

## **BILL ANALYSIS**

Senate Research Center

S.B. 2080  
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Enrolled

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

Child abuse and neglect kills more than three children every day in America. Nearly 85 percent of the child victims are under the age of six and nearly half of them are less than one year old. In Texas, a child is abused or neglected every 11 minutes and the number of children placed in foster care due to child abuse in the home increased 30 percent between 2001 and 2005. Reports of child abuse are increasing rapidly, and the child protection system lacks the capacity to provide adequate and timely investigation of so many reports.

Children who have been the victims of abuse experience problems in school and are at risk of developing certain health problems or adopting certain unhealthy behaviors. About 22 percent of victims suffer from learning disorders, which causes them to be placed in special education.

Abuse that occurs during infancy or early childhood can cause important regions of the brain to develop improperly, leading to long-term physical and mental problems. Twenty-five to 30 percent of infant victims develop shaken baby syndrome and die; those infants who do not die can develop visual, motor, or cognitive impairments. The investigation, care, placement, and treatment costs associated with child abuse in this state approach \$900 million per year.

S.B. 2080 amends current law relating to treating and reducing child abuse and neglect and improving child welfare, including providing assistance for adoptive parents and foster care providers.

[**Note:** While the statutory reference in this bill is to the Department of Protective and Regulatory Services (DPRS), the following amendments affect the Department of Family and Protective Services, as the successor agency to DPRS.]

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 6 (Sections 162.3041 and 264.853, Family Code) and SECTION 7 (Section 1001.156, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Defines "task force."

SECTION 2. (a) Provides that the task force consists of nine members appointed as follows: five members appointed by the governor; two members appointed by the lieutenant governor; and two members appointed by the speaker of the house of representatives.

(b) Requires members of the task force to be individuals who are actively involved in the fields of the prevention of child abuse and neglect and child welfare. Requires that the appointment of members reflect the geographic diversity of the state.

(c) Provides that a member of the task force is not entitled to compensation for service on the task force but is entitled to reimbursement for travel expenses as provided by Chapter 660 (Travel Expenses), Government Code, and the General Appropriations Act.

(d) Requires the task force to elect a presiding officer by a majority vote of the membership of the task force.

(e) Requires the task force to meet at the call of the presiding officer.

(f) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the task force.

SECTION 3. (a) Requires the task force to establish a strategy for reducing child abuse and neglect and for improving child welfare in this state. Sets forth the required duties of the task force in establishing that strategy.

(b) Authorizes the strategic plan submitted under Subsection (a) of this section to include proposals for specific statutory changes, the creation of new programs, and methods to foster cooperation among state agencies and between the state and local government.

SECTION 4. (a) Requires the task force to consult with employees of the Department of Family and Protective Services (DFPS), the Department of State Health Services (DSHS), and the Texas Department of Criminal Justice as necessary to accomplish the task force's responsibilities under this Act.

(b) Authorizes the task force to cooperate as necessary with any other appropriate state agency.

SECTION 5. (a) Requires the governor, lieutenant governor, and speaker of the house of representatives to appoint the members of the task force not later than October 1, 2009.

(b) Requires the task force, not later than August 1, 2011, to submit the strategic plan required by Section 3 of this Act to the governor, lieutenant governor, and speaker of the house of representatives.

(c) Provides that the task force is abolished and this Act expires on September 1, 2011.

SECTION 6. (a) Amends Section 162.3041, Family Code, by adding Subsection (a-1) and amending Subsection (d), as follows:

(a-1) Requires the Department of Protective and Regulatory Services (DPRS), notwithstanding Subsection (a) (relating to requiring DPRS to offer adoption assistance for certain reasons), if DPRS first entered into an adoption assistance agreement with a child's adoptive parents after the child's 16th birthday, in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner), offer adoption assistance after the child's 18th birthday to the child's adoptive parents under an existing adoption agreement until the last day of the month of the child's 21st birthday, provided the child is performing certain actions.

