

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Government Code
Chapter 546
10/31/22

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2 WITH DISABILITIES AND ELDERLY INDIVIDUALS
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10 CHAPTER 546. LONG-TERM CARE AND SUPPORT OPTIONS FOR INDIVIDUALS
11 WITH DISABILITIES AND ELDERLY INDIVIDUALS

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Revised Law

14 Sec. 546.0001. DEFINITIONS. In this chapter:

15 (1) "ICF-IID" and "local intellectual and
16 developmental disability authority" have the meanings assigned by
17 Section 531.002, Health and Safety Code.

18 (2) "Recipient" means a Medicaid recipient. (New.)

19 Revisor's Note

20 The definitions of "ICF-IID," "local
21 intellectual and developmental disability authority,"
22 and "recipient" are added to the revised law for
23 drafting convenience and to eliminate frequent,
24 unnecessary repetition of the substance of the
25 definitions. Although the added definitions are
26 mostly defined in the same manner throughout the law
27 revised in this chapter, in some instances the law
28 revised in this chapter does not define the terms.
29 However, because it is clear from the context that the
30 added definitions have the same meaning in those
31 instances, applying the defined terms to the revision
32 of that law does not result in a substantive change.

33 Revised Law

34 Sec. 546.0002. LONG-TERM CARE PLAN; COORDINATION OF

1 SERVICES. (a) In this section, "long-term care" means the
2 provision of health care, personal care, and assistance related to
3 health and social services over a sustained period to individuals
4 of all ages and their families, regardless of the setting in which
5 the care is provided.

6 (b) In conjunction with appropriate state agencies, the
7 executive commissioner shall develop a plan for access to
8 individualized long-term care services for individuals with
9 functional limitations or medical needs and their families that
10 assists those individuals in achieving and maintaining the greatest
11 possible independence, autonomy, and quality of life.

12 (c) The guiding principles and goals of the plan that focus
13 on the individual and the individual's family must:

14 (1) recognize that it is the policy of this state that:

15 (A) children should grow up in families; and

16 (B) individuals with disabilities and elderly
17 individuals should reside in the setting of their choice; and

18 (2) ensure that an individual needing assistance and
19 the individual's family will have:

20 (A) the maximum possible control over their
21 services;

22 (B) a choice of a broad, comprehensive array of
23 services designed to meet individual needs; and

24 (C) the easiest possible access to appropriate
25 care and support, regardless of the area of this state in which they
26 reside.

27 (d) The guiding principles and goals of the plan that focus
28 on services and delivery of those services by the state must:

29 (1) emphasize the development of home-based and
30 community-based services and housing alternatives to complement
31 the long-term care services already in existence;

32 (2) ensure that the services will be of the highest
33 possible quality, with a minimum amount of regulation, structure,
34 and complexity at the service level;

1 (3) recognize that maximum independence and autonomy
2 represent major goals, and with those comes a certain degree of
3 risk;

4 (4) maximize resources to the greatest extent
5 possible, with the consumer receiving only the services that the
6 consumer prefers and that are indicated by a functional needs
7 assessment; and

8 (5) structure the service delivery system to support
9 these goals, ensuring that any necessary system complexity is at
10 the administrative level rather than at the client level.

11 (e) The commission shall coordinate state services to
12 ensure that:

13 (1) the roles and responsibilities of agencies
14 providing long-term care are clarified; and

15 (2) duplication of services and resources is
16 minimized. (Gov. Code, Sec. 531.043.)

17 Source Law

18 Sec. 531.043. LONG-TERM CARE VISION. (a) In
19 conjunction with the appropriate state agencies, the
20 executive commissioner shall develop a plan for access
21 to individualized long-term care services for persons
22 with functional limitations or medical needs and their
23 families that assists those persons in achieving and
24 maintaining the greatest possible independence,
25 autonomy, and quality of life.

26 (b) The guiding principles and goals of the plan
27 focusing on the individual and the individual's family
28 must:

29 (1) recognize that it is the policy of this
30 state that children should grow up in families and that
31 persons with disabilities and elderly persons should
32 live in the setting of their choice; and

33 (2) ensure that persons needing assistance
34 and their families will have:

35 (A) the maximum possible control over
36 their services;

37 (B) a choice of a broad,
38 comprehensive array of services designed to meet
39 individual needs; and

40 (C) the easiest possible access to
41 appropriate care and support, regardless of the area
42 of the state in which they live.

43 (c) The guiding principles and goals of the
44 long-term care plan focusing on services and delivery
45 of those services by the state must:

46 (1) emphasize the development of
47 home-based and community-based services and housing
48 alternatives to complement the long-term care services
49 already in existence;

50 (2) ensure that services will be of the

1 highest possible quality, with a minimum amount of
2 regulation, structure, and complexity at the service
3 level;

4 (3) recognize that maximum independence
5 and autonomy represent major goals, and with those
6 comes a certain degree of risk;

7 (4) maximize resources to the greatest
8 extent possible, with the consumer receiving only the
9 services that the consumer prefers and that are
10 indicated by a functional assessment of need; and

11 (5) structure the service delivery system
12 to support these goals, ensuring that any necessary
13 complexity of the system is at the administrative
14 level rather than at the client level.

15 (d) The commission shall coordinate state
16 services to ensure that:

17 (1) the roles and responsibilities of the
18 agencies providing long-term care are clarified; and

19 (2) duplication of services and resources
20 is minimized.

21 (e) In this section, "long-term care" means the
22 provision of health care, personal care, and
23 assistance related to health and social services over
24 a sustained period to people of all ages and their
25 families, regardless of the setting in which the care
26 is given.

27 Revisor's Note

28 Section 531.043(a), Government Code, refers to
29 individualized long-term care services for "persons"
30 with functional limitations or medical needs.
31 Throughout this chapter, the revised law substitutes
32 "individual" for "person" for clarity and consistency
33 where the context makes clear that the referenced
34 person is a natural person and not an entity described
35 by the definition of "person" provided by Section
36 311.005, Government Code (Code Construction Act),
37 applicable to this code.

38 Revised Law

39 Sec. 546.0003. EMPLOYMENT-FIRST POLICY. (a) It is the
40 policy of this state that earning a living wage through competitive
41 employment in the general workforce is the priority and preferred
42 outcome for working-age individuals with disabilities who receive
43 public benefits.

44 (b) The commission, the Texas Education Agency, and the
45 Texas Workforce Commission shall jointly adopt and implement an
46 employment-first policy in accordance with the state's policy under
47 Subsection (a). The policy must:

1 (1) affirm that an individual with a disability is
2 able to meet the same employment standards as an individual who does
3 not have a disability;

4 (2) ensure that all working-age individuals with
5 disabilities, including young adults, are offered factual
6 information regarding employment as an individual with a
7 disability, including the relationship between an individual's
8 earned income and the individual's public benefits;

9 (3) ensure that individuals with disabilities are
10 given the opportunity to understand and explore options for
11 education or training, including postsecondary, graduate, and
12 postgraduate education, vocational or technical training, or other
13 training, as pathways to employment;

14 (4) promote the availability and accessibility of
15 individualized training designed to prepare an individual with a
16 disability for the individual's preferred employment;

17 (5) promote partnerships with employers to overcome
18 barriers in meeting workforce needs with the creative use of
19 technology and innovation;

20 (6) ensure that staff of public schools, vocational
21 service programs, and community providers are supported and trained
22 to assist in achieving the goal of competitive employment for all
23 individuals with disabilities; and

24 (7) ensure that competitive employment, while being
25 the priority and preferred outcome, is not required of an
26 individual with a disability to secure or maintain public benefits
27 for which the individual is otherwise eligible. (Gov. Code, Sec.
28 531.02447.)

29 Source Law

30 Sec. 531.02447. EMPLOYMENT-FIRST POLICY. (a)
31 It is the policy of the state that earning a living
32 wage through competitive employment in the general
33 workforce is the priority and preferred outcome for
34 working-age individuals with disabilities who receive
35 public benefits.

36 (b) The commission, the Texas Education Agency,
37 and the Texas Workforce Commission shall jointly adopt
38 and implement an employment-first policy in accordance

1 with the state's policy under Subsection (a). The
2 policy must:

3 (1) affirm that an individual with a
4 disability is able to meet the same employment
5 standards as an individual who does not have a
6 disability;

7 (2) ensure that all working-age
8 individuals with disabilities, including young
9 adults, are offered factual information regarding
10 employment as an individual with a disability,
11 including the relationship between an individual's
12 earned income and the individual's public benefits;

13 (3) ensure that individuals with
14 disabilities are given the opportunity to understand
15 and explore options for education or training,
16 including postsecondary, graduate, and postgraduate
17 education, vocational or technical training, or other
18 training, as pathways to employment;

19 (4) promote the availability and
20 accessibility of individualized training designed to
21 prepare an individual with a disability for the
22 individual's preferred employment;

23 (5) promote partnerships with employers to
24 overcome barriers to meeting workforce needs with the
25 creative use of technology and innovation;

26 (6) ensure that the staff of public
27 schools, vocational service programs, and community
28 providers are trained and supported to assist in
29 achieving the goal of competitive employment for all
30 individuals with disabilities; and

31 (7) ensure that competitive employment,
32 while being the priority and preferred outcome, is not
33 required of an individual with a disability to secure
34 or maintain public benefits for which the individual
35 is otherwise eligible.

36 Revised Law

37 Sec. 546.0004. LONG-TERM CARE INSURANCE AWARENESS AND
38 EDUCATION CAMPAIGN. (a) The commission, in consultation with the
39 Texas Department of Insurance, shall develop and implement a public
40 awareness and education campaign designed to:

41 (1) educate the public on:

42 (A) the cost of long-term care, including the
43 limits of Medicaid eligibility and the limits of Medicare benefits;
44 and

45 (B) the value and availability of long-term care
46 insurance; and

47 (2) encourage individuals to obtain long-term care
48 insurance.

49 (b) The Texas Department of Insurance shall cooperate with
50 and assist the commission in implementing the campaign.

51 (c) The commission may coordinate the implementation of the

1 campaign with any other state outreach campaign or activity
2 relating to long-term care issues. (Gov. Code, Sec. 531.0841.)

3 Source Law

4 Sec. 531.0841. LONG-TERM CARE INSURANCE
5 AWARENESS AND EDUCATION CAMPAIGN. (a) The
6 commission, in consultation with the Department of
7 Aging and Disability Services and the Texas Department
8 of Insurance, shall develop and implement a public
9 awareness and education campaign designed to:

10 (1) educate the public on the cost of
11 long-term care, including the limits of Medicaid
12 eligibility and the limits of Medicare benefits;

13 (2) educate the public on the value and
14 availability of long-term care insurance; and

15 (3) encourage individuals to obtain
16 long-term care insurance.

