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SUPREME COURT OF TEXAS PERMANENT JUDICIAL  
COMMISSION FOR CHILDREN, YOUTH AND FAMILIES

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Supreme Court of Texas  
Permanent Judicial Commission for  
Children, Youth and Families

84<sup>th</sup> Session Legislative Update

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## Chapter 58, Texas Family Code

### ➤ Juvenile Probation Must Disclose Terms of Probation to DFPS, SB206

SB206 amends Texas Family Code Section 58.0053 to require a juvenile probation officer to disclose to the Department the terms of probation for a child in the Department's conservatorship. DFPS and the Texas Juvenile Justice Department (TJJD) will enter into a Memorandum of Understanding (MOU) to adopt procedures for handling the sharing of this information.

## Chapter 102, Texas Family Code

### ➤ Waiver of Citation Under Title 5 of Texas Family Code, SB814

SB814 adds Section 102.0091 to allow for waiver of citation. A party to a suit under Texas Family Code Title 5 may waive the issuance or service of citation after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition. The party executing the waiver may not sign the waiver using a digitalized signature, and the waiver must contain the mailing address of the party executing the waiver. Also, notwithstanding Tex. Civ. Prac. & Rem. Code Section 132.001, the waiver must be sworn before a notary public who is not an attorney in the suit. This subsection does not apply if the party executing the waiver is incarcerated. Finally, the Texas Rules of Civil Procedure do not apply to a waiver executed under Section 102.0091.

### ➤ Sibling Standing to File Suit, HB1781

HB1781 adds (a-1) to Section 102.0045 to grant standing to an adopted child to request access to a biological sibling of that child. The change will have the effect of allowing minor adopted children to gain access to their siblings prior to reaching the age of 18, and amends the current law related to access by a sibling of a child who is separated from the sibling due to an action by the Department of Family and Protective Services (the Department). Under current law, a child adopted out of the foster care system who is under the age of 18 cannot file an original suit to gain visitation rights to a biological sibling.

## Chapter 103, Texas Family Code

### ➤ Suit for Adoption Can be Filed Where Child or Petitioner Resides, SB206

SB206 amends Section 103.001(b) so that venue for original suits for adoption is now an exception to continuing, exclusive jurisdiction and controls where the suit for adoption is filed, regardless whether there is a court of continuing, exclusive jurisdiction. The CEJ court is not required to transfer the SAPCR to the court in which the adoption is filed.

To support this change, SB 206 also amends Chapter 155, specifically Section 155.001(c), to create an exception to continuing, exclusive jurisdiction for suits for adoption.

## **Chapter 104, Texas Family Code**

### ➤ Testimony of Professional, SB206

SB206 amends Section 104.007 to allow testimony of a professional to be provided by videoconference if the parties agree or on the court's own motion, for good cause.

## **Chapter 107, Texas Family Code**

### ➤ Early Appointment of Legal Counsel for Parents, SB1931

SB1931 amends Section 107.013 and adds Section 107.0141 to allow a court to appoint an attorney to represent a parent for a limited duration starting from the date the court issues the temporary restraining order or order of attachment of a child (when the state files the petition for removal) until the court makes the determination of indigence at or before commencement of the full adversary hearing under Section 262.201. It also mandates that attorneys appointed under this section have the powers and duties of an attorney as set forth in Section 107.0131, including assisting the parent in preparing for the full adversary hearing. It also requires the court to dismiss the attorney before commencing the full adversary hearing if the court determines that the parent is not indigent, or if the attorney is unable to locate the parent, and files a written summary of the attorney's efforts to identify and locate the parent.

Section 107.013 amendments will also more clearly delineate what may be considered in making a determination of indigence, such as the parent's income, source of income, assets, property owned, benefits paid in accordance with a federal, state or local public assistance program, outstanding obligations, necessary expenses, and the number and ages of dependents.

### ➤ Flexibility in Models of Legal Representation, HB3003

HB3003 adds Sections 107.061-107.071 and 107.101-107.108 to allow the creation and oversight of county or regional offices of child or parent representation in CPS cases. The new sections would permit counties to create and use public funds for county or regional offices to provide legal representation to a child, an indigent parent or an alleged father in a suit seeking conservatorship of a child or termination of parental rights in a lawsuit involving the Department, and would provide guidance for county oversight of said offices. The new sections would also allow counties to use public funds to contract with a nonprofit entity, governmental entity or bar association to manage the assignment and compensation of legal representation under a managed assigned counsel program.

## **Chapter 155, Texas Family Code**

### ➤ Child Protection Case Transfer Between Jurisdictions, SB1929

SB1929 amends Sections 155.207 and 262.203 to place tighter controls on the process used when child protection cases transfer from one county to another to help ensure state mandated deadlines and party appointments are not missed. Section 155.207 would be amended to require that the clerk of the court that is transferring a proceeding to transfer to the receiving clerk within ten (10) days the pleadings, any other documents specified by a party, certified copies of the

minutes, a certified copy of each final order, and a certified copy of the transfer order signed by the transferring court. Specifically with regard to child protection cases, Section 262.203 would be amended to require that the court order transferring a case to another jurisdiction include the date of any future hearings which have been scheduled by the transferring court, any date of dismissal scheduled by the transferring court pursuant to Section 263.401, and the names and contact information of attorneys and guardians ad litem. Also, the receiving court may, in its discretion, retain any attorney or guardian ad litem appointed by the transferring court. Finally, if the receiving court determines that appointment of a substitute attorney and/or guardian is appropriate, the court must appoint the substitute attorney and/or guardian within ten days of receiving the order of transfer from transferring court or by the time of the first scheduled hearing in the receiving court, whichever occurs first.

➤ Suit for Adoption Filed Under Section 103.001(b) an Exception to CEJ

SB206 amends Section 155.001(c) to allow an exception to a court's continuing, exclusive jurisdiction for an adoption filed pursuant to Texas Family Code Section 103.001(b).

## **Chapter 161, Texas Family Code**

➤ Grounds for Termination of Parental Rights, SB206

SB206 amends Section 161.001(b)(L) to allow termination of the parent-child relationship on the grounds that the person has been convicted of, or placed on community supervision for, being criminally responsible for the death or serious injury of a child under the law of another jurisdiction that contains elements that are substantially similar to the elements of an offense under one of Texas' Penal Code sections.

➤ Involuntary Termination of the Parent-Child Relationship, SB219

SB219 amends Section 161.001 to strike the reference to Section 261.001 in termination ground 161.001(1)(R) related to "born addicted to alcohol or a controlled substance" and instead place the definition of Section 261.001(8) in a new Section 161.001(a) and added a subsection (b), which **shifted all of the termination grounds to new 161.001(1)(b)**.

## **Chapter 162, Texas Family Code**

➤ Health, Social, Educational, and Genetic History (HSEGH), SB206

SB206 renames Section 162.006 to Access to Health, Social, Educational, and Genetic History Report; Retention, and eliminates "Right to Examine Records." Section 162.007 is amended to also allow the Department to modify the form and contents of the HSEGH report, in accordance with Department rule, for a child as the Department determines appropriate based on the relationship between the prospective adoptive parents and the child or the child's birth family. Finally, Section 162.0062 is amended to provide that if prospective adoptive parents have reviewed the HSEGH and want to proceed with the adoption, they can request to review the case records and other information relating to the history of the child, and requires the Department to provide the child's case record upon request.

