(1) is discharged from the department's custody;

(2) is returned to a department facility; or

(3) transfers the child's residence to another county or state.

(d) A county that has a contract with the department must report to the department on the status and progress of each child for whom the county is receiving payments. The reports shall be made at the time and in the manner specified by the contract.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

SUBCHAPTER B. AUTHORITY TO RELEASE; RESUMPTION OF CARE

Sec. 245.051. RELEASE UNDER SUPERVISION. (a) The department may release under supervision any child in the department's custody and place the child in the child's home or in any situation or family approved by the department. Prior to placing a child in the child's home, the department shall evaluate the home setting to determine the level of supervision and quality of care that is available in the home.

(b) Not later than 10 days before the day the department releases a child under this section, the department shall give notice of the release to the juvenile court and the office of the prosecuting attorney of the county in which the adjudication that the child engaged in delinquent conduct was made.

(c) If a child is committed to the department under a determinate sentence under Section 54.04(d)(3), Section 54.04(m), or Section 54.05(f), Family Code, the department may not release the child under supervision without approval of the juvenile court that

entered the order of commitment unless the child has served at least:

(1) 10 years, if the child was sentenced to commitment for conduct constituting capital murder;

(2) 3 years, if the child was sentenced to commitment for conduct constituting an aggravated controlled substance felony or a felony of the first degree;

(3) 2 years, if the child was sentenced to commitment for conduct constituting a felony of the second degree; or

(4) 1 year, if the child was sentenced to commitment for conduct constituting a felony of the third degree.

(d) The department may request the approval of the court under this section at any time.

(e) The department may resume the care and custody of any child released under supervision at any time before the final discharge of the child.

(f) If the department finds that a child has violated an order under which the child is released under supervision, on notice by any reasonable method to all persons affected, the department may order the child:

(1) to return to an institution;

(2) if the violation resulted in property damage or personal injury:

(A) to make full or partial restitution to the victim of the offense; or

(B) if the child is financially unable to make full or partial restitution, to perform services for a charitable or educational institution; or

(3) to comply with any other conditions the department considers appropriate.

(g) Notwithstanding Subsection (c), if a child is committed to the department under a determinate sentence under Section 54.04(d)(3), Section 54.04(m), or Section 54.05(f), Family Code, the department may release the child under supervision without approval of the juvenile court that entered the order of commitment if not more than nine months remain before the child's discharge under Section 245.151(b).

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.052. SUBSTANCE ABUSE TREATMENT. Subject to an express appropriation to fund the treatment programs required by this section, the department may not release a child under supervision or parole a child if:

(1) the child has a substance abuse problem, including the use of a controlled substance, hazardous inhalable substances, or alcohol habitually; and

(2) the child has not completed a treatment program for the problem.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.053. SEX OFFENDER COUNSELING AND TREATMENT. (a) Before releasing a child described by Subsection (b) under supervision, the department:

(1) may require as a condition of release that the child:

(A) attend psychological counseling sessions for sex offenders as provided by Subsection (e); and

(B) submit to a polygraph examination as provided by Subsection (f) for purposes of evaluating the child's treatment progress; and

(2) shall require as a condition of release that the child:

(A) register under Chapter 62, Code of Criminal Procedure; and

(B) submit a blood sample or other specimen to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the child, unless the child has already submitted the required specimen under other state law.

(b) This section applies to a child adjudicated for engaging in delinquent conduct constituting an offense for which the child is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(c) Psychological counseling required as a condition of release under Subsection (a) must be with an individual or organization that:

(1) provides sex offender treatment or counseling;

(2) is specified by the department; and

(3) meets minimum standards of counseling established by the department.

(d) A polygraph examination required as a condition of release under Subsection (a) must be administered by an individual who is:

(1) specified by the department; and

(2) licensed as a polygraph examiner under Chapter 1703, Occupations Code.

(e) In addition to specifying a sex offender treatment provider to provide counseling to a child described by Subsection (b), the department shall:

(1) establish with the cooperation of the treatment provider the date, time, and place of the first counseling session between the child and the treatment provider;

(2) notify the child and the treatment provider before the release of the child of the date, time, and place of the first counseling session between the child and the treatment provider; and

(3) require the treatment provider to notify the department immediately if the child fails to attend any scheduled counseling session.