17 (b) The Department of Aging and Disability
18 Services and the Texas Department of Insurance shall
19 cooperate with and assist the commission in
20 implementing the campaign under this section.

21 (c) The commission may coordinate the
22 implementation of the campaign under this section with
23 any other state outreach campaign or activity relating
24 to long-term care issues.

25 Revisor's Note

26 Sections 531.0841(a) and (b), Government Code,
27 require the Health and Human Services Commission, in
28 consultation with the "Department of Aging and
29 Disability Services," to develop and implement a
30 public awareness and education campaign. The
31 Department of Aging and Disability Services was
32 abolished effective September 1, 2017, in accordance
33 with Section 531.0202(b), Government Code, which is
34 executed law that expires September 1, 2023, and the
35 powers and duties of that department were transferred
36 to the commission. Section 531.0011, Government Code,
37 which is revised in this subtitle as Section _____,
38 provides that a reference to the department means the
39 commission or the appropriate division of the
40 commission. Because the department no longer exists
41 and the commission has assumed the powers and duties of
42 the department, throughout this chapter, the revised
43 law omits references to the Department of Aging and
44 Disability Services.

1 SUBCHAPTER B. CARE SETTINGS AND SERVICE AND SUPPORT OPTIONS

2 Revised Law

3 Sec. 546.0051. DEFINITIONS. In this subchapter:

4 (1) "General residential operation" has the meaning
5 assigned by Section 42.002, Human Resources Code.

6 (2) "Legally authorized representative" has the
7 meaning assigned by Section 241.151, Health and Safety Code. (New.)

8 Revisor's Note

9 The revised law adds subchapter-wide definitions
10 of "general residential operation" and "legally
11 authorized representative" for drafting convenience
12 and to avoid frequent, unnecessary repetition of the
13 substance of the definitions.

14 Revised Law

15 Sec. 546.0052. COMPREHENSIVE PLAN FOR ENSURING APPROPRIATE
16 CARE SETTING FOR INDIVIDUALS WITH DISABILITIES; BIENNIAL REPORT.

17 (a) The commission and appropriate health and human services
18 agencies shall implement a comprehensive, effectively working plan
19 that provides a system of services and support to foster
20 independence and productivity and provide meaningful opportunities
21 for an individual with a disability to reside in the most
22 appropriate care setting, considering:

23 (1) the individual's physical, medical, and behavioral
24 needs;

25 (2) the least restrictive care setting in which the
26 individual can reside;

27 (3) the individual's choice of care settings in which
28 to reside;

29 (4) the availability of state resources; and

30 (5) the availability of state programs for which the
31 individual qualifies that can assist the individual.

32 (b) The plan must require appropriate health and human
33 services agencies to:

34 (1) provide to an individual with a disability

1 residing in an institution or another individual as required by
2 Sections 546.0053 and 546.0054 information regarding care and
3 support options available to the individual with a disability,
4 including community-based services appropriate to that
5 individual's needs;

6 (2) recognize that certain individuals with
7 disabilities are represented by a legally authorized
8 representative, whom the agencies must include in any
9 decision-making facilitated by the plan's implementation;

10 (3) facilitate a timely and appropriate transfer of an
11 individual with a disability from an institution to an appropriate
12 community setting if:

13 (A) the individual chooses to reside in the
14 community;

15 (B) the individual's treating professionals
16 determine the transfer is appropriate; and

17 (C) the transfer can be reasonably accommodated,
18 considering this state's available resources and the needs of other
19 individuals with disabilities; and

20 (4) develop strategies to prevent the unnecessary
21 placement in an institution of an individual with a disability who
22 is:

23 (A) residing in the community; and

24 (B) in imminent risk of requiring placement in an
25 institution because of a lack of community services.

26 (c) In implementing the plan, a health and human services
27 agency may not deny an eligible individual with a disability access
28 to an institution or remove an eligible individual with a
29 disability from an institution if the individual prefers the type
30 and degree of care provided in the institution and that care is
31 appropriate for the individual. A health and human services agency
32 may deny the individual with a disability access to an institution
33 or remove the individual from an institution to protect the
34 individual's health or safety.

1 (d) Subject to the availability of money, each appropriate
2 health and human services agency shall implement the strategies and
3 recommendations under the plan.

4 (e) To determine the appropriateness of transfers under
5 Subsection (b)(3) and develop the strategies described by
6 Subsection (b)(4), a health and human services agency shall presume
7 that a child residing in a general residential operation is
8 eligible for transfer to an appropriate community-based setting.

9 (f) To develop the strategies described by Subsection
10 (b)(4), an individual with a mental illness who is admitted to a
11 commission facility for inpatient mental health services three or
12 more times during a 180-day period is presumed to be in imminent
13 risk of requiring placement in an institution. The strategies must
14 be developed in a manner that presumes the individual's eligibility
15 for and the appropriateness of intensive community-based services
16 and support.

17 (g) Not later than December 1 of each even-numbered year,
18 the executive commissioner shall submit to the governor and the
19 legislature a report on the status of the implementation of the
20 plan. The report must include recommendations on any statutory or
21 other action necessary to implement the plan.

22 (h) This section does not create a cause of action. (Gov.
23 Code, Sec. 531.0244.)

24 Source Law

25 Sec. 531.0244. ENSURING APPROPRIATE CARE
26 SETTING FOR PERSONS WITH DISABILITIES. (a) The
27 commission and appropriate health and human services
28 agencies shall implement a comprehensive, effectively
29 working plan that provides a system of services and
30 support that fosters independence and productivity and
31 provides meaningful opportunities for a person with a
32 disability to live in the most appropriate care
33 setting, considering:

34 (1) the person's physical, medical, and
35 behavioral needs;

36 (2) the least restrictive care setting in
37 which the person can reside;

38 (3) the person's choice of care settings in
39 which to reside;

40 (4) the availability of state resources;
41 and

42 (5) the availability of state programs for
43 which the person qualifies that can assist the person.

1 (b) The comprehensive, effectively working plan
2 required by Subsection (a) must require appropriate
3 health and human services agencies to:

4 (1) provide to a person with a disability
5 living in an institution and to any other person as
6 required by Sections 531.042 and 531.02442 information
7 regarding care and support options available to the
8 person with a disability, including community-based
9 services appropriate to the needs of that person;

10 (2) recognize that certain persons with
11 disabilities are represented by legally authorized
12 representatives as defined by Section 241.151, Health
13 and Safety Code, whom the agencies must include in any
14 decision-making process facilitated by the plan's
15 implementation;

16 (3) facilitate a timely and appropriate
17 transfer of a person with a disability from an
18 institution to an appropriate setting in the community
19 if:

20 (A) the person chooses to live in the
21 community;

22 (B) the person's treating
23 professionals determine the transfer is appropriate;
24 and

25 (C) the transfer can be reasonably
26 accommodated, considering the state's available
27 resources and the needs of other persons with
28 disabilities; and

29 (4) develop strategies to prevent the
30 unnecessary placement in an institution of a person
31 with a disability who is living in the community but is
32 in imminent risk of requiring placement in an
33 institution because of a lack of community services.

34 (c) For purposes of developing the strategies
35 required by Subsection (b)(4), a person with a mental
36 illness who is admitted to a facility of the Department
37 of State Health Services for inpatient mental health
38 services three or more times during a 180-day period is
39 presumed to be in imminent risk of requiring placement
40 in an institution. The strategies must be developed in
41 a manner that presumes the person's eligibility for and
42 the appropriateness of intensive community-based
43 services and support.

44 (c-1) For purposes of determining the
45 appropriateness of transfers under Subsection (b)(3)
46 and developing the strategies required by Subsection
47 (b)(4), a health and human services agency shall
48 presume the eligibility of a child residing in a
49 general residential operation, as defined by Section
50 42.002, Human Resources Code, for transfer to an
51 appropriate community-based setting.

52 (d) In implementing the plan required by
53 Subsection (a), a health and human services agency may
54 not deny an eligible person with a disability access to
55 an institution or remove an eligible person with a
56 disability from an institution if the person prefers
57 the type and degree of care provided in the institution
58 and that care is appropriate for the person. A health
59 and human services agency may deny the person access to
60 an institution or remove the person from an
61 institution to protect the person's health or safety.

62 (e) Each appropriate health and human services
63 agency shall implement the strategies and
64 recommendations under the plan required by Subsection
65 (a) subject to the availability of funds.

66 (f) This section does not create a cause of
67 action.

68 (g) Not later than December 1 of each

1 even-numbered year, the executive commissioner shall
2 submit to the governor and the legislature a report on
3 the status of the implementation of the plan required
4 by Subsection (a). The report must include
5 recommendations on any statutory or other action
6 necessary to implement the plan.

7 Revisor's Note

8 (1) Sections 531.0244(b)(2) and (c-1),
9 Government Code, reference definitions for a "legally
10 authorized representative" and a "general residential
11 operation." Throughout this subchapter, the revised
12 law omits references to the definitions of those terms
13 because the references duplicate the subchapter-wide
14 definitions for the terms added to this subchapter in
15 Section 546.0051, which is applicable to the revised
16 law.

17 (2) Section 531.0244(c), Government Code,
18 refers to an individual with a mental illness who is
19 admitted to a facility of the "Department of State
20 Health Services." The powers and duties of that
21 department regarding state-operated institutions were
22 transferred to the Health and Human Services
23 Commission in accordance with Section 531.02011(2),
24 Government Code, which is executed law that expires
25 September 1, 2023. Therefore, throughout this chapter,
26 in instances relating to state-operated institutions,
27 the revised law substitutes the commission for the
28 Department of State Health Services.

29 (3) Section 531.0244(e), Government Code,
30 refers to the availability of "funds." Throughout
31 this chapter, the revised law substitutes "money" for
32 "funds" because, in context, the meaning is the same
33 and "money" is the more commonly used term.

34 Revised Law

35 Sec. 546.0053. INFORMATION AND ASSISTANCE REGARDING CARE
36 AND SUPPORT OPTIONS FOR INDIVIDUALS WITH DISABILITIES. (a) The
37 executive commissioner by rule shall require each health and human

1 services agency to provide to each patient or client of the agency
2 and to at least one family member of the patient or client, if
3 possible, information regarding all care and support options
4 available to the patient or client, including community-based
5 services appropriate to the patient's or client's needs, before the
6 agency allows the patient or client to be placed in a care setting,
7 including a nursing facility, an intermediate care facility for
8 individuals with an intellectual disability, or a general
9 residential operation for children with an intellectual disability
10 that is licensed by the commission, to receive care or services
11 provided by the agency or by a person under an agreement with the
12 agency.