## Chapter 261, Texas Family Code

### ➤ Audio or Video Taped Interview With Child, SB206

SB206 adds language to Section 261.302 specifying that an interview with a child in which allegations of the current investigation are discussed must be audiotaped or videotaped unless one of a list of certain circumstances exists.

### ➤ Extension of 45-day Deadline to Complete Administrative Review, SB206

SB206 amends Section 261.309(b) and provides that the Department's Investigations Division (rather than the immediate supervisor of the employee who conducted the investigation) shall conduct the informal review envisioned by 261.309(b). Section 261.309(d) is also amended to remove the exception for extending the deadline for administrative review of an investigation conducted under Section 261.309(c) because of an ongoing civil or criminal court proceeding or pending criminal investigation relating to the alleged abuse or neglect, and replaces it with a "good-cause" exception to the 45-day deadline for completing an administrative review of the findings of a child abuse or neglect investigation of a person alleged to have abused or neglected a child.

### ➤ Copy of Completed Investigation to TEA / Others, SB206

SB206 amends Section 261.406(b) related to investigations in schools and now requires the Department to send a copy of the completed investigation report to the Texas Education Agency and to other entities upon request only.

### ➤ Child Fatality Reporting, SB949

SB949 amends Sections 261.203 and 261.204 to require the Department to release certain information relating to a child fatality or near fatality after the Department determines that the child's death or near death was caused by abuse or neglect. S.B. 949 also requires DFPS to publish an annual aggregated report using information compiled from each child fatality or near fatality investigation for which DFPS made a finding regarding abuse or neglect, including cases in which DFPS determined the fatality was not the result of abuse or neglect. The Department is required, not later than March 1, 2016, to post the annual report on the DFPS website and otherwise make the report available to the public and to use the information reported under these provisions to provide guidance for possible DFPS policy changes at least once every 10 years.

### ➤ Relinquishment of Custody Due to Mental Health, Emotional Disturbance, SB1889

SB1889 amends Sections 261.001 to change the definition of Neglect and clarify that the definition does not include the refusal by a person responsible for a child's care, custody or welfare to permit the child to remain in or return to the child's home and that results in the Department taking conservatorship, if the child has a severe emotional disturbance and the person's refusal is based solely on an inability to obtain mental health services necessary to protect the safety and well-being of the child, and the person has exhausted all reasonable means available to obtain mental health services. SB1889 also requires the Department to adopt rules regarding the prohibition from making a finding of abuse or neglect in this circumstance and to review all records from the Central Registry in which the Department was named managing conservator of a child who had

or has a severe emotional disturbance only because the child's family was unable to obtain mental health services of the child. Finally, Section 263.352 is amended to require the Department to discuss with the parent, prior to filing a SAPCR requesting managing conservatorship, the option of seeking a court order for joint managing conservatorship of the child with DFPS unless it is NOT in the best interest of the child.

➤ Child Safety Check Alert List (CSCAL), SB1406 & HB2053

SB1406/HB2053 amend Sections 261.301, 261.3022, 261.3024, and adds 261.3025, dealing with the Child Safety Check Alert List or CSCAL. The bill allows the Department at any time during the investigation to notify the Department of Public Safety (DPS) of its inability to locate a child who is the subject of a Priority 1 investigation. It also allows the Department to seek assistance from DPS if it is unable to locate a child and/or a family receiving Family Based Safety Services or Conservatorship services after no more than 20 days of being unsuccessful in locating the child and/or family. The Department no longer has to file an application with its legal counsel or seek a court order directing that DPS add the child and/or family to the CSCAL. DPS is required to conduct an investigation to locate the child and/or the child's family, and place the child and family on the CSCAL upon request and receipt of certain information about the child and/or family from DFPS. Under SB1406, if law enforcement encounters the child and/or family, it must notify the Texas Crime Information Center (TCIC). However, HB2053 goes further and requires that law enforcement notify the Department, and may detain the child and/or family temporarily. Law enforcement may also take custody of the child if Texas Family Code Section 262.104 (Taking Possession of a Child in Emergency Without a Court Order) is satisfied. The Department and DPS are also required to submit an annual report to the Legislature on the use of the CSCAL, and requires the Texas Commission on Law Enforcement to train law enforcement officers on the use of the CSCAL.

## **Chapter 262, Texas Family Code**

➤ Family Visitation, SB206

SB206 amends Section 262.115 to allow the Department to provide the parent visitation within five days (as opposed to three days) after the date the Department is named the Temporary Managing Conservator of the child.

➤ Registration with Sex Offender Registry Grounds for Aggravated Circumstances, SB206

SB206 amends Section 262.2015 to specify that if another child of a parent is the victim of serious bodily injury or sexual assault inflicted by the parent or with the parent's consent, it would indicate aggravated circumstances under which the court may waive the requirements for a service plan and to make reasonable efforts to return a child to the parent. It also adds to the list of aggravated circumstances that the parent is required to register with a sex offender registry.

➤ Sealing of Court Records Filed Electronically, HB331

HB331 adds Section 262.011 to require a court having jurisdiction over a suit filed under Chapter 262 to consider documents filed through an electronic filing system in the same manner as any

other document filed with the court as regards sealing of court records in accordance with Rule 76a of the Texas Rules of Civil Procedure.

➤ Native American Heritage Inquiry, HB825

HB825 amends Sections 262.201 (Full Adversary Hearing) and 263.202 (Status Hearing) to place a duty on courts to inquire of parties before the court about whether the child or the child's family has Native American heritage and to identify any Native American tribe with which the child may be associated. HB825 also amended Section 263.306; however, SB206 repealed Section 263.306(a) and (b), as amended by the 83<sup>rd</sup> Legislature, which may in effect repeal all of Section 263.306, resulted in negating HB825's changes to Section 263.306. This issue is being researched and it would be a best practice for courts to make this inquiry at Permanency Hearings Before Final Order, even if the language fails to make it into statute.

➤ Victim of Trafficking Inquiry in Standard for Decision at Adversary Hearing, HB418

HB418 amends Section 262.201 to allow the court to use as a basis for not returning a child under Sections 262.107 (Standard for Decision at Initial Hearing After Taking Possession of Child Without a Court Order in Emergency) and Section 262.201 (Full Adversary Hearing) that the child has been the victim of trafficking under Section 20A.02 or 20A.03 of the Penal Code.

## **Chapter 263, Texas Family Code**

➤ Home Schooling of Foster Child, SB206

SB206 adds Section 263.0045 to allow foster parents to home school children in their care unless a court limits home schooling based on child's best interest or the Department determines that federal law requires another school setting.

➤ Notice of Hearing and Presentation of Evidence, SB206

SB206 adds Section 263.0021, which sets out requirements regarding notification by DFPS to parties and interested persons of review hearings and the presentation of evidence at those hearings. New Section 263.0021 requires DFPS to provide notice to the same list of persons who were entitled to notice under current Section 263.301, i.e., DFPS, foster parents, pre-adoptive parents, relative caregivers, directors or designees of group homes or general residential operations (GRO) where the child resides, each parent of the child, the managing conservator or guardian of the child, an attorney ad litem, guardian ad litem or volunteer advocate who has not been dismissed by a final order, the child (if the child is 10 years or older or the court determines it is appropriate for a child younger than 10 to receive notice), and any other person or agency named by the court to have an interest in the child's welfare.