(f) If the department specifies a polygraph examiner under Subsection (d) to administer a polygraph examination to a child, the department shall arrange for a polygraph examination to be administered to the child:

(1) not later than the 60th day after the date the child attends the first counseling session established under Subsection (e); and

(2) after the initial polygraph examination, as required by Subdivision (1), on the request of the treatment provider specified under Subsection (c).

(g) If the department requires as a condition of release that a child attend psychological counseling under Subsection (a), the department shall notify the court that committed the child to the department. After receiving notification from the department under this subsection, the court may order the parent or guardian of the child to:

(1) attend four sessions of instruction with an individual or organization specified by the department relating to:

(A) sexual offenses;

(B) family communication skills;
(C) sex offender treatment;
(D) victims' rights;
(E) parental supervision; and
(F) appropriate sexual behavior; and

(2) during the time the child attends psychological counseling, participate in monthly treatment groups conducted by the child's treatment provider relating to the child's psychological counseling.

(h) A court that orders a parent or guardian of a child to attend instructional sessions and participate in treatment groups under Subsection (g) shall require:

(1) the individual or organization specified by the department under Subsection (g) to notify the court immediately if the parent or guardian fails to attend any scheduled instructional session; and

(2) the child's treatment provider specified under Subsection (c) to notify the court immediately if the parent or guardian fails to attend a session in which the parent or guardian is required to participate in a scheduled treatment group.

(i) If the department requires as a condition of release that a child attend psychological counseling under Subsection (a), the department may, before the date the period of release ends, petition the appropriate court to request the court to extend the period of release for an additional period necessary to complete the required counseling as determined by the treatment provider, except that the release period may not be extended to a date after the date of the child's 18th birthday.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.0535. COMPREHENSIVE REENTRY AND REINTEGRATION PLAN FOR CHILDREN; STUDY AND REPORT. (a) The department shall develop a comprehensive plan for each child committed to the custody of the department to reduce recidivism and ensure the successful reentry and reintegration of the child into the community following the child's release under supervision or final discharge, as applicable, from the

department. The plan for a child must be designed to ensure that the child receives an extensive continuity of care in services from the time the child is committed to the department to the time of the child's final discharge from the department. The plan for a child must include, as applicable:

(1) housing assistance;

(2) a step-down program, such as placement in a halfway house;

(3) family counseling;

(4) academic and vocational mentoring;

(5) trauma counseling for a child who is a victim of abuse while in the custody of the department; and

(6) other specialized treatment services appropriate for the child.

(b) The comprehensive reentry and reintegration plan developed under this section must provide for:

(1) an assessment of each child committed to the department to determine which skills the child needs to develop to be successful in the community following release under supervision or final discharge;

(2) programs that address the assessed needs of each child;

(3) a comprehensive network of transition programs to address the needs of children released under supervision or finally discharged from the department;

(4) the identification of providers of existing local programs and transitional services with whom the department may contract under this section to implement the reentry and reintegration plan; and

(5) subject to Subsection (c), the sharing of information between local coordinators, persons with whom the department contracts under this section, and other providers of services as necessary to adequately assess and address the needs of each child.

(c) A child's personal health information may be disclosed under Subsection (b)(5) only in the manner authorized by Section 244.051 or other state or federal law, provided that the disclosure does not violate the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191).

(d) The programs provided under Subsections (b)(2) and (3) must:

(1) be implemented by highly skilled staff who are

experienced in working with reentry and reintegration programs for children;

(2) provide children with:

(A) individualized case management and a full continuum of care;

(B) life-skills training, including information about budgeting, money management, nutrition, and exercise;

(C) education and, if a child has a learning disability, special education;

(D) employment training;

(E) appropriate treatment programs, including substance abuse and mental health treatment programs; and

(F) parenting and relationship-building classes; and

(3) be designed to build for children post-release and post-discharge support from the community into which the child is released under supervision or finally discharged, including support from agencies and organizations within that community.