13 (b) The rules must require each health and human services
14 agency to provide information about all long-term care and
15 long-term support options available to the patient or client,
16 including community-based options and options available through
17 another agency or a private provider. The information must be
18 provided in a manner designed to maximize the patient's or client's
19 understanding of all available options. If the patient or client
20 has a legally authorized representative, the information must also
21 be provided to that representative. If the patient or client is in
22 the conservatorship of a health and human services agency, the
23 information must be provided to the patient's or client's agency
24 caseworker and foster parents, if applicable.

25 (c) A health and human services agency that provides a
26 patient, client, or other individual with information regarding
27 care and support options available to the patient or client shall
28 assist the patient, client, or other individual in taking advantage
29 of an option selected by the patient, client, or other individual,
30 subject to the availability of money. If the selected option is not
31 immediately available for any reason, the agency shall provide
32 assistance in placing the patient or client on a waiting list for
33 that option. (Gov. Code, Sec. 531.042.)

1 Source Law

2 Sec. 531.042. INFORMATION AND ASSISTANCE
3 REGARDING CARE AND SUPPORT OPTIONS. (a) The executive
4 commissioner by rule shall require each health and
5 human services agency to provide to each patient or
6 client of the agency and to at least one family member
7 of the patient or client, if possible, information
8 regarding all care and support options available to
9 the patient or client, including community-based
10 services appropriate to the needs of the patient or
11 client, before the agency allows the patient or client
12 to be placed in a care setting, including a nursing
13 facility, intermediate care facility for individuals
14 with an intellectual disability, or general
15 residential operation for children with an
16 intellectual disability that is licensed by the
17 Department of Family and Protective Services, to
18 receive care or services provided by the agency or by a
19 person under an agreement with the agency.

20 (b) The rules must require each health and human
21 services agency to provide information about all
22 long-term care options and long-term support options
23 available to the patient or client, including
24 community-based options and options available through
25 another agency or a private provider. The information
26 must be provided in a manner designed to maximize the
27 patient's or client's understanding of all available
28 options. If the patient or client has a legally
29 authorized representative, as defined by Section
30 241.151, Health and Safety Code, the information must
31 also be provided to that representative. If the
32 patient or client is in the conservatorship of a health
33 and human services agency, the information must be
34 provided to the patient's or client's agency caseworker
35 and foster parents, if applicable.

36 (c) A health and human services agency that
37 provides a patient, client, or other person as
38 required by this section with information regarding
39 care and support options available to the patient or
40 client shall assist the patient, client, or other
41 person in taking advantage of an option selected by the
42 patient, client, or other person, subject to the
43 availability of funds. If the selected option is not
44 immediately available for any reason, the agency shall
45 provide assistance in placing the patient or client on
46 a waiting list for that option.

47 Revisor's Note

48 Section 531.042(a), Government Code, refers to a
49 general residential operation for children with an
50 intellectual disability that is licensed by the
51 "Department of Family and Protective Services." The
52 Department of Family and Protective Services'
53 regulatory functions, including regulatory functions
54 related to child care facilities, were transferred to
55 the Health and Human Services Commission in accordance
56 with Section 531.02011(3), Government Code, which is

1 executed law that expires September 1, 2023.
2 Therefore, throughout this chapter, in instances
3 relating to licensing of child care facilities, the
4 revised law substitutes the commission for the
5 Department of Family and Protective Services.

6 Revised Law

7 Sec. 546.0054. COMMUNITY LIVING OPTIONS INFORMATION
8 PROCESS FOR CERTAIN INDIVIDUALS WITH INTELLECTUAL DISABILITY. (a)
9 In this section, "institution" means:

10 (1) a residential care facility the commission
11 operates or maintains to provide 24-hour services, including
12 residential services, to individuals with an intellectual
13 disability; or

14 (2) an ICF-IID.

15 (b) In addition to providing information regarding care and
16 support options as required by Section 546.0053, the commission
17 shall implement a community living options information process in
18 each institution to inform individuals with an intellectual
19 disability who reside in the institution and the individuals'
20 legally authorized representatives of alternative community living
21 options.

22 (c) The commission shall:

23 (1) at least annually provide the information required
24 by Subsection (b) through the community living options information
25 process; and

26 (2) provide the information at any other time on
27 request by an individual with an intellectual disability who
28 resides in an institution or the individual's legally authorized
29 representative.

30 (d) If an individual with an intellectual disability
31 residing in an institution or the individual's legally authorized
32 representative indicates a desire to pursue an alternative
33 community living option after receiving the information provided
34 under this section, the commission shall refer the individual or

1 the individual's legally authorized representative to the local
2 intellectual and developmental disability authority. The local
3 authority shall place the individual:

4 (1) in an alternative community living option, subject
5 to the availability of money; or

6 (2) on a waiting list for those options if for any
7 reason the options are not available to the individual on or before
8 the 30th day after the date the individual or the individual's
9 legally authorized representative is referred to the local
10 authority.

11 (e) The commission shall document in the records of each
12 individual with an intellectual disability who resides in an
13 institution:

14 (1) the information provided to the individual or the
15 individual's legally authorized representative through the
16 community living options information process; and

17 (2) the results of that process. (Gov. Code, Secs.
18 531.02442(a)(1-a), (b), (c), (d), (e).)

19 Source Law

20 Sec. 531.02442. COMMUNITY LIVING OPTIONS
21 INFORMATION PROCESS FOR CERTAIN PERSONS WITH AN
22 INTELLECTUAL DISABILITY. (a) In this section:

23 (1-a) "Institution" means:

24 (A) a residential care facility
25 operated or maintained by the department to provide
26 24-hour services, including residential services, to
27 persons with an intellectual disability; or

28 (B) an ICF-IID, as defined by Section
29 531.002, Health and Safety Code.

30 (b) In addition to providing information
31 regarding care and support options as required by
32 Section 531.042, the department shall implement a
33 community living options information process in each
34 institution to inform persons with an intellectual
35 disability who reside in the institution and their
36 legally authorized representatives of alternative
37 community living options.

38 (c) The department shall provide the
39 information required by Subsection (b) through the
40 community living options information process at least
41 annually. The department shall also provide the
42 information at any other time on request by a person
43 with an intellectual disability who resides in an
44 institution or the person's legally authorized
45 representative.

46 (d) If a person with an intellectual disability

1 residing in an institution or the person's legally
2 authorized representative indicates a desire to pursue
3 an alternative community living option after receiving
4 the information provided under this section, the
5 department shall refer the person or the person's
6 legally authorized representative to the local
7 intellectual and developmental disability authority.
8 The local intellectual and developmental disability
9 authority shall place the person in an alternative
10 community living option, subject to the availability
11 of funds, or on a waiting list for those options if the
12 options are not available to the person for any reason
13 on or before the 30th day after the date the person or
14 the person's legally authorized representative is
15 referred to the local intellectual and developmental
16 disability authority.

17 (e) The department shall document in the records
18 of each person with an intellectual disability who
19 resides in an institution the information provided to
20 the person or the person's legally authorized
21 representative through the community living options
22 information process and the results of that process.

23 Revisor's Note

24 (1) Section 531.02442(a)(1), Government Code,
25 defines "department" as "the Department of Aging and
26 Disability Services." The revised law omits the
27 definition for the reason stated in the revisor's note
28 to Section 546.0004. The omitted law reads:

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

32 (2) Section 531.02442(a)(1-a)(B), Government
33 Code, defines an "ICF-IID." Throughout this chapter,
34 the revised law omits references to the definition of
35 that term because it duplicates the chapter-wide
36 definition for that term added to this chapter in
37 Section 546.0001(1), which is applicable to the
38 revised law.

39 (3) Section 531.02442(a)(2), Government Code,
40 defines "legally authorized representative." The
41 revised law omits the definition because it duplicates
42 the subchapter-wide definition for that term added to
43 this subchapter in Section 546.0051, which is
44 applicable to the revised law. The omitted law reads:

45 (2) "Legally authorized
46 representative" has the meaning assigned by
47 Section 241.151, Health and Safety Code.

1 (4) Section 531.02442(a)(3), Government Code,
2 defines "local intellectual and developmental
3 disability authority." The revised law omits the
4 definition because it duplicates the chapter-wide
5 definition for that term added to this chapter in
6 Section 546.0001(1), which is applicable to the
7 revised law. The omitted law reads:

8 (3) "Local intellectual and
9 developmental disability authority" has the
10 meaning assigned by Section 531.002, Health
11 and Safety Code.

12 Revised Law

13 Sec. 546.0055. IMPLEMENTATION OF COMMUNITY LIVING OPTIONS
14 INFORMATION PROCESS AT STATE INSTITUTIONS FOR CERTAIN ADULT
15 RESIDENTS. (a) In this section:

16 (1) "Adult resident" means an individual with an
17 intellectual disability who:

18 (A) is at least 22 years of age; and

19 (B) resides in a state supported living center.

20 (2) "State supported living center" has the meaning
21 assigned by Section 531.002, Health and Safety Code.

22 (b) This section applies only to the community living
23 options information process for an adult resident.

24 (c) The commission shall contract with local intellectual
25 and developmental disability authorities to implement the
26 community living options information process required by Section
27 546.0054 for an adult resident.

28 (d) The commission's contract with a local intellectual and
29 developmental disability authority must:

30 (1) delegate to the local authority the commission's
31 duties under Section 546.0054 with regard to implementing the
32 community living options information process at a state supported
33 living center;

34 (2) include performance measures designed to assist
35 the commission in evaluating the effectiveness of the local

1 authority in implementing the community living options information
2 process; and

3 (3) ensure that the local authority provides service
4 coordination and relocation services to an adult resident who
5 chooses, is eligible for, and is recommended by the
6 interdisciplinary team for a community living option to facilitate
7 a timely, appropriate, and successful transition from the state
8 supported living center to the community living option.

9 (e) The commission, with the advice and assistance of
10 representatives of family members or legally authorized
11 representatives of adult residents, individuals with an
12 intellectual disability, state supported living centers, and local
13 intellectual and developmental disability authorities, shall:

14 (1) develop an effective community living options
15 information process;

16 (2) create uniform procedures for implementing the
17 community living options information process; and

18 (3) minimize any potential conflict of interest
19 regarding the community living options information process between
20 a state supported living center and an adult resident, an adult
21 resident's legally authorized representative, or a local
22 authority.

23 (f) A state supported living center shall:

24 (1) allow a local intellectual and developmental
25 disability authority to participate in the interdisciplinary
26 planning process involving the consideration of community living
27 options for an adult resident;

28 (2) to the extent not otherwise prohibited by state or
29 federal confidentiality laws, provide a local intellectual and
30 developmental disability authority with access to an adult resident
31 and an adult resident's records to assist the authority in
32 implementing the community living options information process; and

33 (3) provide an adult resident or the adult resident's
34 legally authorized representative with accurate information

1 regarding the risks of moving the adult resident to a community
2 living option. (Gov. Code, Secs. 531.02443(a)(1), (5), (b), (c),
3 (d), (e), (f).)