SB206 sets out various methods by which the required notice can be given, rather than the current requirement that all notice be given as provided in Rule 21a, Texas Rules of Civil Procedure. Approved methods include via a temporary order following the Adversary Hearing or any statutory hearing under Chapter 263, oral announcement in open court, or in any other manner that would provide actual notice to a person entitled to notice. SB206 adds language requiring the licensed administrator of a child placing agency or that person's designee be provided at

least 10 days' notice of a Permanency Hearing After Final Order, and adds language requiring the court to review DFPS or other agency's efforts at attempting to locate all necessary persons and requesting service of citation and assistance of a parent in providing information to locate an absent parent.

SB206 repeals provisions related to notice of placement review hearings and contains conforming changes to reflect the re-designation of these notice requirement statutes.

➤ Education Decision-maker Information, SB206

SB206 amends Section 263.004 to clarify that the Department must provide information regarding the identity of the child's education decision-maker to the court and the child's school within 5 days of an Adversary Hearing and this information must be included in the permanency progress reports filed under Sections 263.303 and/or 263.502. If the Department redesignates an education decision-maker between hearings, notice of the redesignation must be provided to the school within 5 days of the redesignation.

➤ Permanency Planning Meetings, SB206

SB206 amends Section 263.009 and requires the Department to hold permanency planning meetings in accordance with a schedule adopted by rule rather than by the prescriptive provisions that were enacted in the 83rd Session, which are repealed by SB206.

➤ Service Plan Requirement When Aggravated Circumstances, SB206

SB206 amends Section 263.101, which clarifies that the Department is not required to file a Service plan if Section 262.2015 is in play (aggravated circumstances).

➤ Identification of Primary and Secondary (Concurrent) Permanency Goal, SB206

SB206 amends Section 263.102(a) to clarify that the Family Plan of Services must include a primary and at least one secondary or alternative permanency goal.

➤ Contents of Permanency Progress Report for Permanency Hearings Prior to Final Order, SB206

SB206 amends Section 263.303 to establish that the information required in the Permanency Progress Report that is required at each Permanency Review Hearing Before Final Order must contain information necessary for the court to conduct a hearing and make findings and determinations required by Section 263.306, as well as information on significant events, and any additional information the Department determines is appropriate or that is requested by the court and relevant to the court's findings and determinations under section 263.306.

➤ Placement Review Hearing Renamed Permanency Hearing After Final Order, SB206

SB206 amends Section 263.306 to rename the section "Permanency Hearings Before Final Order" to distinguish it from the new title for "Permanency Hearings After Final Order" under Section 263.502.

➤ Court Duties and Findings at Permanency Hearing Before Final Order, SB206

SB206 amends Section 263.306 and sets out the courts duties and required findings related to Permanency Hearings Before Final Order. This amended section basically recodifies the court report contents that were formerly in Section 263.303, and directs the Department to provide information necessary for the court to conduct the permanency hearing and make the findings and determinations required under Section 263.306, as well as information on significant events, as defined by new Section 264.018, and any other information the Department determines is appropriate OR that the court requests and is relevant to the findings and determinations required under Section 263.306.

➤ Rename Section 263.401, SB206

SB206 amends Section 263.401 to rename the section "Dismissal After One Year; New Trials; Extension.

➤ Motion for New Trial, Mistrial, or Remand, SB206

SB206 adds Section 263.401 (b-1) to clarify that when a court grants a motion for new trial or a mistrial, or the case is remanded to the trial court by an appellate court, the trial court must retain the suit on the docket and render an order that schedules a new dismissal date. The new dismissal date cannot be later than the 180th day after which the motion for the new trial or mistrial is granted or the date on which the appellate court remanded the case. The court order must set a new trial date that is not later than the new dismissal date, and must render an order that takes into account the safety and welfare of the child.

➤ Consideration of Child's Special Medical or Behavioral Needs Eliminated, SB206

SB206 amends Section 263.404(b) to eliminate language that requires the court to consider whether a child has special medical or behavioral needs that make adoption unlikely BEFORE the court enters an order for PMC without termination. That is no longer a consideration, but the amendment adds a new provision that requires the court to consider whether the child has "continuously expressed a strong desire against being adopted."

➤ Rename Subchapter F (of Subtitle E, Protection of Child), SB206

SB206 amends Subchapter F to rename the Subchapter "Permanency Hearings After Final Order."

➤ Rename Section 263.501, SB206

SB206 amends Section 263.501 to rename the section "Permanency Hearing After Final Order."

➤ Term "Placement" Repealed, Replaced With "Permanency", SB206

SB206 amends Section 263.501 to remove all instances of "placement" and replaces it with "permanency". Also, replaces "date the child is adopted or the child becomes an adult" with "department is no longer the child's managing conservator" in relation to the frequency with which the court must conduct review hearings in Section 263.501(b).

➤ Rename Section 263.502, SB206

SB206 amends Section 263.502 to rename the section "Permanency Progress Report After Final Order."

➤ Contents of Permanency Progress Report for Permanency Hearings After Final Order, SB206

SB206 amends Section 263.502 to establish that the information required in the Permanency Progress Report After Final Order that is required at each hearing must contain information necessary for the court to conduct a hearing and make findings and determinations required by new Section 263.5031 as well as information on significant events, and any additional information the Department determines is appropriate or that is requested by the court and relevant to the court's findings and determinations under new Section 263.5031.

➤ Court Duties and Findings at Permanency Hearings After Final Order, SB206

SB206 repeals all of Section 263.503 and adds new Section 263.5031 to set out the courts duties and required findings related to Permanency Hearings After Final Order.

➤ Normalcy Activities, SB1407

SB1407 added Sections 263.306(c) and 263.503(c) related to the Permanency Hearings both before and after Final Order to require the court to review the Department's efforts to ensure that the child has regular, ongoing opportunities to engage in age-appropriate normalcy activities, including activities not listed in the child's service plan. However, SB206 repealed Section 263.503 and re-codified the entire section at Section 263.5031. The recodification of Section 263.5031 did not include SB1407's amendment to current Section 263.503(c). Thus, Section 263.5031 and 263.503(c) must be read in conjunction to cover what must be reviewed during a Permanency Review After Final Order.

➤ Appointment of Non-parent Managing Conservator, SB314

SB314 adds Section 263.408 to require the Department, in a suit in which the court appoints a nonparent as managing conservator of a child, to provide the nonparent with an explanation of the differences between appointment as a managing conservator of a child and adoption of a child, including specific statements informing the nonparent that the nonparent's appointment conveys only the rights specified by the court order or applicable laws instead of the complete rights of a parent conveyed by adoption. The Department must also explain that a parent may be entitled to request visitation with the child or petition the court to appoint the parent as the child's managing conservator in the future, notwithstanding the nonparent's appointment as managing conservator. Also, that the nonparent's appointment as the child's managing conservator will not result in eligibility for post-adoption benefits.

The bill requires the court order appointing the nonparent as managing conservator in such a suit to include, in addition to the rights and duties of a nonparent appointed as sole managing conservator, provisions addressing the authority of the nonparent to authorize immunization of the child or any other medical treatment that requires parental consent; to obtain and maintain health insurance coverage for the child and automobile insurance coverage for the child, if

appropriate; to enroll the child in a day-care program or school, including prekindergarten; to authorize the child to participate in school-related or extracurricular or social activities, including athletic activities; to authorize the child to obtain a learner's permit, driver's license, or state-issued identification card; to authorize employment of the child; to apply for and receive public benefits for or on behalf of the child; and to obtain legal services and execute contracts or other legal documents for the child.