(e) The department may contract and coordinate with private vendors, units of local government, or other entities to implement the comprehensive reentry and reintegration plan developed under this section, including contracting to:

(1) coordinate the supervision and services provided to children during the time children are in the custody of the department with any supervision or services provided children who have been released under supervision or finally discharged from the department;

(2) provide children awaiting release under supervision or final discharge with documents that are necessary after release or discharge, including identification papers, medical prescriptions, job training certificates, and referrals to services; and

(3) provide housing and structured programs, including programs for recovering substance abusers, through which children are provided services immediately following release under supervision or final discharge.

(f) To ensure accountability, any contract entered into under this section must contain specific performance measures that the department shall use to evaluate compliance with the terms of the contract.

(h) The department shall conduct and coordinate research to determine whether the comprehensive reentry and reintegration plan

developed under this section reduces recidivism rates.

(i) Not later than December 31 of each even-numbered year, the department shall deliver a report of the results of research conducted or coordinated under Subsection (h) to the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with primary jurisdiction over juvenile justice and corrections.

(j) If a program or service in the child's comprehensive reentry and reintegration plan is not available at the time the child is to be released, the department shall find a suitable alternative program or service so that the child's release is not postponed.

(k) The department shall:

(1) clearly explain the comprehensive reentry and reintegration plan and any conditions of supervision to a child who will be released on supervision; and

(2) require each child committed to the department that is to be released on supervision to acknowledge and sign a document containing any conditions of supervision.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 8, eff. September 1, 2013.

Sec. 245.054. INFORMATION PROVIDED TO COURT BEFORE RELEASE. (a) In addition to providing the court with notice of release of a child under Section 245.051(b), as soon as possible but not later than the 30th day before the date the department releases the child, the department shall provide the court that committed the child to the department:

(1) a copy of the child's reentry and reintegration plan developed under Section 245.0535; and

(2) a report concerning the progress the child has made while committed to the department.

(b) If, on release, the department places a child in a county other than the county served by the court that committed the child to the department, the department shall provide the information

described by Subsection (a) to both the committing court and the juvenile court in the county where the child is placed after release.

(c) If, on release, a child's residence is located in another state, the department shall provide the information described by Subsection (a) to both the committing court and a juvenile court of the other state that has jurisdiction over the area in which the child's residence is located.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

SUBCHAPTER C. MINIMUM LENGTH OF STAY; EXTENSION ORDERS

Sec. 245.101. COMPLETION OF MINIMUM LENGTH OF STAY; PANEL. (a) After a child who is committed to the department without a determinate sentence completes the minimum length of stay established by the department for the child under Section 243.002, the department shall, in the manner provided by this section and Section 245.102:

(1) discharge the child from the custody of the department;

(2) release the child under supervision under Section 245.051; or

(3) extend the length of the child's stay in the custody of the department.

(b) The board by rule shall establish a panel whose function is to review and determine whether a child who has completed the child's minimum length of stay should be discharged from the custody of the department as provided by Subsection (a)(1), be released under supervision under Section 245.051 as provided by Subsection (a)(2), or remain in the custody of the department for an additional period of time as provided by Subsection (a)(3).

(c) The executive director shall determine the size of the panel described by Subsection (b) and the length of the members' terms of service on the panel. The panel must consist of an odd number of members and the terms of the panel's members must last for at least two years. The executive director shall adopt policies that ensure the transparency, consistency, and objectivity of the panel's composition, procedures, and decisions. The executive director shall appoint persons to serve as members of the panel. A person appointed to the panel must be a department employee who works at the

department's central office. A member of the panel may not be involved in any supervisory decisions concerning children in the custody of the department.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.102. EXTENSION ORDER. (a) A panel may extend the length of the child's stay as provided by Section 245.101(a)(3) only if the panel determines by majority vote and on the basis of clear and convincing evidence that:

(1) the child is in need of additional rehabilitation from the department; and

(2) the department will provide the most suitable environment for that rehabilitation.

(b) In extending the length of a child's stay, the panel must specify the additional period of time that the child is to remain in the custody of the department and must conduct an additional review and determination as provided by Section 245.101 on the child's completion of the additional term of stay.