4 Source Law

5 Sec. 531.02443. IMPLEMENTATION OF COMMUNITY
6 LIVING OPTIONS INFORMATION PROCESS AT STATE
7 INSTITUTIONS FOR CERTAIN ADULT RESIDENTS. (a) In this
8 section:

9 (1) "Adult resident" means a person with
10 an intellectual disability who:

11 (A) is at least 22 years of age; and

12 (B) resides in a state supported
13 living center.

14 (5) "State supported living center" has
15 the meaning assigned by Section 531.002, Health and
16 Safety Code.

17 (b) This section applies only to the community
18 living options information process for an adult
19 resident.

20 (c) The department shall contract with local
21 intellectual and developmental disability authorities
22 to implement the community living options information
23 process required by Section 531.02442 for an adult
24 resident.

25 (d) The contract with the local intellectual and
26 developmental disability authority must:

27 (1) delegate to the local intellectual and
28 developmental disability authority the department's
29 duties under Section 531.02442 with regard to the
30 implementation of the community living options
31 information process at a state supported living
32 center;

33 (2) include performance measures designed
34 to assist the department in evaluating the
35 effectiveness of a local intellectual and
36 developmental disability authority in implementing
37 the community living options information process; and

38 (3) ensure that the local intellectual and
39 developmental disability authority provides service
40 coordination and relocation services to an adult
41 resident who chooses, is eligible for, and is
42 recommended by the interdisciplinary team for a
43 community living option to facilitate a timely,
44 appropriate, and successful transition from the state
45 supported living center to the community living
46 option.

47 (e) The department, with the advice and
48 assistance of the interagency task force on ensuring
49 appropriate care settings for persons with
50 disabilities and representatives of family members or
51 legally authorized representatives of adult
52 residents, persons with an intellectual disability,
53 state supported living centers, and local intellectual
54 and developmental disability authorities, shall:

55 (1) develop an effective community living
56 options information process;

57 (2) create uniform procedures for the
58 implementation of the community living options
59 information process; and

60 (3) minimize any potential conflict of
61 interest regarding the community living options
62 information process between a state supported living

1 center and an adult resident, an adult resident's
2 legally authorized representative, or a local
3 intellectual and developmental disability authority.

4 (f) A state supported living center shall:

5 (1) allow a local intellectual and
6 developmental disability authority to participate in
7 the interdisciplinary planning process involving the
8 consideration of community living options for an adult
9 resident;

10 (2) to the extent not otherwise prohibited
11 by state or federal confidentiality laws, provide a
12 local intellectual and developmental disability
13 authority with access to an adult resident and an adult
14 resident's records to assist the authority in
15 implementing the community living options information
16 process; and

17 (3) provide the adult resident or the
18 adult resident's legally authorized representative
19 with accurate information regarding the risks of
20 moving the adult resident to a community living
21 option.

22 Revisor's Note

23 (1) Section 531.02443(a)(2), Government Code,
24 defines "department" as "the Department of Aging and
25 Disability Services." The revised law omits the
26 definition for the reason stated in the revisor's note
27 to Section 546.0004. The omitted law reads:

28 (2) "Department" means the
29 Department of Aging and Disability
30 Services.

31 (2) Section 531.02443(a)(3), Government Code,
32 defines "legally authorized representative." The
33 revised law omits the definition for the reason stated
34 in Revisor's Note (1) to Section 546.0052. The omitted
35 law reads:

36 (3) "Legally authorized
37 representative" has the meaning assigned by
38 Section 241.151, Health and Safety Code.

39 (3) Section 531.02443(a)(4), Government Code,
40 defines "local intellectual and developmental
41 disability authority." The revised law omits the
42 definition because it duplicates the chapter-wide
43 definition for the term added to this chapter as
44 Section 546.0001(1), which is applicable to the
45 revised law. The omitted law reads:

46 (4) "Local intellectual and
47 developmental disability authority" has the

1 meaning assigned by Section 531.002, Health
2 and Safety Code.

3 (4) Section 531.02443(e), Government Code,
4 requires the Health and Human Services Commission to
5 seek advice and assistance from the interagency task
6 force on ensuring appropriate care settings for
7 persons with disabilities, meaning the task force
8 established under former Section 531.02441,
9 Government Code. Section 531.02441, including the
10 task force, expired on September 1, 2017, and because
11 of the expiration, the revised law omits the reference
12 to the task force.

13 Revised Law

14 Sec. 546.0056. VOUCHER PROGRAM FOR TRANSITIONAL LIVING
15 ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES. (a) In this
16 section:

17 (1) "Institutional housing" means:

18 (A) an ICF-IID;

19 (B) a nursing facility;

20 (C) a state hospital, state supported living
21 center, or state center the commission maintains and manages;

22 (D) a general residential operation for children
23 with an intellectual disability that the commission licenses; or

24 (E) a general residential operation.

25 (2) "Integrated housing" means housing in which an
26 individual with a disability resides or may reside that is:

27 (A) located in the community; and

28 (B) not exclusively occupied by individuals with
29 disabilities and their care providers.

30 (b) Subject to the availability of money, the commission
31 shall coordinate with the Texas Department of Housing and Community
32 Affairs to develop a housing assistance program to assist
33 individuals with disabilities in moving from institutional housing
34 to integrated housing. In developing the program, the agencies
35 shall address:

- 1 (1) eligibility requirements for assistance;
- 2 (2) the period during which an individual with a
3 disability may receive assistance;
- 4 (3) the types of housing expenses the program will
5 cover; and
- 6 (4) the locations at which the program will operate.

7 (c) Subject to the availability of money, the commission
8 shall administer the housing assistance program. The commission
9 shall coordinate with the Texas Department of Housing and Community
10 Affairs in:

- 11 (1) administering the program;
- 12 (2) determining the availability of funding from the
13 United States Department of Housing and Urban Development; and
- 14 (3) obtaining that funding.

15 (d) The Texas Department of Housing and Community Affairs
16 shall provide information to the commission as necessary to
17 facilitate the administration of the housing assistance program.
18 (Gov. Code, Sec. 531.059.)

19 Source Law

20 Sec. 531.059. VOUCHER PROGRAM FOR TRANSITIONAL
21 LIVING ASSISTANCE FOR PERSONS WITH DISABILITIES. (a)
22 In this section:

- 23 (1) "Institutional housing" means:
- 24 (A) an ICF-IID, as defined by Section
25 531.002, Health and Safety Code;
- 26 (B) a nursing facility;
- 27 (C) a state hospital, state supported
28 living center, or state center maintained and managed
29 by the Department of State Health Services or the
30 Department of Aging and Disability Services;
- 31 (D) a general residential operation
32 for children with an intellectual disability that is
33 licensed by the Department of Family and Protective
34 Services; or
- 35 (E) a general residential operation,
36 as defined by Section 42.002, Human Resources Code.

37 (2) "Integrated housing" means housing in
38 which a person with a disability resides or may reside
39 that is found in the community but that is not
40 exclusively occupied by persons with disabilities and
41 their care providers.

42 (b) Subject to the availability of funds, the
43 commission shall coordinate with the Texas Department
44 of Housing and Community Affairs, the Department of
45 State Health Services, and the Department of Aging and
46 Disability Services to develop a housing assistance
47 program to assist persons with disabilities in moving
48 from institutional housing to integrated housing. In

1 developing the program, the agencies shall address:
2 (1) eligibility requirements for
3 assistance;
4 (2) the period during which a person with a
5 disability may receive assistance;
6 (3) the types of housing expenses to be
7 covered under the program; and
8 (4) the locations at which the program
9 will be operated.

10 (c) Subject to the availability of funds, the
11 Department of Aging and Disability Services shall
12 administer the housing assistance program under this
13 section. The department shall coordinate with the
14 Texas Department of Housing and Community Affairs in
15 administering the program, determining the
16 availability of funding from the United States
17 Department of Housing and Urban Development, and
18 obtaining those funds.

19 (d) The Texas Department of Housing and
20 Community Affairs and the Department of Aging and
21 Disability Services shall provide information to the
22 commission as necessary to facilitate the
23 administration of the housing assistance program.

24 Revisor's Note

25 Section 531.059(b), Government Code, requires
26 the Health and Human Services Commission to coordinate
27 with agencies, including the "Department of State
28 Health Services," to develop a housing assistance
29 program. The Department of State Health Services'
30 client services functions were transferred to the
31 Health and Human Services Commission in accordance
32 with Section 531.0201(a)(2)(C), Government Code,
33 which is executed law that expires September 1, 2023.
34 Therefore, throughout this chapter, in instances
35 relating to client services, the revised law
36 substitutes the commission for the department.

37 Revised Law

38 Sec. 546.0057. TRANSITION SERVICES FOR YOUTH WITH
39 DISABILITIES. (a) The executive commissioner shall monitor
40 programs and services offered through health and human services
41 agencies designed to assist youth with disabilities to transition
42 from school-oriented living to:

43 (1) post-schooling activities;

44 (2) services for adults; or

45 (3) community living.

1 (b) In monitoring the programs and services, the executive
2 commissioner shall:

3 (1) consider whether the programs or services result
4 in positive outcomes in the employment, community integration,
5 health, and quality of life of individuals with disabilities; and

6 (2) collect information regarding the outcomes of the
7 transition process as necessary to assess the programs and
8 services. (Gov. Code, Sec. 531.02445.)

9 Source Law

10 Sec. 531.02445. TRANSITION SERVICES FOR YOUTH
11 WITH DISABILITIES. (a) The executive commissioner
12 shall monitor programs and services offered through
13 health and human services agencies designed to assist
14 youth with disabilities to transition from
15 school-oriented living to post-schooling activities,
16 services for adults, or community living.

17 (b) In monitoring the programs and services, the
18 executive commissioner shall:

19 (1) consider whether the programs or
20 services result in positive outcomes in the
21 employment, community integration, health, and
22 quality of life of individuals with disabilities; and

23 (2) collect information regarding the
24 outcomes of the transition process as necessary to
25 assess the programs and services.

26 Revised Law

27 Sec. 546.0058. TRANSFER OF MONEY FOR COMMUNITY-BASED
28 SERVICES. (a) The commission shall quantify the amount of money
29 the legislature appropriates that would have been spent during the
30 remainder of a state fiscal biennium to care for an individual who
31 resides in a nursing facility but who is leaving that facility
32 before the end of the biennium to reside in the community with the
33 assistance of community-based services.

34 (b) Notwithstanding any other state law and to the maximum
35 extent allowed by federal law, the executive commissioner shall
36 direct, as appropriate:

37 (1) the comptroller, at the time an individual
38 described by Subsection (a) leaves a nursing facility, to transfer
39 an amount not to exceed the amount quantified under that subsection
40 among the health and human services agencies and the commission as
41 necessary to comply with this section; or

1 (2) the commission or a health and human services
2 agency, at the time an individual described by Subsection (a)
3 leaves a nursing facility, to transfer an amount not to exceed the
4 amount quantified under that subsection within the agency's budget
5 as necessary to comply with this section.