SB314 also requires a court to require evidence that the nonparent was informed of the rights and duties of a nonparent appointed as managing conservator of a child before the court renders an order appointing the non-parent as the child's conservator.

## **Chapter 264, Texas Family Code**

### ➤ Reporting Key Performance Measures by County, SB206

SB206 adds Sections 264.017 to require the department to prepare and disseminate a report of statistics by county relating to key performance measures and particular data elements.

### ➤ Required Notifications and Notice of Significant Event, SB206

SB206 adds Section 264.018 and establishes new notification requirements. SB206 requires DFPS to make reasonable efforts to notify parent, attorneys and guardians ad litem, licensed administrators of child placing agencies, foster parents, adoptive parents, and the child notice of certain significant events such as change in medical condition, a placement change, an initial prescription of a psychotropic medication or a dosage change, a major change in school performance or a serious disciplinary event at school. SB206 also sets out conditions under which DFPS is not required to provide notice to a parent of a child in DFPS conservatorship, and also provides that DFPS is not required to provide notice of a significant event to parties specified in SB206 if that agency or individual is required under contract or other agreement to provide notice of the event to DFPS.

SB206 also requires a person entitled to notice from DFPS to provide current contact information, and requires the person to update the contact information as soon as possible after a change. SB206 provides that DFPS is not required to provide notice to a person who fails to provide contact information, and allows DFPS to rely on the most recently provided contact information for providing notice.

### ➤ Foster Care Payments for Child in Another State, SB206

SB206 amends Section 264.101 regarding the conditions under which the Department must pay for the care of a child in foster care, and clarifies that it includes payment for a child in a residential facility or comparable facility in another state and the Department has been named the child's conservator or has the duty of care, control, and custody after taking possession in an emergency without a prior court order as authorized by Texas Family Code, Subtitle E, Protection of the Child.

➤ Standardized Assessment for Children, SB206

SB206 amends Section 264.107 and requires that DFPS use an application or assessment developed with interested parties for placement of children in contracted residential care. The bill requires DFPS to develop this application or assessment no later than December 1, 2016, subject to the appropriation of funds, and requiring DFPS to use the Health and Human Services Commission's (HHSC's) standard application until such time.

➤ Multiethnic Placement of Children, SB206

SB206 adds Section 264.1085 to require DFPS or licensed child-placing agencies making adoptive or foster placements to comply with the federal Multiethnic Placement Act of 1994. The bill repeals existing state statutes regarding the use of race or ethnicity in making adoptive or foster placement decisions.

➤ Additional Term "Prospective Foster Parent", SB206

SB206 amends Section 264.110 to change the name to "Prospective Foster or Adoptive Parent Statement".

➤ Documents Provided to Youth Before Exiting Foster Care, SB206

SB206 amends Section 264.121(e) and adds (e-2) to clarify that when the Department provides the youth with certain documents before exiting care that the Department provides both a copy and a certified copy of the document or the original, as applicable. Also, contents of current Section 264.014 transferred to new Section 264.121 regarding information and documents the Department must deliver to each youth who is discharged from foster care, and is 18 years of age or has had disabilities of minority removed.

➤ Foster Care Redesign Authorized, SB206

SB206 adds Section 264.126 to authorize Foster Care Redesign and governs the implementation of the redesign.

➤ Home Study Before Adoption, SB206

SB206 amends Section 264.207 to change the name to "Home Study Required Before Adoption." Also, it amends the section to require the Department to complete a home study before an applicant is approved for adoption.

➤ Normalcy Activities, SB1407

SB1407 amends Section 264.001 to define "age-appropriate normalcy activity" which means an activity or experience that is generally accepted as suitable for a child's age or level of maturity or that is determined to be developmentally appropriate for a child based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for the age or age group, and that a child who is not in the state's conservatorship is generally allowed to participate. It includes extracurricular activities, in school and out of school social activities, cultural and enrichment activities and employment opportunities.

➤ Adverse Departmental Action Prohibited, SB1407

SB1407 also amends Section 264.114 to Immunity From Liability to make clear that a foster parent, other substitute caregiver, family relative or other designated caregiver, or licensed child placing agency caring for a child in the managing conservatorship of the department is not liable for harm caused to the child resulting from the child 's participation in an age-appropriate normalcy activity approved by the caregiver if, in approving the child 's participation in the activity, the caregiver exercised the standard of care of a reasonable and prudent parent. Also, that child placing agencies are not subject to adverse action by the department, including contractual action or licensing or other regulatory action, arising out of the conduct of a foster parent who has exercised the standard of care of a reasonable and prudent parent.

"Standard of care of a reasonable and prudent parent" means the standard of care that a parent of reasonable judgment, skill, and caution would exercise in addressing the health, safety, and welfare of a child while encouraging the emotional and developmental growth of the child, taking into consideration the child's overall health and safety, age, maturity, and development level, the best interest of the child based on the caregiver 's knowledge of the child, the appropriateness of a proposed activity and any potential risk factors, the behavioral history of the child and the child 's ability to safely participate in a proposed activity, the importance of encouraging the child 's social, emotional, and developmental growth, the importance of providing the child with the most family-like living experience possible.

➤ Transitional Living Services for Youth 16 and Older, SB 1117

SB1117 amends Section 264.121 to require the Department to ensure that the transition plan provided to each youth 16 years of age or older under DFPS conservatorship to assist the youth in transitioning from foster care to independent living includes provisions to assist the youth in managing the youth's housing needs after the youth leaves foster care. The bill requires the included provisions to identify the cost of housing in relation to the youth's sources of income, including any benefits or rental assistance available to the youth; if the youth's housing goals include residing with family or friends, to state that DFPS has addressed with the youth certain logistical, emotional, and psychological factors regarding the arrangement; to inform the youth about emergency shelters and housing resources; to require DFPS to review a common rental application with the youth and ensure that the youth possesses all of the documentation required to obtain rental housing; and to identify any individuals who are able to serve as cosigners or references on the youth's applications for housing.

➤ Video Recording of Child Interview, SB60

SB60 amends Section 264.408 to clarify that a video recording of an interview of a child that is made by a child advocacy center, rather than at a child advocacy center, is the property of the prosecuting attorney involved in the criminal prosecution of a case involving the child. The bill removes a provision making a child advocacy center that employs a custodian of records for video recordings of interviews of children responsible for the custody of the video recording and a provision authorizing a video recording of an interview to be shared with other agencies under a written agreement.

## **Chapter 265, Texas Family Code**

### ➤ New Subchapter on Prevention and Early Intervention, SB206

SB206 amends Chapter 265 to add Subchapter A: Prevention and Early Intervention Services. Also, adds Section 265.005 to establish a strategic plan for prevention and early intervention services and specifies what the plan must accomplish, and transfers Human Resources Code Chapter 40 to Chapter 265, and consolidates certain statutes governing DFPS' prevention and early intervention programs by merging certain sections from the Human Resources Code and parts of the Family Code into the chapter of the Family Code for prevention and early intervention. The bill repeals separate authority for DFPS to administer a statewide education program designed to prevent infant mortality. Also transfers Human Resources Code Section 40.0561 to Family Code Section 265.057 and provides that the Department must award community youth development grants to communities identified by incidence of crime, giving priority to the areas of the state in which there is a high incidence of juvenile crime.