(c) If the panel determines that the child's length of stay should not be extended, the department must discharge the child from the custody of the department as provided by Section 245.101(a)(1) or release the child under supervision under Section 245.051 as provided by Section 245.101(a)(2).

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.103. STATISTICS AND REPORTS CONCERNING EXTENSION ORDERS. (a) The department shall maintain statistics of the number of extensions granted by a panel under Section 245.102. The statistics must include aggregated information concerning:

(1) the race, age, sex, specialized treatment needs, and county of origin for each child for whom an extension order is requested;

(2) the facility in which the child is confined; and

(3) if applicable, any allegations concerning the abuse, mistreatment, or neglect of the child, aggregated by the type of misconduct to which the child was subjected.

(b) To the extent authorized under law, the statistics maintained under Subsection (a) are public information under Chapter 552, Government Code, and the department shall post the statistics on the department's Internet website.

(c) The department shall prepare and deliver to the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities a report concerning the statistics maintained under Subsection (a).

(d) The department shall provide a report to the parent, guardian, or designated advocate of a child whose length of stay is extended under Section 245.102 explaining the panel's reason for the extension.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.104. REQUEST FOR RECONSIDERATION OF EXTENSION ORDER. (a) The board by rule shall establish a process to request the reconsideration of an extension order issued by a panel under Section 245.102.

(b) The process to request reconsideration must provide that:

(1) a child, a parent, guardian, or designated advocate of a child, an employee of the department, or a person who provides volunteer services at a department facility may submit a request for reconsideration of an extension order;

(2) the person submitting the request for reconsideration of an extension order must state in the request the reason for the request;

(3) after receiving a request for reconsideration of an extension order, the panel shall reconsider an extension order that:

(A) extends the child's stay in the custody of the department by six months or more; or

(B) combined with previous extension orders will result in an extension of the child's stay in the custody of the department by six months or more;

(4) the panel's reconsideration of an extension order includes consideration of the information submitted in the request; and

(5) the panel shall send a written reply to the child, the parent, guardian, or designated advocate of the child, and the person who made the request for reconsideration of an extension order that includes an explanation of the panel's decision after reconsidering the extension order, including an indication that the panel has considered the information submitted in the request.

(c) The department shall create a form for a request for reconsideration of an extension order that is clear and easy to understand. The department shall ensure that a child may request assistance in completing a request for reconsideration of an extension order.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.105. STATISTICS AND REPORTS CONCERNING RECONSIDERATIONS OF EXTENSION ORDERS. (a) The department shall maintain statistics of the number of requests for reconsideration of an extension order that are submitted under Section 245.104 and the action taken on reconsideration of the extension order. The statistics must include aggregated information concerning:

(1) the race, age, sex, specialized treatment needs, and county of origin for each child for whom a request for reconsideration of an extension order is submitted;

(2) whether a request for reconsideration of an extension order results in:

(A) a discharge or release under supervision; or

(B) the original extension order being upheld;

(3) the facility in which the child is confined; and

(4) if applicable, any allegations concerning the abuse, mistreatment, or neglect of the child, aggregated by the type of misconduct to which the child was subjected.

(b) To the extent authorized under law, the statistics maintained under Subsection (a) are public information under Chapter 552, Government Code, and the department shall post the statistics on

the department's Internet website.

(c) The department shall prepare and deliver to the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities a report concerning the statistics maintained under Subsection (a).

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.106. TRANSPORTATION, CLOTHING, MONEY. The department shall ensure that each child it releases under supervision has:

(1) suitable clothing;

(2) transportation to his or her home or to the county in which a suitable home or employment has been found; and

(3) money in an amount authorized by the rules of the department.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

SUBCHAPTER D. TERMINATION OF CONTROL

Sec. 245.151. TERMINATION OF CONTROL. (a) Except as provided by Subsections (b) and (c), if a person is committed to the department under a determinate sentence under Section 54.04(d)(3), Section 54.04(m), or Section 54.05(f), Family Code, the department may not discharge the person from its custody.

(b) The department shall discharge without a court hearing a person committed to the department for a determinate sentence under Section 54.04(d)(3), Section 54.04(m), or Section 54.05(f), Family Code, who has not been transferred to the Texas Department of Criminal Justice under a court order on the date that the time spent by the person in detention in connection with the committing case plus the time spent at the department under the order of commitment equals the period of the sentence.