6 (c) The commission shall ensure that the amount transferred
7 under this section is redirected by the commission or a health and
8 human services agency, as applicable, to one or more
9 community-based programs in the amount necessary to provide
10 community-based services to an individual after the individual
11 leaves a nursing facility. (Gov. Code, Sec. 531.092.)

12 Source Law

13 Sec. 531.092. TRANSFER OF MONEY FOR
14 COMMUNITY-BASED SERVICES. (a) The commission shall
15 quantify the amount of money appropriated by the
16 legislature that would have been spent during the
17 remainder of a state fiscal biennium to care for a
18 person who lives in a nursing facility but who is
19 leaving that facility before the end of the biennium to
20 live in the community with the assistance of
21 community-based services.

22 (b) Notwithstanding any other state law and to
23 the maximum extent allowed by federal law, the
24 executive commissioner shall direct, as appropriate:

25 (1) the comptroller, at the time the
26 person described by Subsection (a) leaves the nursing
27 facility, to transfer an amount not to exceed the
28 amount quantified under that subsection among the
29 health and human services agencies and the commission
30 as necessary to comply with this section; or

31 (2) the commission or a health and human
32 services agency, at the time the person described by
33 Subsection (a) leaves the nursing facility, to
34 transfer an amount not to exceed the amount quantified
35 under that subsection within the agency's budget as
36 necessary to comply with this section.

37 (c) The commission shall ensure that the amount
38 transferred under this section is redirected by the
39 commission or health and human services agency, as
40 applicable, to one or more community-based programs in
41 the amount necessary to provide community-based
42 services to the person after the person leaves the
43 nursing facility.

44 SUBCHAPTER C. CONSUMER DIRECTION MODELS

45 Revised Law

46 Sec. 546.0101. DEFINITIONS. In this subchapter:

47 (1) "Consumer" means an individual who receives
48 services through a consumer direction model the commission
49 establishes under this subchapter.

1 (2) "Consumer direction model" means a service
2 delivery model under which a consumer or the consumer's legally
3 authorized representative exercises control over the development
4 and implementation of the consumer's individual service plan or
5 over the persons delivering the services directly to the consumer.
6 The term includes the consumer-directed service option, the service
7 responsibility option, and other types of service delivery models
8 the commission develops under this subchapter.

9 (3) "Consumer-directed service option" means a type of
10 consumer direction model in which:

11 (A) a consumer or the consumer's legally
12 authorized representative, as the employer, exercises control
13 over:

14 (i) recruiting, hiring, managing, or
15 dismissing persons providing services directly to the consumer; or

16 (ii) retaining contractors or vendors for
17 other authorized program services; and

18 (B) the consumer-directed services agency serves
19 as fiscal agent and performs employer-related administrative
20 functions for the consumer or the consumer's legally authorized
21 representative, including payroll and filing tax and related
22 reports.

23 (4) "Designated representative" means an adult
24 volunteer a consumer or the consumer's legally authorized
25 representative appoints, as an employer, to perform all or part of
26 the consumer's or the representative's duties as employer as the
27 consumer or the representative approves.

28 (5) "Legally authorized representative":

29 (A) means:

30 (i) a parent or legal guardian if the
31 individual is a minor;

32 (ii) a legal guardian if the individual has
33 been adjudicated as incapacitated to manage the individual's
34 personal affairs; or

1 (iii) any other person authorized or
2 required by law to act on the individual's behalf with regard to the
3 individual's care; and

4 (B) does not include a designated
5 representative.

6 (6) "Service responsibility option" means a type of
7 consumer direction model in which:

8 (A) a consumer or the consumer's legally
9 authorized representative participates in selecting, training, and
10 managing persons providing services directly to the consumer; and

11 (B) the provider agency, as the employer,
12 performs employer-related administrative functions for the
13 consumer or the consumer's legally authorized representative,
14 including hiring and dismissing persons providing services
15 directly to the consumer. (Gov. Code, Sec. 531.051(a).)

16 Source Law

17 Sec. 531.051. CONSUMER DIRECTION OF CERTAIN
18 SERVICES FOR PERSONS WITH DISABILITIES AND ELDERLY
19 PERSONS. (a) In this section:

20 (1) "Consumer" means a person who receives
21 services through a consumer direction model
22 established by the commission under this section.

23 (2) "Consumer direction" or "consumer
24 direction model" means a service delivery model under
25 which a consumer or the consumer's legally authorized
26 representative exercises control over the development
27 and implementation of the consumer's individual
28 service plan or over the persons delivering the
29 services directly to the consumer. The term includes
30 the consumer-directed service option, the service
31 responsibility option, and other types of service
32 delivery models developed by the commission under this
33 section.

34 (3) "Consumer-directed service option"
35 means a type of consumer direction model in which:

36 (A) a consumer or the consumer's
37 legally authorized representative, as the employer,
38 exercises control over:

39 (i) the recruitment, hiring,
40 management, or dismissal of persons providing services
41 directly to the consumer; or

42 (ii) the retention of
43 contractors or vendors for other authorized program
44 services; and

45 (B) the consumer-directed services
46 agency serves as fiscal agent and performs
47 employer-related administrative functions for the
48 consumer or the consumer's legally authorized
49 representative, including payroll and the filing of
50 tax and related reports.

51 (4) "Designated representative" means an

1 adult volunteer appointed by a consumer or the
2 consumer's legally authorized representative, as an
3 employer, to perform all or part of the consumer's or
4 the representative's duties as employer as approved by
5 the consumer or the representative.

6 (5) "Legally authorized representative":

7 (A) means:

8 (i) a parent or legal guardian
9 if the person is a minor;

10 (ii) a legal guardian if the
11 person has been adjudicated as incapacitated to manage
12 the person's personal affairs; or

13 (iii) any other person
14 authorized or required by law to act on behalf of the
15 person with regard to the person's care; and

16 (B) does not include a designated
17 representative.

18 (6) "Service responsibility option" means
19 a type of consumer direction model in which:

20 (A) a consumer or the consumer's
21 legally authorized representative participates in the
22 selection of, trains, and manages persons providing
23 services directly to the consumer; and

24 (B) the provider agency, as the
25 employer, performs employer-related administrative
26 functions for the consumer or the consumer's legally
27 authorized representative, including the hiring and
28 dismissal of persons providing services directly to
29 the consumer.

30 Revisor's Note

31 (1) Section 531.051(a), Government Code,
32 provides definitions for "this section." Throughout
33 this subchapter, the revised law substitutes "this
34 subchapter" for "this section" because this subchapter
35 is substantially derived from Section 531.051. This
36 subchapter also includes Section 531.0512, Government
37 Code. That section is revised in this subchapter as
38 Section 546.0106, and the defined terms are made
39 applicable to that revised law. Because it is clear
40 from the context that the defined terms have the same
41 meaning in Section 531.0512, applying the defined
42 terms to the revision of that section in the subchapter
43 does not result in a substantive change.

44 (2) Section 531.051(a)(2), Government Code,
45 defines the terms "consumer direction" and "consumer
46 direction model" as meaning a service delivery model
47 related to a consumer's service plan or the direction
48 of services provided to a consumer. For clarity and

1 consistency of terminology used within this
2 subchapter, the revised law omits "consumer direction"
3 and exclusively uses the term "consumer direction
4 model" throughout the revised law.

5 Revised Law

6 Sec. 546.0102. IMPLEMENTATION OF CONSUMER DIRECTION
7 MODELS. (a) The commission shall develop and oversee the
8 implementation of consumer direction models under which an
9 individual with a disability or an elderly individual who is
10 receiving certain state-funded or Medicaid-funded services, or the
11 individual's legally authorized representative, exercises control
12 over:

13 (1) developing and implementing the individual's
14 service plan; or

15 (2) the persons who directly deliver the services.

16 (b) The consumer direction models the commission
17 establishes under this subchapter may be implemented in appropriate
18 and suitable commission or health and human services agency
19 programs. (Gov. Code, Secs. 531.051(b), (d).)

20 Source Law

21 (b) The commission shall develop and oversee the
22 implementation of consumer direction models under
23 which a person with a disability or an elderly person
24 who is receiving certain state-funded or
25 Medicaid-funded services, or the person's legally
26 authorized representative, exercises control over the
27 development and implementation of the person's
28 individual service plan or over the persons who
29 directly deliver the services.

30 (d) The consumer direction models established
31 under this section may be implemented in appropriate
32 and suitable programs of the commission or a health and
33 human services agency.

34 Revised Law

35 Sec. 546.0103. RULES. In adopting rules for consumer
36 direction models, the executive commissioner shall:

37 (1) determine which services are appropriate and
38 suitable for delivery through a consumer direction model;

39 (2) ensure that each consumer direction model is

1 designed to comply with applicable federal and state laws;

2 (3) maintain procedures to ensure that a potential
3 consumer or the consumer's legally authorized representative has
4 adequate and appropriate information, including the
5 responsibilities of a consumer or representative under each service
6 delivery option, to make an informed choice among the types of
7 consumer direction models;

8 (4) require each consumer or the consumer's legally
9 authorized representative to sign a statement acknowledging
10 receipt of the information required by Subdivision (3);

11 (5) maintain procedures to monitor delivery of
12 services through a consumer direction model to ensure:

13 (A) adherence to existing applicable program
14 standards;

15 (B) appropriate use of money; and

16 (C) consumer satisfaction with the delivery of
17 services;

18 (6) ensure that authorized program services that are
19 not being delivered to a consumer through a consumer direction
20 model are provided by a provider agency the consumer or the
21 consumer's legally authorized representative chooses; and

22 (7) set a timetable to complete the implementation of
23 the consumer direction models. (Gov. Code, Sec. 531.051(c).)

24 Source Law

25 (c) In adopting rules for the consumer direction
26 models, the executive commissioner shall:

27 (1) determine which services are
28 appropriate and suitable for delivery through consumer
29 direction;

30 (2) ensure that each consumer direction
31 model is designed to comply with applicable federal
32 and state laws;

33 (3) maintain procedures to ensure that a
34 potential consumer or the consumer's legally
35 authorized representative has adequate and
36 appropriate information, including the
37 responsibilities of a consumer or representative under
38 each service delivery option, to make an informed
39 choice among the types of consumer direction models;

40 (4) require each consumer or the
41 consumer's legally authorized representative to sign a
42 statement acknowledging receipt of the information
43 required by Subdivision (3);

1 (5) maintain procedures to monitor
2 delivery of services through consumer direction to
3 ensure:

4 (A) adherence to existing applicable
5 program standards;

6 (B) appropriate use of funds; and

7 (C) consumer satisfaction with the
8 delivery of services;

9 (6) ensure that authorized program
10 services that are not being delivered to a consumer
11 through consumer direction are provided by a provider
12 agency chosen by the consumer or the consumer's legally
13 authorized representative; and

14 (7) set a timetable to complete the
15 implementation of the consumer direction models.