## **Chapter 266, Texas Family Code**

### ➤ Changes to Medical Care and Notice to Medical Consenter, SB206

SB206 amends Section 266.004 by updating reference to the Notice provisions newly codified at Section 263.0021. It also allows the Department to consent to health care services ordered or prescribed by a provider regardless of whether the services are also provided by STAR Health (the HMO). SB206 also updates current Section 266.0041 to reference new Section 264.018 (Notice of Significant Events), and updates current Section 266.010 to include reference to new Section 263.5031 (Permanency Review After Final Order).

### ➤ Child and Adolescent Needs and Strengths (CANS) Assessment, SB125

SB125 amends Section 266.012 to require a child to receive a developmentally appropriate comprehensive assessment not later than the 45th day after the date the child enters the conservatorship of the Department. The bill requires the assessment to include a screening for trauma and interviews with individuals who have knowledge of the child's needs. The bill requires DFPS to develop guidelines regarding the contents of an assessment report.

## **Chapter 25, Texas Education Code**

### ➤ Foster Child Allowed to Attend School of Origin, SB206

SB206 amends Texas Education Code Section 25.001(g) and adds (g-1) to clarify that a foster student who was enrolled in a public school before entering foster care and who is placed in a foster placement outside the attendance area for his/her school, is entitled to continue to attend the school the student was attending when removed until the student completes the highest grade level offered at that school. Additionally, if the student attends a school other than the one where the child was enrolled at the time the child entered foster care, the child may continue to attend that school, even if the child's placement changes, whether the new placement is located outside the attendance area for that school or outside of the school district. Both (g) and (g-1) state the student may attend the school without payment of tuition and may continue at that

school whether the child remains in the conservatorship of DFPS. Also, Section 25.087 is amended to clarify that children and youth in the Department's conservatorship are excused from attending school for any reason that is required by the child's service plan.

➤ Notice of Events That May Impact Education of Foster Children, HB1804

HB1804 amends Texas Education Code Section 25.007(b)(9) to ensure that campuses and open-enrollment charter schools, in addition to school districts, notify the child's education decision-maker and caseworker about events that may significantly impact the education of the child.

➤ Foster Care Liaison Expanded, HB3748

HB3748 also amends Texas Education Code Section 25.007 to require TEA to designate at least one person to act as a liaison regarding educational issues facing children in the Department's conservatorship. It also amends TEA Code Chapter 51 to require each institution of higher education to designate an employee to act as a liaison for students who are former foster youth, so that they may better address challenges in higher education that are unique to their situation. The bill also amends TEA Code Chapter 61 to require the Texas Higher Education Coordinating Board to designate an employee dedicated to working with school districts regarding the needs of youth in foster care.

➤ Data Sharing Between DFPS and Higher Education Coordinating Board Required, HB3748

HB3748 also requires the Department and the Higher Education Coordinating Board to enter into an MOU through which they will exchange relevant information on students in foster care in order to study long-term trends regarding foster youth in higher education.

## **Chapter 54, Texas Education Code**

➤ Expands Tuition and Fee Exemption for Foster Youth, SB206

SB206 amends TEA Code Section 54.366 to provide that any child who exits the Department's conservatorship, and is returned to the child's parents (even a parent whose parental rights were previously terminated) may be exempt from paying tuition and fees if the Department determines that the child is eligible under Department rules that are yet to be developed. HHSC is required to develop a rule setting out factors that would determine eligibility in consultation with the Department and THECB.

## **Human / Child Sex Trafficking**

➤ Human / Sex Trafficking, HB10, HB418, HB1217, HB1794, HB2455

HB10 brings about the most sweeping change. Specific to child welfare, it continues the Texas Human Trafficking Prevention Task Force, which requires the Task Force to collaborate with state and federal governmental efforts to prevent trafficking. It also increases the demand data collection, provision of public education and victim services, and increases training for various state actors. It also establishes a separate Child Sex Trafficking Prevention Unit within the Governor's Criminal Justice Division. And, it requires each school district and open-enrollment

charter school employee to report child abuse or neglect related to child trafficking to law enforcement or DFPS pursuant to their duties as a mandatory reporter under Chapter 261.

HB418 is intended to allow the court to use as a basis for not returning a child under Sections 262.107 (Standard for Decision at Initial Hearing After Taking Possession of Child Without a Court Order in Emergency) and Section 262.201 (Full Adversary Hearing) that the child has been the victim of trafficking under Section 20A.02 or 20A.03 of the Penal Code.

HB1217 requires Department. to conduct interview with a missing child to determine the reason the child was missing, including whether child was possible victim of trafficking that constitutes an offense under Section 20A.02(a)(7) of the Penal Code. If so, the Department must report to law enforcement. Other bills that may affect Human Trafficking efforts include HB2053/SB1406, which govern the Child Safety Check Alert List (CSCAL), which can now be utilized to alert law enforcement that a child is missing as this provision applies to not only those children in the investigation stage of service, but those in Family Based Safety Services and Conservatorship as well.

HB1793 adds to Code of Criminal Procedure to require local law enforcement, upon receiving a report of a missing child who is 14 or younger, to immediately start an investigation to determine the child's location, if the child is at "high risk" of harm or otherwise in danger, and requires DFPS rulemaking to guide/direct law enforcement regarding entering information into the national crime information center missing person file.

HB2455 would create a task force to promote uniformity in collecting and reporting information on human trafficking; however, DFPS is not included as a member of the to-be-created task force. OCA is to oversee the task force and has the option to name additional agencies / members.

## **New Appointing and Reporting Duties for Courts**

### ➤ Court Appointments, Court Duties, SB1876

SB1876 amends the Government Code to, in pertinent part, establish a list of all attorneys and other persons who are qualified to serve as an attorney ad litem or a mediator, and who is registered with the court to fulfill that role. Courts may establish and maintain more than one list that is categorized by the type of case and the person's qualifications. The bill also requires a court using a rotation system to appoint the person whose name appears first on the applicable list. For mediators, it is the person whose name appears first on the mediator list in those cases where the parties to the case are unable to agree on a mediator. The bill authorizes the court to appoint a person included on the applicable list whose name does not appear first on the list, or a person who meets statutory or other requirements to serve and who is not included on the list, if the appointment of that person is agreed on by the parties and approved by the court. The court may also, on finding good cause, appoint a person whose name does not appear first on the list, or a person who meets statutory or other requirements to serve on the case and who is not included on the list, if the appointment of that person is required on a complex matter because the person possesses relevant specialized education, training, certification, or skill. A person who

is not appointed in the order in which the person's name appears on the applicable list to remain next in order on the list, and the person who was appointed instead is placed at the end of the list.

SB1876 exempts mediations conducted by a county alternative dispute resolution system; a volunteer advocate appointed under a program authorized by Section 107.031; and attorneys and guardians ad litem, amicus attorneys, or mediators appointed by a county domestic relations office. The bill requires a court annually to post each such list at the courthouse of the county in which the court is located and on any website of the court. SB1876 repeals Section 74.098, Government Code.

➤ Court Reporting Duties, SB1369

SB1369 amends the Government Code to require the clerk of each court in Texas to prepare a report on court appointments for attorneys ad litem, guardians ad litem, guardians, mediators, or competency evaluators for each case before the court in the preceding month, including that no appointment was made in the preceding month. Each report must include the name of each person appointed by the court for a case in that month, the name of the judge and the date of the order approving compensation to be paid to a person appointed for a case in that month, the number and style of each case in which a person was appointed for that month, the number of cases for which each person was appointed by the court in that month, the total amount of compensation, and if, the total amount of compensation paid to a person appointed to serve for one appointed case in that month exceeds \$1,000.00, any information related to the case that is available to the court on the number of hours billed to the court for the work performed by the person or the person's employees, including paralegals, and the billed expenses.