(c) The department shall transfer to the Texas Department of Criminal Justice a person who is the subject of an order under Section 54.11(i)(2), Family Code, transferring the person to the

custody of the Texas Department of Criminal Justice for the completion of the person's sentence.

(d) Except as provided by Subsection (e), the department shall discharge from its custody a person not already discharged on the person's 19th birthday.

(e) The department shall transfer a person who has been sentenced under a determinate sentence to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been returned to the department under Section 54.11(i)(1), Family Code, to the custody of the Texas Department of Criminal Justice on the person's 19th birthday, if the person has not already been discharged or transferred, to serve the remainder of the person's sentence on parole as provided by Section 508.156, Government Code.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

Sec. 245.152. DETERMINATE SENTENCE PAROLE. (a) Not later than the 90th day before the date the department transfers a person to the custody of the Texas Department of Criminal Justice for release on parole under Section 245.051(c) or 245.151(e), the department shall submit to the Texas Department of Criminal Justice all pertinent information relating to the person, including:

(1) the juvenile court judgment;

(2) the circumstances of the person's offense;

(3) the person's previous social history and juvenile court records;

(4) the person's physical and mental health record;

(5) a record of the person's conduct, employment history, and attitude while committed to the department;

(6) a record of the sentence time served by the person at the department and in a juvenile detention facility in connection with the conduct for which the person was adjudicated; and

(7) any written comments or information provided by the department, local officials, family members of the person, victims of the offense, or the general public.

(b) The department shall provide instruction for parole officers of the Texas Department of Criminal Justice relating to

juvenile programs at the department. The department and the Texas Department of Criminal Justice shall enter into a memorandum of understanding relating to the administration of this subsection.

(c) The Texas Department of Criminal Justice shall grant credit for sentence time served by a person at the department and in a juvenile detention facility, as recorded by the department under Subsection (a)(6), in computing the person's eligibility for parole and discharge from the Texas Department of Criminal Justice.

Transferred, redesignated and amended from Human Resources Code, Subchapter F, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.007, eff. September 1, 2011.

CHAPTER 246. INDUSTRIES PROGRAM

Sec. 246.001. PURPOSE; IMPLEMENTATION. The purposes of the department industries program are:

(1) to provide adequate employment and vocational training for children; and

(2) to develop and expand public and private department industries.

Transferred, redesignated and amended from Human Resources Code, Subchapter I, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.008, eff. September 1, 2011.

Sec. 246.002. ADVISORY COMMITTEE. (a) A department industries advisory committee is created consisting of nine members appointed by the board.

(b) Members serve staggered three-year terms, with the terms of three members expiring February 1 of each odd-numbered year.

(c) In making appointments under this section, the board shall endeavor to include representatives of industries appropriate for hiring children committed to the department.

Transferred, redesignated and amended from Human Resources Code, Subchapter I, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.008, eff. September 1, 2011.

Sec. 246.003. PAY AND DISTRIBUTION OF PAY. The department shall apportion wages earned by a child working under the industries program in amounts determined at the discretion of the department, in the following priority:

(1) a person to whom the child has been ordered by a court or to whom the child has agreed to pay restitution;

(2) a person to whom the child has been ordered by a court to pay child support;

(3) the compensation to victims of crime fund or the compensation to victims of crime auxiliary fund; and

(4) the child's student account.

Transferred, redesignated and amended from Human Resources Code, Subchapter I, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.008, eff. September 1, 2011.

Sec. 246.004. INDUSTRIES FUND. (a) A Texas Juvenile Justice Department industries program fund is created in the state treasury.

(b) Proceeds from the operation of the industries program shall be deposited in the fund.

(c) Money from the fund may be appropriated only for use by the department for the administration of this chapter.

Transferred, redesignated and amended from Human Resources Code, Subchapter I, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.008, eff. September 1, 2011.

Sec. 246.005. CONTRACTS. To encourage the development and expansion of the industries program, the department may enter into necessary contracts related to the program.

Transferred, redesignated and amended from Human Resources Code, Subchapter I, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.008, eff. September 1, 2011.