(d) Provides that DPRS is not required to provide adoption assistance benefits under Subsection (a-1) unless DPRS is specifically appropriated funds for purposes of that subsection.

(b) Amends Section 264.101, Family Code, by amending Subsections (a-1) and (d) and adding Subsection (a-2), as follows:

(a-1) Requires DFPS to continue to pay the cost of foster care for a child for whom DFPS provides care, including medical care, until the last day of the month in which the child attains the age of 18. Requires DFPS to continue to pay the cost of the foster care for a child after the month in which the child attains the age of 18 as long as the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of performing the activities described by Subdivisions (1)-(4) due to a documented medical condition. Deletes existing text requiring DFPS to continue to pay the cost of foster care for a child for whom DFPS provides care, including medical care, until the later of the date the child attains the age of 18, or the date the child graduates from high school or ceases to be enrolled in a secondary school in a program leading toward a high school diploma.

(a-2) Requires DFPS to continue to pay the cost of foster care under Subsection (a-1)(1) until the last day of the month in which the child attains the age of 22 and Subsections (a-1)(2)-(5) until the last day of the month the child attains the age of 21.

(d) Authorizes the executive commissioner to adopt rules that establish criteria and guidelines for the payment of foster care, including medical care, for a child and for providing care for a child after the child becomes 18 years of age if the child meets the requirements for continued foster care under Subsection (a-1), rather than if the child is regularly attending an institution of higher education or a vocational or technical program.

(c) Amends Section 264.751(1) and (3), Family Code, to redefine "designated caregiver" and "relative caregiver."

(d) Amends Subchapter I, Chapter 264, Family Code, by adding Section 264.760, as follows:

Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND PERMANENCY CARE ASSISTANCE. Authorizes a relative or other designated caregiver who becomes licensed by DFPS or verified by a licensed child-placing agency or the department to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies that Provide Child-Care Services), Human Resources Code, notwithstanding any other provision of this subchapter, to receive foster care payments in lieu of the benefits provided by this subchapter, beginning with the first month in which the relative or other designated caregiver becomes licensed or is verified.

(e) Amends Chapter 264, Family Code, by adding Subchapter K, as follows:

#### SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

Sec. 264.851. DEFINITIONS. Defines "foster child," "kinship provider," "permanency care assistance agreement," "permanency care assistance benefits," and "relative."

Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS.  
(a) Requires DFPS to enter into a permanency care assistance agreement with a kinship provider who is eligible to receive permanency care assistance benefits.

(b) Authorizes DFPS to enter into a permanency care assistance agreement with a kinship provider who is the prospective managing conservator of a foster child only if the kinship provider meets the eligibility criteria under federal and state law and DFPS rule.

(c) Prohibits a court from ordering DFPS to enter into a permanency care assistance agreement with a kinship provider unless the kinship provider meets the eligibility criteria under federal and state law and DFPS rule, including requirements relating to the criminal history background check of a kinship provider.

(d) Authorizes a permanency care assistance agreement to provide for reimbursement of the nonrecurring expenses a kinship provider incurs in obtaining permanent managing conservatorship of a foster child, including attorney's fees and court costs. Prohibits the reimbursement of the nonrecurring expenses under this subsection from exceeding \$2,000.

Sec. 264.853. RULES. Authorizes the executive commissioner to adopt rules necessary to implement the permanency care assistance program. Requires that the rules establish eligibility requirements to receive permanency care assistance benefits under the program and ensure that the program conforms to the requirements for federal assistance as required by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351).

Sec. 264.854. MAXIMUM PAYMENT AMOUNT. Requires the executive commissioner to set the maximum monthly amount of assistance payments under a permanency care assistance agreement in an amount that does not exceed the amount of the monthly foster care maintenance payment DFPS would pay to a foster care provider caring for the child for whom the kinship provider is caring.

Sec. 264.855. CONTINUED ELIGIBILITY FOR PERMANENCY CARE ASSISTANCE BENEFITS AFTER AGE 18. Authorizes DFPS, if DFPS first entered into a permanency care assistance agreement with a foster child's kinship provider after the child's 16th birthday, to continue to provide permanency care assistance payments until the last day of the month of the child's 21st birthday, provided the child meets certain conditions.