## **Independent Ombudsman for Children and Youth in Foster Care**

➤ Ombudsman, SB830

SB830 amends Government Code Chapter 531 by adding Subchapter Y to require the executive commissioner of the Health and Human Services Commission to appoint an ombudsman for children and youth in foster care. The ombudsman will serve at the will of the executive commissioner and will be administratively attached to HHSC, not DFPS. The bill requires the executive commissioner to assign one full-time employee of DFPS to serve as the ombudsman, and subject to the appropriation of money, to employ staff to assist the ombudsman in performing the ombudsman's duties. The bill specifies that the ombudsman serves as a neutral party in assisting children and youth in DFPS conservatorship with complaints regarding issues within the authority of DFPS *or another health and human services agency*.

SB830 requires the ombudsman to develop and implement statewide procedures to receive complaints from children and youth in DFPS conservatorship, to review complaints filed with the ombudsman and take appropriate action, to provide any necessary assistance to children and youth in DFPS conservatorship in making complaints and reporting allegations of abuse or neglect to DFPS, to maintain the confidentiality of certain specified communications and records, and to

ensure that DFPS and a child or youth in DFPS conservatorship who files a complaint with the ombudsman are informed of the results of the ombudsman's investigation of the complaint.

The bill also requires the ombudsman to collaborate with DFPS to develop and implement an annual outreach plan to promote awareness of the ombudsman among children and youth in DFPS conservatorship. The bill requires DFPS and each health and human services agency to provide the ombudsman access to DFPS or agency records that relate to a complaint the ombudsman is reviewing or investigating, and establishes that the records of the ombudsman are confidential, and that disclosure of confidential information to the ombudsman does not constitute a waiver of confidentiality.

SB830 prohibits DFPS or another health and human services agency from retaliating against a child or youth in DFPS conservatorship who in good faith makes a complaint to the ombudsman or against any person who cooperates with the ombudsman in an investigation. DFPS is required 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 DFPS conservatorship because of a complaint made to the ombudsman. The bill requires the executive commissioner of HHSC to adopt rules requiring all residential child-care facilities in which children and youth in DFPS conservatorship 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.

## **Senate Bill 206 and 219 Section by Section Summary**

### **Senate Bill 206**

Section 1 amends TEA Code Section 25.001 to clarify that a foster student who was enrolled in a public school before entering foster care and who is placed in a foster placement outside the attendance area for his/her school, is entitled to continue to attend the school the student was attending when removed. Also, that if child does not or cannot attend his/her original school, can attend a school in the school district.

Section 2 amends TEA Code Section 25.087 to clarify that children and youth in the Department's conservatorship are excused from attending school for any reason that is required by the child's service plan.

Section 3 amends TEA Code Section 54.366 to provide that any child who exits the Department's conservatorship, and is returned to the child's parents (even a parent whose parental rights were previously terminated) may be exempt from paying tuition and fees if the Department determines that the child is eligible under Department rules that are yet to be developed. HHSC is required to develop a rule setting out factors that would determine eligibility in consultation with the Department and THECB.

Section 6 amends Code Section 58.0053 to require a juvenile probation officer to disclose to the Department the terms of probation for a child in the Department's conservatorship. The Department and TJJJD will enter into an MOU to adopt procedures for handling the sharing of this information.

Section 8 amends Section 103.001(b) to clarify that a suit for adoption can be filed in the county where the child resides or in the county where the petitioners reside regardless of whether there's another court of continuing exclusive jurisdiction under Chapter 155. The CEJ court is not required to transfer the SAPCR to the court in which the adoption is filed.

Section 9 amends Section 104.007 to allow testimony of a professional be provided by videoconference if the parties agree or on the court's own motion, for good cause.

Section 10 amends Section 155.001(c) to state that a petition to adopt filed under Texas Family Code Section 103.001(b) is an exception to the continuing, exclusive jurisdiction acquired by another court.

Section 11 amends Section 161.001(b) to allow termination of the parent-child relationship on the grounds that the person has been convicted or placed on community supervision for being criminally responsible for the death or serious injury of a child under the law of another jurisdiction that contains elements that are substantially similar to the elements of an offense under one of Texas' penal code sections.

Section 13 renames Section 162.006 to Access to Health, Social, Educational, and Genetic History Report; Retention and eliminates "Right to Examine Records"

Section 14 amends Section 162.007 to allow the Department to modify the form and contents of the HSEGH report, in accordance with Department rule, for a child as DFPS determines appropriate based on the relationship between the prospective adoptive parents and the child or the child's birth family.

Section 15 re-designates Section 162.006 as Section 162.0062 and provides that if prospective adoptive parents have reviewed the HSEGH and want to proceed with the adoption, they can request to review the case records and other information relating to the history of the child, and requires the Department to provide the child's case record upon request.

Section 19 adds language to Section 261.302 specifying that an interview with a child in which allegations of the current investigation are discussed must be audiotaped or videotaped unless one of a list of circumstances exists.

Section 21 amends Section 261.309(b) and (d) and provides a good-cause exception for DFPS to extend the required 45-day deadline for completing an administrative review of the findings of a child abuse or neglect investigation of a person alleged to have abused or neglected a child. The bill removes the previous exception for extending the deadline because of a court proceeding or ongoing criminal investigation and instead specifies that such a proceeding or

criminal investigation relating to the alleged abuse or neglect being investigated would allow DFPS to postpone the review until the proceeding is completed.

Section 22 amends Section 261.406(b) related to investigations in schools and now requires the Department to send a copy of the completed investigation report to the TEA and to other entities upon request only.

Section 23 amends Section 262.1095 to allow the Department to notify an adult relative of the child's alleged father if the Department has a reasonable basis to believe that the alleged father is likely to be the biological father.

Section 24 amends Section 262.114 to eliminate "individual" and replace with "caregiver." It also requires the Department to complete a background and criminal history check and conduct a preliminary evaluation of the relative or other designated caregiver's home before placing the child. The Department may still place the child with the caregiver before conducting the home study, but must initiate the home study within 48 hours of placement, and must complete the home study as soon as possible unless otherwise ordered by a court.

Section 25 amends Section 262.115 to allow the Department to provide the parent visitation within five days (as opposed to three days) after the date the Department is named the Temporary Managing Conservator of the child.

Section 26 amends Section 262.2015 to specify that if another child of a parent is the victim of serious bodily injury or sexual assault inflicted by the parent or with the parent's consent, it would indicate aggravated circumstances under which the court may waive the requirements for a service plan and to make reasonable efforts to return a child to the parent. It also adds to the list of aggravated circumstances that the parent is required to register with a sex offender registry.

Section 27 adds Section 263.0045 to allow a foster parent to home school a child in their care unless a court limits based on child's best interest or the Department determines that federal law requires another school setting.