Sec. 246.006. DONATIONS. The industries program may be financed through contributions donated for this purpose by private businesses contracting with the department.

Transferred, redesignated and amended from Human Resources Code, Subchapter I, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.008, eff. September 1, 2011.

Sec. 246.007. GRANTS. (a) The department may accept a grant for the vocational rehabilitation of children.

(b) The department shall maintain a record of the receipt and disbursement of a grant and shall annually report to the lieutenant governor and the speaker of the house of representatives on the administration of grant funds.

Transferred, redesignated and amended from Human Resources Code, Subchapter I, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.008, eff. September 1, 2011.

Sec. 246.008. LEASE OF LAND. (a) The department may lease land owned by the department to a private business to expand and develop the industries program.

(b) The term of the lease may not exceed 20 years.

(c) The business must lease the land at fair market value.

(d) The business may construct a new facility on the land or convert an existing facility.

Transferred, redesignated and amended from Human Resources Code, Subchapter I, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.008, eff. September 1, 2011.

Sec. 246.009. OPTIONAL AD VALOREM TAX ABATEMENT. (a) A business contracting with the department may enter into an ad valorem tax abatement agreement under Subchapters B and C, Chapter 312, Tax Code, with the governing body of the municipality and county in which the business is located.

(b) If an area in which businesses contracting with the department under this subchapter is designated as a reinvestment zone under Chapter 312, Tax Code, the area satisfies Section 312.202(a)(6), Tax Code, in that the area would be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the

zone that would be a benefit to the property and that would contribute to the economic development of the entity designating the area as a reinvestment zone.

Transferred, redesignated and amended from Human Resources Code, Subchapter I, Chapter 61 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.008, eff. September 1, 2011.

SUBTITLE D. INDEPENDENT OMBUDSMAN

CHAPTER 261. INDEPENDENT OMBUDSMAN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 261.001. DEFINITIONS. In this chapter:

(1) "Independent ombudsman" means the individual who has been appointed under this chapter to the office of independent ombudsman.

(2) "Office" means the office of independent ombudsman created under this chapter.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.002. ESTABLISHMENT; PURPOSE. The office of independent ombudsman is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children committed to the department, including a child released under supervision before final discharge.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.003. INDEPENDENCE. (a) The independent ombudsman in the performance of its duties and powers under this chapter acts independently of the department.

(b) Funding for the independent ombudsman is appropriated separately from funding for the department.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

SUBCHAPTER B. APPOINTMENT AND MANAGEMENT OF OFFICE

Sec. 261.051. APPOINTMENT OF INDEPENDENT OMBUDSMAN. (a) The governor shall appoint the independent ombudsman with the advice and consent of the senate for a term of two years, expiring February 1 of odd-numbered years.

(b) A person appointed as independent ombudsman is eligible for reappointment.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 9, eff. September 1, 2013.

Sec. 261.052. ASSISTANTS. The independent ombudsman may hire assistants to perform, under the direction of the independent ombudsman, the same duties and exercise the same powers as the independent ombudsman.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.053. CONFLICT OF INTEREST. (a) A person may not serve as independent ombudsman or as an assistant to the independent ombudsman if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the department;

(2) owns or controls, directly or indirectly, any interest in a business entity or other organization receiving funds from the department; or

(3) uses or receives any amount of tangible goods,

services, or funds from the department.

(b) A person may not serve as independent ombudsman or as an assistant to the independent ombudsman if the person or the person's spouse is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

(c) A person may not serve as independent ombudsman or as an assistant to the independent ombudsman if the person or the person's spouse is an officer, employee, manager, or paid consultant of a Texas trade association in the field of criminal or juvenile justice.

(d) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.054. SUNSET PROVISION. The office is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The office shall be reviewed during the periods in which the Texas Juvenile Justice Department or its successor agency is reviewed.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.055. REPORT. (a) The independent ombudsman shall submit on a quarterly basis to the board, the governor, the lieutenant governor, the state auditor, and each member of the legislature a report that is both aggregated and disaggregated by individual facility and describes:

(1) the work of the independent ombudsman;

(2) the results of any review or investigation undertaken by the independent ombudsman, including reviews or investigation of

services contracted by the department; and

(3) any recommendations that the independent ombudsman has in relation to the duties of the independent ombudsman.