16 Revised Law

17 Sec. 546.0104. APPLICABILITY OF CERTAIN NURSING LICENSURE
18 REQUIREMENTS. Section 301.251(a), Occupations Code, does not apply
19 to delivery of a service for which payment is provided under the
20 consumer-directed service option developed under this subchapter
21 if:

22 (1) the individual who delivers the service:

23 (A) has not been denied a license under Chapter
24 301, Occupations Code;

25 (B) has not been issued a license under Chapter
26 301, Occupations Code, that is revoked or suspended; and

27 (C) performs a service that is not expressly
28 prohibited from delegation by the Texas Board of Nursing; and

29 (2) the consumer who receives the service:

30 (A) has a disability and the service would have
31 been performed by the consumer or the consumer's legally authorized
32 representative except for that disability; and

33 (B) is:

34 (i) capable of training the individual to
35 properly perform the service and the consumer directs the
36 individual to deliver the service; or

37 (ii) not capable of training the individual
38 to properly perform the service, the consumer's legally authorized
39 representative is capable of training the individual to properly
40 perform the service, and the representative directs the individual
41 to deliver the service. (Gov. Code, Sec. 531.051(e).)

1 Source Law

2 (e) Section 301.251(a), Occupations Code, does
3 not apply to delivery of a service for which payment is
4 provided under the consumer-directed service option
5 developed under this section if:

6 (1) the person who delivers the service:

7 (A) has not been denied a license
8 under Chapter 301, Occupations Code;

9 (B) has not been issued a license
10 under Chapter 301, Occupations Code, that is revoked
11 or suspended; and

12 (C) performs a service that is not
13 expressly prohibited from delegation by the Texas
14 Board of Nursing; and

15 (2) the consumer who receives the service:

16 (A) has a disability and the service
17 would have been performed by the consumer or the
18 consumer's legally authorized representative except
19 for that disability; and

20 (B) if:

21 (i) the consumer is capable of
22 training the person in the proper performance of the
23 service, the consumer directs the person to deliver
24 the service; or

25 (ii) the consumer is not
26 capable of training the person in the proper
27 performance of the service, the consumer's legally
28 authorized representative is capable of training the
29 person in the proper performance of the service and
30 directs the person to deliver the service.

31 Revised Law

32 Sec. 546.0105. LEGALLY AUTHORIZED REPRESENTATIVE SERVICE
33 OVERSIGHT REQUIRED. If an individual delivers a service under
34 Section 546.0104(2)(B)(ii), the legally authorized representative
35 must be present when the service is performed or be immediately
36 accessible to the individual who delivers the service. If the
37 individual will perform the service when the representative is not
38 present, the representative must observe the individual performing
39 the service at least once to assure the representative that the
40 individual can competently perform that service. (Gov. Code, Sec.
41 531.051(f).)

42 Source Law

43 (f) If the person delivers the service under
44 Subsection (e)(2)(B)(ii), the legally authorized
45 representative must be present when the service is
46 performed or be immediately accessible to the person
47 who delivers the service. If the person will perform
48 the service when the representative is not present,
49 the representative must observe the person performing
50 the service at least once to assure the representative
51 that the person performing the service can competently
52 perform that service.

1 Revised Law

2 Sec. 546.0106. PROCEDURE TO PROVIDE NOTICE TO MEDICAID
3 RECIPIENTS. The commission shall:

4 (1) develop a procedure to:

5 (A) verify that a recipient or the recipient's
6 parent or legal guardian is informed of the consumer direction
7 model and provided the option to choose to receive care under that
8 model; and

9 (B) if the individual declines to receive care
10 under the consumer direction model, document the decision to
11 decline; and

12 (2) ensure that each Medicaid managed care
13 organization implements the procedure. (Gov. Code, Sec. 531.0512.)

14 Source Law

15 Sec. 531.0512. NOTIFICATION REGARDING CONSUMER
16 DIRECTION MODEL. The commission shall:

17 (1) develop a procedure to:

18 (A) verify that a Medicaid recipient
19 or the recipient's parent or legal guardian is informed
20 regarding the consumer direction model and provided
21 the option to choose to receive care under that model;
22 and

23 (B) if the individual declines to
24 receive care under the consumer direction model,
25 document the declination; and

26 (2) ensure that each Medicaid managed care
27 organization implements the procedure.

28 SUBCHAPTER D. COMMUNITY-BASED SUPPORT AND SERVICE DELIVERY SYSTEM
29 INITIATIVES AND GRANT PROGRAM

30 Revised Law

31 Sec. 546.0151. DEFINITION. In this subchapter,
32 "community-based organization" includes:

33 (1) an area agency on aging;

34 (2) an independent living center;

35 (3) a municipality, county, or other local government;

36 (4) a nonprofit or for-profit organization; or

37 (5) a community mental health and intellectual
38 disability center. (Gov. Code, Sec. 531.02481(f) (part).)

39 Source Law

40 (f) . . . A community-based organization

1 includes:

- 2 (1) an area agency on aging;
- 3 (2) an independent living center;
- 4 (3) a municipality, county, or other local
- 5 government;
- 6 (4) a nonprofit or for-profit
- 7 organization; or
- 8 (5) a community mental health and
- 9 intellectual disability center.

10 Revised Law

11 Sec. 546.0152. COMMUNITY-BASED SUPPORT AND SERVICE
12 DELIVERY SYSTEMS FOR LONG-TERM CARE SERVICES. (a) The commission
13 shall assist communities in this state to develop comprehensive,
14 community-based support and service delivery systems for long-term
15 care services. At a community's request, the commission shall
16 provide resources and assistance to the community to enable the
17 community to:

18 (1) identify and overcome institutional barriers to
19 developing more comprehensive community support systems, including
20 barriers that result from the policies and procedures of state
21 health and human services agencies;

22 (2) develop a system of blended money, consistent with
23 federal law and the General Appropriations Act, to allow the
24 community to customize services to fit individual community needs;
25 and

26 (3) develop a local system of access and assistance to
27 aid clients in accessing the full range of long-term care services.

28 (b) At the request of a community-based organization or a
29 combination of community-based organizations, the commission may
30 provide a grant to the organization or organizations in accordance
31 with this subchapter.

32 (c) In implementing this subchapter, the commission shall
33 consider models used in other service delivery systems. (Gov. Code,
34 Secs. 531.02481(a), (d).)

35 Source Law

36 Sec. 531.02481. COMMUNITY-BASED SUPPORT AND
37 SERVICE DELIVERY SYSTEMS FOR LONG-TERM CARE SERVICES.
38 (a) The commission and the Department of Aging and
39 Disability Services shall assist communities in this
40 state in developing comprehensive, community-based
41 support and service delivery systems for long-term

1 care services. At the request of a community-based
2 organization or combination of community-based
3 organizations, the commission may provide a grant to
4 the organization or combination of organizations in
5 accordance with Subsection (g). At the request of a
6 community, the commission shall provide resources and
7 assistance to the community to enable the community
8 to:

9 (1) identify and overcome institutional
10 barriers to developing more comprehensive community
11 support systems, including barriers that result from
12 the policies and procedures of state health and human
13 services agencies;

14 (2) develop a system of blended funds,
15 consistent with the requirements of federal law and
16 the General Appropriations Act, to allow the community
17 to customize services to fit individual community
18 needs; and

19 (3) develop a local system of access and
20 assistance to aid clients in accessing the full range
21 of long-term care services.

22 (d) In implementing this section, the
23 commission shall consider models used in other service
24 delivery systems.

25 Revisor's Note

26 (1) Section 531.02481(a), Government Code,
27 authorizes the Health and Human Services Commission to
28 provide grants to a community-based organization or
29 combination of community-based organizations in
30 accordance with "Subsection (g)." The revised law
31 substitutes "this subchapter" for the quoted language
32 because requirements imposed on the commission with
33 respect to awarding grants under Section 531.02481 are
34 not limited to Subsection (g). Section 531.02481,
35 which is revised as Subchapter D of this chapter,
36 imposes other requirements on the commission in
37 awarding grants. In addition, Subsection (g) is
38 revised as Sections 546.0156, 546.0157, 546.0158, and
39 546.0159 of this subchapter. Substituting "this
40 subchapter" for "Subsection (g)" results in capturing
41 all requirements applicable to the commission under
42 Section 531.02481, including the requirements
43 contained in Subsection (g).

44 (2) Section 531.02481(d), Government Code,
45 requires the commission to consider other models in

1 implementing "this section." The revised law
2 substitutes "this subchapter" for "this section"
3 because, as stated in Revisor's Note (1), the
4 provisions of Section 531.02481 are revised as
5 Subchapter D of this chapter. Throughout this
6 subchapter, in this and similar contexts, the revised
7 law is drafted accordingly.

8 Revised Law

9 Sec. 546.0153. AREA AGENCIES ON AGING: MINIMUM NUMBER. The
10 executive commissioner shall assure the maintenance of no fewer
11 than 28 area agencies on aging in order to assure the continuation
12 of a local system of access and assistance that is sensitive to the
13 aging population. (Gov. Code, Sec. 531.02481(e).)

14 Source Law

15 (e) The executive commissioner shall assure the
16 maintenance of no fewer than 28 area agencies on aging
17 in order to assure the continuation of a local system
18 of access and assistance that is sensitive to the aging
19 population.

20 Revised Law

21 Sec. 546.0154. PROPOSALS. A community-based organization
22 or a combination of organizations may make a proposal under this
23 subchapter. (Gov. Code, Sec. 531.02481(f) (part).)

24 Source Law

25 (f) A community-based organization or a
26 combination of organizations may make a proposal under
27 this section. . . .

28 Revised Law

29 Sec. 546.0155. PROPOSAL REVIEW AND APPROVAL. (a) A health
30 and human services agency that receives or develops a proposal for a
31 community initiative shall submit the initiative to the commission
32 for review and approval.

33 (b) The commission shall review the initiative to ensure
34 that the initiative is:

35 (1) consistent with other similar programs offered in
36 communities; and

37 (2) not duplicative of other services provided in the

1 community. (Gov. Code, Sec. 531.02481(c).)

2 Source Law

3 (c) A health and human services agency that
4 receives or develops a proposal for a community
5 initiative shall submit the initiative to the
6 commission for review and approval. The commission
7 shall review the initiative to ensure that the
8 initiative is consistent with other similar programs
9 offered in communities and does not duplicate other
10 services provided in the community.