Section 28 adds Section 263.0021 and sets out requirements regarding notification by DFPS to various parties involved in conservatorship cases. SB206 sets out definitions related to these notifications and specifies that these notification requirements are in addition to other notice requirements provided by current law, such as Section 264.107 related to the placement of children and notice to attorneys, guardians, and courts in making placement decisions or the inability to find an appropriate placement for a child. SB206 repeals certain existing requirements related to notifications, but recodifies these requirements in Section 263.0021. New Section 263.0021 which requires DFPS to provide notice to the same list of persons who were entitled to notice under current Section 263.301: DFPS, foster parent, pre-adoptive parent, relative caregiver, director or designee of group home or GRO where child resides, each parent of the child, the managing conservator or guardian of the child, an attorney ad litem, guardian ad litem or volunteer advocate who has not been dismissed by a final order, the child if the child is 10 years or older or the court determines it is appropriate for a child younger than 10 to receive notice,

and any other person or agency named by the court to have an interest in the child's welfare. SB206 sets out various methods by which the required notice can be given, rather than the current requirement that all notice be given as provided in Rule 21a, Texas Rules of Civil Procedure, and includes via a temporary order following the Adversary Hearing or any statutory hearing under Chapter 263, in open court, or in any manner that would provide actual notice to a person entitled to notice. SB206 adds language requiring the licensed administrator of a child placing agency or that person's designee be provided at least 10 days' notice of a permanency hearing following a final order, and adds language requiring the court review DFPS or other agency's efforts at attempting to locate all necessary persons and requesting service of citation and assistance of a parent in providing information to locate an absent parent. SB206 repeals provisions related to notice of placement review hearings and contains conforming changes to reflect the re-designation of these notice requirement statutes.

Section 29 amends Section 263.004 to clarify that the Department must include updated information related to education decision-making in the permanency progress reports filed under Sections 263.303 and/or 263.502.

Section 30 amends Section 263.009 and requires the Department to hold permanency planning meetings in accordance with a schedule adopted by the rule. SB206 repealed the prescriptive provisions that were enacted in the 83rd Session.

Section 31 amends Section 263.101, which clarifies that the Department is not required to file a Service plan if Section 262.2015 is in play (aggravated circumstances).

Section 32 amends Section 263.102 to clarify that the Family Plan of Services must include a primary and at least one secondary or alternative permanency goal.

Section 34 amends Section 263.303 to establish that the information required in the Permanency Progress Report that is required at each Permanency Review Hearing held prior to the Final Order must contain information necessary for the court to conduct a hearing and make findings and determinations required by Section 263.306 as well as information on significant events, and any additional information the Department determines is appropriate or that is requested by the court and relevant to the court's findings and determinations under section 263.306.

Section 35 amends Section 263.306 to rename the section "Permanency Hearings Before Final Order" to distinguish from the new title for "Permanency Hearings After Final Order" under Section 263.502. Note that Section 263.306 was repealed by SB206, and it is unclear where the changes made by Section 35 of SB206 will be placed by the Texas Legislative Council.

Section 36 amends Section 263.306 in that it repeals Sections 263.306(a) and (b) and sets out the courts duties and required findings related to Permanency Hearings Prior to Final Order in new 263.306(a-1). This amended section basically recodifies the court report contents that were formerly in Section 263.303 (amended by SB206 Section 34).

Section 37 amends Section 263.401 to rename the section "Dismissal After One Year; New Trials; Extension.

Section 38 amends Section 263.401 to clarify that when a court grants a motion for new trial or a mistrial, or the case is remanded to the trial court by an appellate court, the trial court must retain the suit on the docket and render an order that schedules a new dismissal date. The new dismissal date cannot be later than the 180th day after which the motion for the new trial or mistrial is granted or the date on which the appellate court remanded the case. The court order must set a new trial date, and render orders for the safety and welfare of the child.

Section 39 amends Section 263.404 to eliminate language that requires the court to consider whether a child has special medical or behavioral needs that make adoption unlikely BEFORE the court enters an order for PMC without termination. That is no longer a consideration, but the amendment also adds that the court must consider whether the child as "continuously expressed a strong desire against being adopted."

Section 40 amends Subchapter F to rename the Subchapter "Permanency Hearings After Final Order."

Section 41 amends Section 263.501 to rename the section "Permanency Hearing After Final Order."

Section 42 amends Section 263.501 to remove all instances of "placement" and replaces with "permanency". Also, deletes "date the child is adopted or the child becomes an adult" with "department is no longer the child's managing conservator" in relation to the frequency with which the court must conduct review hearings.

Section 43 amends Section 263.502 to rename the section "Permanency Progress Report After Final Order."

Section 44 amends Section 263.502 to establish that the information required in the Permanency Progress Report After Final Order that is required at each hearing must contain information necessary for the court to conduct a hearing and make findings and determinations required by new Section 263.5031 as well as information on significant events, and any additional information the Department determines is appropriate or that is requested by the court and relevant to the court's findings and determinations under new Section 263.5031.

Section 45 adds Section 263.5031 and sets out the courts duties and required findings related to Permanency Hearings Prior to Final Order. This amended section basically recodifies the court report contents that were formerly in Section 263.503, which has been repealed.

Section 46 amends Section 264.002 to read as follows "Specific Appropriation Required" and eliminates "Duties of Department."

Section 47 amends Section 264.002 to prohibit the Department from spending state funds to accomplish purposes of the Subtitle (as opposed to the Chapter) unless funds have been specifically appropriated for those purposes.

Section 48 adds Sections 264.017 and 264.018. Section 264.017 requires the department to prepare and disseminate a report of statistics by county relating to key performance measures and particular data elements.

Section 48 also adds Section 264.018 and establishes new notification requirements. SB206 requires DFPS to make reasonable efforts to notify a parent of a child in DFPS managing conservatorship within 24 hours regarding certain significant events set out in SB206; to provide notice to certain parties listed in SB206 within 48 hours of a change in residential childcare facility for such a child; to provide notice of a significant event affecting a child in conservatorship to parties listed in SB206 as soon as possible but not later than the 10th day after the date DFPS becomes aware of the event, and that for purposes of notification of significant events that occur within the 10-day notice period prior to a hearing, DFPS is required to provide notice of the event at the hearing. SB 206 also sets out conditions under which DFPS is not required to provide notice to a parent of a child in DFPS conservatorship, and also provides that DFPS is not required to provide notice of a significant event to parties specified in SB206 if that agency or individual is required under contract or other agreement to provide notice of the event to DFPS. SB206 requires a person entitled to notice from DFPS to provide current contact information, and requires the person to update the contact information as soon as possible after a change. SB206 provides that DFPS is not required to provide notice to a person who fails to provide contact information, and allows DFPS to rely on the most recently provided contact information for providing notice. SB206 requires a residential child-care facility contracting with DFPS for 24-hour care to notify DFPS, in the time provided by the contract, of a significant event for a child in DFPS conservatorship and residing in that facility. SB206 also requires the executive commissioner of HHSC to adopt rules necessary to implement the notification requirements using a negotiated rulemaking process. SB206 also requires the Texas Juvenile Justice Department to provide notice to DFPS and other specified parties of a change in a child's medical condition under these notification requirements.

Section 49 amends Section 264.101 regarding payment for a child in a residential facility or comparable facility in another state and the Department has been named the child's conservator or has the duty of care, control, and custody after taking possession in an emergency without a prior court order as authorized by Subtitle E, Protection of the Child.

Section 50 amends Section 264.107 and requires that DFPS use an application or assessment developed with interested parties for placement of children in contracted residential care. The bill requires DFPS to develop this application or assessment no later than December 1, 2016, subject to the appropriation of funds, and requiring DFPS to use the Health and Human Services Commission's (HHSC's) standard application until such time.