(b) The independent ombudsman shall immediately report to the board, the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, and the office of the inspector general of the department any particularly serious or flagrant:

(1) case of abuse or injury of a child committed to the department;

(2) problem concerning the administration of a department program or operation;

(3) problem concerning the delivery of services in a facility operated by or under contract with the department; or

(4) interference by the department with an investigation conducted by the office.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.056. COMMUNICATION AND CONFIDENTIALITY. (a) The department shall allow any child committed to the department to communicate with the independent ombudsman or an assistant to the ombudsman. The communication:

(1) may be in person, by mail, or by any other means; and

(2) is confidential and privileged.

(b) The records of the independent ombudsman are confidential, except that the independent ombudsman shall:

(1) share with the office of inspector general of the department a communication with a child that may involve the abuse or neglect of the child; and

(2) disclose its nonprivileged records if required by a court order on a showing of good cause.

(c) The independent ombudsman may make reports relating to an investigation public after the investigation is complete but only if the names of all children, parents, and employees are redacted from the report and remain confidential.

(d) The name, address, or other personally identifiable

information of a person who files a complaint with the office of independent ombudsman, information generated by the office of independent ombudsman in the course of an investigation, and confidential records obtained by the office of independent ombudsman are confidential and not subject to disclosure under Chapter 552, Government Code, except that the information and records, other than confidential information and records concerning a pending law enforcement investigation or criminal action, may be disclosed to the appropriate person if the office determines that disclosure is:

(1) in the general public interest;

(2) necessary to enable the office to perform the responsibilities provided under this section; or

(3) necessary to identify, prevent, or treat the abuse or neglect of a child.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.057. PROMOTION OF AWARENESS OF OFFICE. The independent ombudsman shall promote awareness among the public and the children committed to the department of:

(1) how the office may be contacted;

(2) the purpose of the office; and

(3) the services the office provides.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.058. RULEMAKING AUTHORITY. (a) The office by rule shall establish policies and procedures for the operations of the office of independent ombudsman.

(b) The office and the board shall adopt rules necessary to implement Section 261.060, including rules that establish procedures for the department to review and comment on reports of the office and for the department to expedite or eliminate review of and comment on a report due to an emergency or a serious or flagrant circumstance described by Section 261.055(b).

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.059. AUTHORITY OF STATE AUDITOR. The office is subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.060. REVIEW AND FORMAT OF REPORTS. (a) The office shall accept, both before and after publication, comments from the board concerning the following types of reports published by the office under this chapter:

(1) the office's quarterly report under Section 261.055(a);

(2) reports concerning serious or flagrant circumstances under Section 261.055(b); and

(3) any other formal reports containing findings and making recommendations concerning systemic issues that affect the department.

(b) The board may not submit comments under Subsection (a) after the 30th day after the date the report on which the board is commenting is published.

(c) The office shall ensure that reports described by Subsection (a) are in a format to which the board can easily respond.

(d) After receipt of comments under this section, the office is not obligated to change any report or change the manner in which the office performs the duties of the office.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.061. COMPLAINTS. (a) The office shall maintain a system to promptly and efficiently act on complaints filed with the office that relate to the operations or staff of the office. The

office shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

(b) The office shall make information available describing its procedures for complaint investigation and resolution.

(c) The office shall periodically notify the complaint parties of the status of the complaint until final disposition.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

SUBCHAPTER C. DUTIES AND POWERS

Sec. 261.101. DUTIES AND POWERS. (a) The independent ombudsman shall:

(1) review the procedures established by the board and evaluate the delivery of services to children to ensure that the rights of children are fully observed;

(2) review complaints filed with the independent ombudsman concerning the actions of the department and investigate each complaint in which it appears that a child may be in need of assistance from the independent ombudsman;

(3) conduct investigations of complaints, other than complaints alleging criminal behavior, if the office determines that:

(A) a child committed to the department or the child's family may be in need of assistance from the office; or

(B) a systemic issue in the department's provision of services is raised by a complaint;