Sec. 264.856. APPROPRIATION REQUIRED. Provides that DFPS is not required to provide permanency care assistance benefits under this subchapter unless DFPS is specifically appropriated money for purposes of this subchapter.

Sec. 264.857. DEADLINE FOR NEW AGREEMENTS. Prohibits DFPS from entering into a permanency care assistance agreement after August 31, 2017. Requires DFPS to continue to make payments after that date under a permanency care assistance agreement entered into on or before August 31, 2017, according to the terms of the agreement.

(f) Requires the executive commissioner, not later than April 1, 2010, to adopt rules to implement and administer the permanency care assistance program under Subchapter K, Chapter 264, Family Code, as added by this section.

(g) Effective date, Sections 162.3041 and 264.101, Family Code, as amended by this section, and Section 264.855, Family Code, as added by this section: October 1, 2010.

SECTION 7. (a) Amends Chapter 1001, Health and Safety Code, by adding Subchapter F, as follows:

SUBCHAPTER F. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION SYSTEM (MEDCARES)

Sec. 1001.151. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION SYSTEM GRANT PROGRAM. (a) Requires DSHS to establish the Texas Medical Child Abuse Resources and Education System (MEDCARES) grant program to award grants for the purpose of developing and supporting regional programs to improve the assessment, diagnosis, and treatment of child

abuse and neglect as described by the report submitted to the 80th Legislature by the committee on pediatric centers of excellence relating to abuse and neglect in accordance with Section 266.0031, Family Code, as added by Chapter 1406 (S.B. 758), Acts of the 80th Legislature, Regular Session, 2007.

(b) Authorizes DSHS to award grants to hospitals or academic health centers with expertise in pediatric health care and a demonstrated commitment to developing basic and advanced programs and centers of excellence for the assessment, diagnosis, and treatment of child abuse and neglect.

(c) Requires DSHS to encourage collaboration among grant recipients in the development of program services and activities.

Sec. 1001.152. USE OF GRANT. Authorizes a grant awarded under this subchapter to be used to support certain necessary activities, services, supplies, facilities, and equipment as determined by DSHS.

Sec. 1001.153. MEDCARES ADVISORY COMMITTEE. Requires the executive commissioner to establish an advisory committee to advise DSHS and the executive commissioner in establishing rules and priorities for the use of grant funds awarded through the program. Sets forth the composition of the advisory committee.

Sec. 1001.154. GIFTS AND GRANTS. Authorizes DSHS to solicit and accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

Sec. 1001.155. REQUIRED REPORT. Requires DSHS, not later than December 1 of each even-numbered year, with the assistance of the advisory committee established under this subchapter, to submit a report to the governor and the legislature regarding the grant activities of the program and grant recipients, including the results and outcomes of grants provided under this subchapter.

Sec. 1001.156. RULES. Authorizes the executive commissioner to adopt rules as necessary to implement this subchapter.

Sec. 1001.157. APPROPRIATION REQUIRED. Provides that DSHS is not required to award a grant under this subchapter unless DSHS is specifically appropriated money for purposes of this subchapter.

(b) Requires the executive commissioner, not later than November 1, 2009, to appoint the members of the advisory committee as required by Section 1001.153, Health and Safety Code, as added by this section.

(c) Requires DSHS, not later than January 1, 2010, to establish and implement a grant program as described by Subchapter F, Chapter 1001, Health and Safety Code, as added by this section.

(d) Requires DSHS, not later than December 1, 2010, to provide the initial report to the governor and the legislature as required by Section 1001.155, Health and Safety Code, as added by this section.

(e) Requires the agency affected by the provision, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such waivers or authorizations are granted.

(f) Provides that this section does not make an appropriation. Provides that this section takes effect only if a specific appropriation for the implementation of the section is provided in a general appropriations act of the 81st Legislature.

SECTION 8. Effective date: September 1, 2009.