Section 51 amends Section 264.1075 to remove detail regarding the assessment of children for any developmental or intellectual disability as soon as possible after a child comes into foster care by eliminating a requirement that the HHSC establish procedures for DFPS to use in making an assessment and removing specific detail regarding who may provide or participate in the screening.

Section 52 amends Section 264.1085 to require DFPS or licensed child-placing agencies making adoptive or foster placements to comply with the federal Multiethnic Placement Act of 1994. The bill repeals existing state statutes regarding the use of race or ethnicity in making adoptive or foster placement decisions.

Section 53 amends Section 264.110 to change the name to "Prospective Foster or Adoptive Parent Statement."

Section 54 amends Section 264.110 changes terminology from "person under this section" and "person" to "foster or adoptive parent."

Section 55 amends Section 264.121 by amending Subsection (e) and adding Subsection (e-2) to clarify that when the Department provides the youth with certain documents before they exit care, they provide a copy and a certified copy of the document or the original, as applicable.

Section 56 transfers contents of current Section 264.014 to new Section 264.121 regarding information and documents the Department must deliver to each youth who is discharged from foster care, and is 18 years of age or has ad disabilities of minority removed.

Section 57 adds Section 264.126 to authorize Foster Care Redesign and governs the implementation of the redesign.

Section 58 amends Section 264.207 to change the name to "Home Study Required Before Adoption."

Section 59 amends Section 264.207 to require the Department to complete a home study before an applicant is approved for adoption.

Section 61 amends Chapter 265 to add Subchapter A: Prevention and Early Intervention Services.

Section 62 adds Section 265.005 to establish a strategic plan for prevention and early intervention services and specifies what the plan must accomplish.

Section 63 transfers HRC Chapter 40 to Chapter 265, and consolidates certain statutes governing DFPS' prevention and early intervention programs by merging certain sections from the Human Resources Code and parts of the Family Code into the chapter of the Family Code for prevention and early intervention. The bill repeals separate authority for DFPS to administer a statewide education program designed to prevent infant mortality.

Section 64 transfers HRC Section 40.0561 to Section 265.057 and provides that the Department must award community youth development grants to communities identified by incidence of crime, giving priority to the areas of the state in which there is a high incidence of juvenile crime.

Section 65 amends Section 266.004 by updating reference to the Notice provisions newly codified at Section 263.0021. It also allows the Department to consent to health care services ordered or prescribed by a provider regardless of whether the services are also provided by STAR Health (the HMO).

Section 66 amends Section 266.0041 to update reference to new Section 264.018.

Section 67 amends Section 266.010 to update reference to new Section 263.5031.

Section 68 amends Govt Code Section 411.114 and changes the purposes for which DFPS may obtain criminal history record information as it relates to a person for whom DFPS determines the

information is needed to ensure the safety or welfare of a child, elderly person, or person with a disability. The bill eliminates a specific list of parties for whom DFPS is authorized to obtain criminal history information. The bill specifies that DFPS may release criminal history information to a person or business entity who uses volunteer services of a person or employs a person who is the subject of the criminal history record if the release is related to the purposes for which DFPS obtained the record.

Sections 69 through 85 amend the Human Resources Code.

Section 86 lists all repeals, and are included at the end of this report.

Section 87 directs the Executive Commissioner of the HHSC to adopt necessary rules for implementation of SB206.

Section 88 requires the Department to study whether authorization agreements under Chapter 34 of the should be expanded to include agreements between a parent of a child and a person who is unrelated to the child, and make recommendations in this regard no later than December 31, 2016.

Section 89 requires the Department to seek public input for the initial report required by new Section 264.017, which requires the Department to prepare and disseminate a report of statistics by county relating to key performance measures and particular data elements as set out in new Sections 264.017(b)(1)-(13), (c), (d), and (e).

Section 90 requires the Department to adopt an initial strategic plan as required by new Section 265.005 for prevention and early intervention services and specifies what the plan must accomplish.

Section 91 speaks to violations that occur as of the date of the Act.

Section 92 sets out the effective date of the Act (SB206).

## **Senate Bill 219**

SB219 amends Family Code provisions relating to juvenile justice proceedings concerning children with mental illness or intellectual disability to reflect the transfer of the powers and duties of the former Texas Department of Mental Health and Mental Retardation to the Department of State Health Services and the Department of Aging and Disability Services. The bill provides rulemaking procedures for the executive commissioner of the Health and Human Services Commission and the Department of Family and Protective Services and amends statutory provisions relating to the investigation of reports of child abuse or neglect and procedures in certain suits to protect the health and safety of a child to conform to certain bill drafting conventions and to more accurately reflect current agency practices as directed by previously enacted legislation.

More specifically, it added "the Department of Family and Protective Services" and eliminated the phrase "an authorized agency" and "Regulatory" as related to the agency's former name.

## Repeals

The following provisions are repealed by SB206 and SB219:

Section 162.302, Family Code – Adoption Assistance Program

Section 162.303, Family Code – Dissemination of Information

Sections 162.304(c), (d), and (e), Family Code – Financial and Medical Assistance

Section 162.308, Family Code – Race or Ethnicity

Section 162.309, Family Code – Advisory Committee on Promoting Adoption of Minority Children

Section 261.004, Family Code – Statistics of Abuse and Neglect of Children

Section 261.203(d), Family Code – Information Relating to Child Fatality

Section 261.3012, Family Code – Completion of Paperwork

Sections 261.308(b) and (c), Family Code – Submission of Investigation Report

Section 261.310(c), Family Code – Investigation Standards

Section 261.3101, Family Code – Forensic Investigation Support

Section 262.1041, Family Code – Release of Child by Law Enforcement or Juvenile Probation Officer

Section 262.105(b), Family Code – Filing Petition After Taking Possession of Child in Emergency

Section 263.008(a)(2), Family Code – Foster Children’s Bill of Rights

Sections 263.009(c), (d), (e), and (f), Family Code – Permanency Planning Meetings

Sections 263.102(c) and (g), Family Code – Service Plan; Contents

Section 263.306(a), Family Code – Permanency Hearings

Section 263.306(b), Family Code – Permanency Hearings

Sections 263.501(d) and (e), Family Code – Placement Review After Final Order

Sections 263.502(b), (c), and (d), Family Code – Placement Review Report

Section 263.503, Family Code – Placement Review Hearings; Procedure

Sections 264.002(a), (b), (c), and (d), Family Code – Duties of Department

Section 264.012, Family Code – Burial Expenses for Child in Foster Care

Section 264.016, Family Code – Credit Report for Foster Child

Sections 264.107(a), (c), and (d), Family Code – Placement of Children

Section 264.1071, Family Code – Placement for Children Under age Two

Section 264.108, Family Code – Race or Ethnicity

Sections 264.110(a), (b), (c), (e), (f), (g), and (h), Family Code – Adoptive parent Registry

Section 264.111, Family Code – Adoption and Substitute Information

Section 264.117, Family Code – Notice to Attorney Ad Litem

Section 264.119, Family Code – Notice of Change of Placement

Section 264.207(b), Family Code – Department of Planning and Accounting

Section 264.208, Family Code – Location of Parents

Section 264.303, Family Code – Commencement of Civil Action for Determination of At-Risk Children

Section 264.304, Family Code – Hearing; Determination of At-Risk Child

Section 264.305, Family Code – Court Order for Services

Section 264.306, Family Code – Sanctions