(4) review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by the department, whether public or private, to ensure that the rights of children are fully observed;

(5) provide assistance to a child or family who the independent ombudsman determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child;

(6) review court orders as necessary to fulfill its duties;

(7) recommend changes in any procedure relating to the

treatment of children committed to the department;

(8) make appropriate referrals under any of the duties and powers listed in this subsection;

(9) supervise assistants who are serving as advocates in their representation of children committed to the department in internal administrative and disciplinary hearings;

(10) review reports received by the department relating to complaints regarding juvenile probation programs, services, or facilities and analyze the data contained in the reports to identify trends in complaints;

(11) report a possible standards violation by a local juvenile probation department to the appropriate division of the department; and

(12) immediately report the findings of any investigation related to the operation of a post-adjudication correctional facility in a county to the chief juvenile probation officer and the juvenile board of the county.

(b) The independent ombudsman may apprise persons who are interested in a child's welfare of the rights of the child.

(c) To assess if a child's rights have been violated, the independent ombudsman may, in any matter that does not involve alleged criminal behavior, contact or consult with an administrator, employee, child, parent, expert, or any other individual in the course of its investigation or to secure information.

(d) Notwithstanding any other provision of this chapter, the independent ombudsman may not investigate alleged criminal behavior.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 646 (S.B. 1702), Sec. 2, eff. September 1, 2019.

(f) Notwithstanding any other provision of this chapter, the powers of the office include:

(1) the inspection of:

(A) a facility operated by the department under Subtitle C;

(B) a post-adjudication secure correctional facility under Section 51.125, Family Code;

(C) a nonsecure correctional facility under Section 51.126, Family Code; and

(D) any other residential facility in which a child adjudicated as having engaged in conduct indicating a need for supervision or delinquent conduct is placed by court order; and

(2) the investigation of complaints alleging a violation of the rights of the children committed to or placed in a facility described by this subsection.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 11(a), eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 11(b), eff. January 1, 2019.
Acts 2015, 84th Leg., R.S., Ch. 962 (S.B. 1630), Sec. 7, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 646 (S.B. 1702), Sec. 1, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 646 (S.B. 1702), Sec. 2, eff. September 1, 2019.

Sec. 261.102. TREATMENT OF DEPARTMENT EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. The department may not discharge or in any manner discriminate or retaliate against an employee who in good faith makes a complaint to the office of independent ombudsman or cooperates with the office in an investigation.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.103. TRAINING. The independent ombudsman shall attend annual sessions, including the training curriculum for juvenile correctional officers required under Section 242.009, and may participate in other appropriate professional training.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.104. MEMORANDUM OF UNDERSTANDING. (a) The office and the department shall enter into a memorandum of understanding concerning:

(1) the most efficient manner in which to share information with one another; and

(2) the procedures for handling overlapping monitoring duties and activities performed by the office and the department.

(b) The memorandum of understanding entered into under Subsection (a), at a minimum, must:

(1) address the interaction of the office with that portion of the department that conducts an internal audit under Section 203.013;

(2) address communication between the office and the department concerning individual situations involving children committed to the department and how those situations will be documented and handled;

(3) contain guidelines on the office's role in relevant working groups and policy development decisions at the department;

(4) ensure opportunities for sharing information between the office and the department for the purposes of assuring quality and improving programming within the department; and

(5) preserve the independence of the office by authorizing the office to withhold information concerning matters under active investigation by the office from the department and department staff and to report the information to the board and the governor.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

SUBCHAPTER D. ACCESS TO INFORMATION

Sec. 261.151. ACCESS TO INFORMATION OF GOVERNMENTAL ENTITIES. (a) The independent ombudsman has access to the department's records relating to the children committed to the department.

(b) The Department of Public Safety shall allow the independent ombudsman access to the juvenile justice information system established under Subchapter B, Chapter 58, Family Code.

(c) A local law enforcement agency shall allow the independent ombudsman access to its records relating to any child in the care or

custody of the department.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.

Sec. 261.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES. The independent ombudsman shall have access to the records of a private entity that relate to a child committed to the department.

Transferred, redesignated and amended from Human Resources Code, Chapter 64 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.010, eff. September 1, 2011.