11 Revised Law

12 Sec. 546.0156. STANDARD AND PRIORITY OF REVIEW. (a) In
13 making a grant to a community-based organization, the commission
14 shall evaluate the organization's proposal based on demonstrated
15 need and the proposal's merit.

16 (b) The commission shall give priority to proposals that
17 will use the Internet and related information technologies to
18 provide to clients:

- 19 (1) referral services;
- 20 (2) other information regarding local long-term care
21 services; and
- 22 (3) needs assessments. (Gov. Code, Sec. 531.02481(g)
23 (part).)

24 Source Law

25 (g) In making a grant to a community-based
26 organization, the commission shall evaluate the
27 organization's proposal based on demonstrated need and
28 the merit of the proposal. . . . The commission shall
29 give priority to proposals that will use the Internet
30 and related information technologies to provide to
31 clients referral services, other information
32 regarding local long-term care services, and needs
33 assessment. . . .

34 Revised Law

35 Sec. 546.0157. COMMUNITY-BASED ORGANIZATION MATCHING
36 CONTRIBUTION REQUIRED. To receive a grant under this subchapter, a
37 community-based organization must at least partially match the
38 state grant with money or other resources obtained from a
39 nongovernmental entity, from a local government, or if the
40 community-based organization is a local government, from fees or
41 taxes collected by the local government. The community-based

1 organization may then combine the money or resources the
2 organization obtains from a variety of federal, state, local, or
3 private sources to accomplish the proposal's purpose. (Gov. Code,
4 Sec. 531.02481(g) (part).)

5 Source Law

6 (g) . . . To receive a grant under this section,
7 a community-based organization must at least partially
8 match the state grant with money or other resources
9 obtained from a nongovernmental entity, from a local
10 government, or if the community-based organization is
11 a local government, from fees or taxes collected by the
12 local government. The community-based organization
13 may then combine the money or resources the
14 organization obtains from a variety of state, local,
15 federal, or private sources to accomplish the purpose
16 of the proposal. . . .

17 Revised Law

18 Sec. 546.0158. PROPOSALS INVOLVING MULTIPLE
19 COMMUNITY-BASED ORGANIZATIONS. (a) If a combination of
20 community-based organizations makes a proposal, the organizations
21 must designate a single organization to receive and administer the
22 grant.

23 (b) If a community-based organization receives a grant on
24 behalf of a combination of community-based organizations or if the
25 community-based organization's proposal involves coordination with
26 other entities to accomplish the proposal's purpose, the commission
27 may condition receipt of the grant on the organization's making a
28 good faith effort to coordinate with other entities in the manner
29 indicated in the proposal. (Gov. Code, Sec. 531.02481(g) (part).)

30 Source Law

31 (g) . . . If a combination of community-based
32 organizations makes a proposal, the combination must
33 designate a single organization to receive and
34 administer the grant. . . . If a community-based
35 organization receives a grant on behalf of a
36 combination of community-based organizations or if the
37 community-based organization's proposal involved
38 coordinating with other entities to accomplish the
39 purpose of the proposal, the commission may condition
40 receipt of the grant on the organization's making a
41 good faith effort to coordinate with other entities in
42 the manner indicated in the proposal.

43 Revised Law

44 Sec. 546.0159. GUIDELINES. The commission may adopt

1 guidelines for proposals. (Gov. Code, Sec. 531.02481(g) (part).)

2 Source Law

3 (g) . . . The commission may adopt guidelines
4 for proposals under this subsection. . . .

5 Revised Law

6 Sec. 546.0160. CERTAIN AGENCIES' DUTY TO PROVIDE RESOURCES
7 AND ASSISTANCE. At the commission's request, a health and human
8 services agency shall provide resources and assistance to a
9 community as necessary to perform the commission's duties under
10 Section 546.0152(a). (Gov. Code, Sec. 531.02481(b).)

11 Source Law

12 (b) At the request of the commission, a health
13 and human services agency shall provide resources and
14 assistance to a community as necessary to perform the
15 commission's duties under Subsection (a).

16 SUBCHAPTER E. PERMANENCY PLANNING

17 Revised Law

18 Sec. 546.0201. DEFINITIONS. In this subchapter:

19 (1) "Child" means an individual with a developmental
20 disability who is younger than 22 years of age.

21 (2) "Community resource coordination group" means a
22 coordination group established under the memorandum of
23 understanding adopted under Section _____[[[Section
24 531.055]]].

25 (3) "Department" means the Department of Family and
26 Protective Services.

27 (4) "Institution" means:

28 (A) an ICF-IID;

29 (B) a group home operated under the commission's
30 authority, including a residential service provider under a Section
31 1915(c) waiver program that provides services at a residence other
32 than the child's home or agency foster home;

33 (C) a nursing facility;

34 (D) a general residential operation for children
35 with an intellectual disability that the commission licenses; or

36 (E) another residential arrangement other than a

1 foster home that provides care to four or more children who are
2 unrelated to each other.

3 (5) "Permanency planning" means a philosophy and
4 planning process that focuses on the outcome of family support by
5 facilitating a permanent living arrangement with the primary
6 feature of an enduring and nurturing parental relationship. (Gov.
7 Code, Sec. 531.151; New.)

8 Source Law

9 Sec. 531.151. DEFINITIONS. In this subchapter:

10 (1) "Child" means a person with a
11 developmental disability who is younger than 22 years
12 of age.

13 (2) "Community resource coordination
14 group" means a coordination group established under
15 the memorandum of understanding adopted under Section
16 531.055.

17 (3) "Institution" means:

18 (A) an ICF-IID, as defined by Section
19 531.002, Health and Safety Code;

20 (B) a group home operated under the
21 authority of the commission, including a residential
22 service provider under a Medicaid waiver program
23 authorized under Section 1915(c) of the federal Social
24 Security Act (42 U.S.C. Section 1396n), as amended,
25 that provides services at a residence other than the
26 child's home or agency foster home;

27 (C) a nursing facility;

28 (D) a general residential operation
29 for children with an intellectual disability that is
30 licensed by the commission; or

31 (E) another residential arrangement
32 other than a foster home as defined by Section 42.002,
33 Human Resources Code, that provides care to four or
34 more children who are unrelated to each other.

35 (4) "Permanency planning" means a
36 philosophy and planning process that focuses on the
37 outcome of family support by facilitating a permanent
38 living arrangement with the primary feature of an
39 enduring and nurturing parental relationship.

40 Revisor's Note

41 (1) The revised law adds a subchapter-wide
42 definition of "department," meaning the Department of
43 Family and Protective Services, for drafting
44 convenience and to eliminate frequent, unnecessary
45 repetition of the term "Department of Family and
46 Protective Services."

47 (2) Section 531.151(3)(B), Government Code,
48 refers to a "Medicaid waiver program authorized under
49 Section 1915(c) of the federal Social Security Act (42

1 U.S.C. Section 1396n." Throughout this chapter, the
2 revised law substitutes "Section 1915(c) waiver
3 program" for the quoted language because "Section
4 1915(c) waiver program" is the defined term under
5 Section 531.001, Government Code, which is revised in
6 this subtitle as Section _____ and applies to the
7 revised law in this chapter.

8 (3) Section 531.151(3)(E), Government Code,
9 refers to a foster home "as defined by Section 42.002,
10 Human Resources Code." Section 42.002, Human
11 Resources Code, formerly defined "foster home" to mean
12 "a child-care facility that provides care for not more
13 than six children for 24 hours a day." However,
14 Chapter 317 (H.B. 7), Acts of the 85th Legislature,
15 Regular Session, 2017, amended Section 42.002 to
16 remove that definition, effectively repealing that
17 definition from the section. Therefore, the revised
18 law omits the cross-reference to Section 42.002.

19 Revised Law

20 Sec. 546.0202. POLICY STATEMENT. It is the policy of this
21 state to strive to ensure that the basic needs for safety, security,
22 and stability are met for each child in this state. A successful
23 family is the most efficient and effective way to meet those needs.
24 This state and local communities must work together to provide
25 encouragement and support for well-functioning families and ensure
26 that each child receives the benefits of being a part of a
27 successful permanent family as soon as possible. (Gov. Code, Sec.
28 531.152.)

29 Source Law

30 Sec. 531.152. POLICY STATEMENT. It is the
31 policy of the state to strive to ensure that the basic
32 needs for safety, security, and stability are met for
33 each child in Texas. A successful family is the most
34 efficient and effective way to meet those needs. The
35 state and local communities must work together to
36 provide encouragement and support for
37 well-functioning families and ensure that each child
38 receives the benefits of being a part of a successful

1 permanent family as soon as possible.

2 Revised Law

3 Sec. 546.0203. DEVELOPMENT OF PERMANENCY PLAN PROCEDURES.

4 (a) To further the policy stated in Section 546.0202 and except as
5 provided by Subsection (b), the commission and each appropriate
6 health and human services agency shall develop procedures to ensure
7 that a permanency plan is developed for each child:

8 (1) who resides in an institution in this state on a
9 temporary or long-term basis; or

10 (2) with respect to whom the commission or appropriate
11 health and human services agency is notified in advance that
12 institutional care is sought.

13 (b) The department shall develop a permanency plan as
14 required by this subchapter for each child who resides in an
15 institution in this state for whom the department has been
16 appointed permanent managing conservator. The department is not
17 required to develop a permanency plan under this subchapter for a
18 child for whom the department has been appointed temporary managing
19 conservator, but may incorporate the requirements of this
20 subchapter in a permanency plan developed for the child under
21 Section 263.3025, Family Code.

22 (c) In developing procedures under Subsection (a), the
23 commission and other appropriate health and human services agencies
24 shall develop to the extent possible uniform procedures applicable
25 to each of the agencies and each child who is the subject of a
26 permanency plan that promote efficiency for the agencies and
27 stability for each child.

28 (d) In implementing permanency planning procedures, the
29 commission shall:

30 (1) delegate the commission's duty to develop a
31 permanency plan to a local intellectual and developmental
32 disability authority or enter into a memorandum of understanding
33 with the local authority to develop the permanency plan for each
34 child who resides in an institution in this state or with respect to

1 whom the commission is notified in advance that institutional care
2 is sought;

3 (2) contract with a private entity, other than an
4 entity that provides long-term institutional care, to develop a
5 permanency plan for a child who resides in an institution in this
6 state or with respect to whom the commission is notified in advance
7 that institutional care is sought; or

8 (3) perform the commission's duties regarding
9 permanency planning procedures using commission personnel.

10 (e) A contract or memorandum of understanding under
11 Subsection (d) must include performance measures by which the
12 commission may evaluate the effectiveness of permanency planning
13 efforts of a local intellectual and developmental disability
14 authority or a private entity.

15 (f) In implementing permanency planning procedures, the
16 commission shall engage in appropriate activities in addition to
17 those required by Subsection (d) to minimize the potential
18 conflicts of interest that, in developing the plan, may exist or
19 arise between:

20 (1) the institution in which the child resides or in
21 which institutional care is sought for the child; and

22 (2) the best interest of the child.

23 (g) The commission and the department may solicit and accept
24 gifts, grants, and donations to support the development of
25 permanency plans for children residing in institutions by
26 individuals or organizations not employed by or affiliated with
27 those institutions.

28 (h) A health and human services agency that contracts with a
29 private entity under Subsection (d) to develop a permanency plan
30 shall ensure that the entity is provided:

31 (1) training regarding the permanency planning
32 philosophy described by Section 546.0201; and

33 (2) available resources that will assist a child
34 residing in an institution in making a successful transition to a

1 community-based residence. (Gov. Code, Sec. 531.153.)

2 Source Law

3 Sec. 531.153. DEVELOPMENT OF PERMANENCY PLAN.

4 (a) To further the policy stated in Section 531.152 and
5 except as provided by Subsection (b), the commission
6 and each appropriate health and human services agency
7 shall develop procedures to ensure that a permanency
8 plan is developed for each child who resides in an
9 institution in this state on a temporary or long-term
10 basis or with respect to whom the commission or
11 appropriate health and human services agency is
12 notified in advance that institutional care is sought.

13 (b) The Department of Family and Protective
14 Services shall develop a permanency plan as required
15 by this subchapter for each child who resides in an
16 institution in this state for whom the department has
17 been appointed permanent managing conservator. The
18 department is not required to develop a permanency
19 plan under this subchapter for a child for whom the
20 department has been appointed temporary managing
21 conservator, but may incorporate the requirements of
22 this subchapter in a permanency plan developed for the
23 child under Section 263.3025, Family Code.

24 (c) In developing procedures under Subsection
25 (a), the commission and other appropriate health and
26 human services agencies shall develop to the extent
27 possible uniform procedures applicable to each of the
28 agencies and each child who is the subject of a
29 permanency plan that promote efficiency for the
30 agencies and stability for each child.

31 (d) In implementing permanency planning
32 procedures under Subsection (a) to develop a
33 permanency plan for each child, the Department of
34 Aging and Disability Services shall:

35 (1) delegate the department's duty to
36 develop a permanency plan to a local intellectual and
37 developmental disability authority, as defined by
38 Section 531.002, Health and Safety Code, or enter into
39 a memorandum of understanding with the local
40 intellectual and developmental disability authority
41 to develop the permanency plan for each child who
42 resides in an institution in this state or with respect
43 to whom the department is notified in advance that
44 institutional care is sought;

45 (2) contract with a private entity, other
46 than an entity that provides long-term institutional
47 care, to develop a permanency plan for a child who
48 resides in an institution in this state or with respect
49 to whom the department is notified in advance that
50 institutional care is sought; or

51 (3) perform the department's duties
52 regarding permanency planning procedures using
53 department personnel.

54 (d-1) A contract or memorandum of understanding
55 under Subsection (d) must include performance measures
56 by which the Department of Aging and Disability
57 Services may evaluate the effectiveness of a local
58 intellectual and developmental disability authority's
59 or private entity's permanency planning efforts.

60 (d-2) In implementing permanency planning
61 procedures under Subsection (a) to develop a
62 permanency plan for each child, the Department of
63 Aging and Disability Services shall engage in
64 appropriate activities in addition to those required
65 by Subsection (d) to minimize the potential conflicts

1 of interest that, in developing the plan, may exist or
2 arise between:

3 (1) the institution in which the child
4 resides or in which institutional care is sought for
5 the child; and

6 (2) the best interest of the child.

7 (e) The commission, the Department of Aging and
8 Disability Services, and the Department of Family and
9 Protective Services may solicit and accept gifts,
10 grants, and donations to support the development of
11 permanency plans for children residing in institutions
12 by individuals or organizations not employed by or
13 affiliated with those institutions.

14 (f) A health and human services agency that
15 contracts with a private entity under Subsection (d)
16 to develop a permanency plan shall ensure that the
17 entity is provided training regarding the permanency
18 planning philosophy under Section 531.151 and
19 available resources that will assist a child residing
20 in an institution in making a successful transition to
21 a community-based residence.

22 Revisor's Note

23 Section 531.153(d)(1), Government Code,
24 references a definition for a "local intellectual and
25 developmental disability authority." Throughout this
26 chapter, the revised law omits references to the
27 definition of that term because it duplicates the
28 chapter-wide definition for that term added to this
29 chapter as Section 546.0001(1), which is applicable to
30 the revised law.

31 Revised Law

32 Sec. 546.0204. PERMANENCY PLANNING FOR CERTAIN CHILDREN.

33 (a) Notwithstanding Section 546.0201, in this section,
34 "institution" has the meaning assigned by Section 242.002, Health
35 and Safety Code.

36 (b) The commission and each appropriate health and human
37 services agency shall develop procedures to ensure that permanency
38 planning is provided for each child:

39 (1) residing in an institution in this state on a
40 temporary or long-term basis; or

41 (2) for whom institutional care is sought. (Gov.
42 Code, Secs. 531.0245(a), (b)(1).)

43 Source Law

44 Sec. 531.0245. PERMANENCY PLANNING FOR CERTAIN
45 CHILDREN. (a) The commission and each appropriate

1 health and human services agency shall develop
2 procedures to ensure that permanency planning is
3 provided for each child residing in an institution in
4 this state on a temporary or long-term basis or for
5 whom institutional care is sought.

6 (b) In this section:

7 (1) "Institution" has the meaning assigned
8 by Section 242.002, Health and Safety Code.

9 Revisor's Note

10 (1) Section 531.0245(b)(2), Government Code,
11 defines "permanency planning." The revised law omits
12 the definition because it duplicates the definition of
13 that same term in Section 546.0201(5), which applies
14 to this section. The omitted law reads:

15 (2) "Permanency planning" has
16 the meaning assigned by Section 531.151.

17 (2) Section 531.0245, Government Code, is
18 revised as Section 546.0204 in Subchapter E, Chapter
19 546, of the revised law. Subchapter E is predominately
20 derived from Subchapter D-1, Chapter 531, Government
21 Code. Section 531.151, Government Code, revised as
22 Section 546.0201 of the revised law, provides
23 subchapter-wide definitions applicable to the revised
24 subchapter, including Section 531.0245. Section
25 531.0245, which is not contained in Subchapter D-1,
26 uses some of the same terms defined in Section 531.151,
27 including "institution," "permanency planning," and
28 "child," and, in the case of "institution," provides a
29 different, narrower definition of the term. To
30 preserve the separate meanings of the term
31 "institution," the revised law adds
32 "[n]otwithstanding Section 546.0201" to the revised
33 definition of the term. With respect to the other
34 terms, "permanency planning" and "child," because it
35 is clear from the context that those terms have the
36 same meanings in Section 531.0245, applying those
37 terms to the revision of that section in this
38 subchapter does not result in a substantive change.

1 Revised Law

2 Sec. 546.0205. INSTITUTION TO ASSIST WITH PERMANENCY
3 PLANNING EFFORTS. An institution in which a child resides shall
4 assist with providing effective permanency planning for the child
5 by:

6 (1) cooperating with the health and human services
7 agency, local intellectual and developmental disability authority,
8 or private entity responsible for developing the child's permanency
9 plan; and

10 (2) participating in meetings to review the child's
11 permanency plan as requested by a health and human services agency,
12 local intellectual and developmental disability authority, or
13 private entity responsible for developing the child's permanency
14 plan. (Gov. Code, Sec. 531.1531.)

15 Source Law

16 Sec. 531.1531. ASSISTANCE WITH PERMANENCY
17 PLANNING EFFORTS. An institution in which a child
18 resides shall assist with providing effective
19 permanency planning for the child by:

20 (1) cooperating with the health and human
21 services agency, local intellectual and developmental
22 disability authority, or private entity responsible
23 for developing the child's permanency plan; and

24 (2) participating in meetings to review
25 the child's permanency plan as requested by a health
26 and human services agency, local intellectual and
27 developmental disability authority, or private entity
28 responsible for developing the child's permanency
29 plan.

30 Revised Law

31 Sec. 546.0206. IMPLEMENTATION SYSTEM: LOCAL PERMANENCY
32 PLANNING SITES. The commission shall develop an implementation
33 system that initially consists of four or more local sites and that
34 is designed to coordinate planning for a permanent living
35 arrangement and relationship for a child with a family. In
36 developing the system, the commission shall:

37 (1) include criteria to identify children who need
38 permanency plans;

39 (2) require the establishment of a permanency plan for
40 each child who resides outside the child's family or for whom care

1 or protection is sought in an institution;

2 (3) include a process to determine the agency or
3 entity responsible for developing and overseeing implementation of
4 a child's permanency plan;

5 (4) identify, blend, and use money from all available
6 sources to provide customized services and programs to implement a
7 child's permanency plan;

8 (5) clarify and expand the role of a local community
9 resource coordination group in ensuring accountability for a child
10 who resides in an institution or who is at risk of being placed in an
11 institution;

12 (6) require reporting of each placement or potential
13 placement of a child in an institution or other living arrangement
14 outside of the child's home; and

15 (7) assign in each local permanency planning site area
16 a single gatekeeper for all children in the area for whom placement
17 in an institution through a state-funded program is sought with
18 authority to ensure that:

19 (A) family members of each child are aware of:

20 (i) intensive services that could prevent
21 placement of the child in an institution; and

22 (ii) available placement options; and

23 (B) permanency planning is initiated for each
24 child. (Gov. Code, Sec. 531.158.)

25 Source Law

26 Sec. 531.158. LOCAL PERMANENCY PLANNING SITES.
27 The commission shall develop an implementation system
28 that consists initially of four or more local sites and
29 that is designed to coordinate planning for a
30 permanent living arrangement and relationship for a
31 child with a family. In developing the system, the
32 commission shall:

33 (1) include criteria to identify children
34 who need permanency plans;

35 (2) require the establishment of a
36 permanency plan for each child who lives outside the
37 child's family or for whom care or protection is sought
38 in an institution;

39 (3) include a process to determine the
40 agency or entity responsible for developing and
41 overseeing implementation of a child's permanency
42 plan;

1 (4) identify, blend, and use funds from
2 all available sources to provide customized services
3 and programs to implement a child's permanency plan;

4 (5) clarify and expand the role of a local
5 community resource coordination group in ensuring
6 accountability for a child who resides in an
7 institution or who is at risk of being placed in an
8 institution;

9 (6) require reporting of each placement or
10 potential placement of a child in an institution or
11 other living arrangement outside of the child's home;
12 and

13 (7) assign in each local permanency
14 planning site area a single gatekeeper for all
15 children in the area for whom placement in an
16 institution through a program funded by the state is
17 sought with authority to ensure that:

18 (A) family members of each child are
19 aware of:

20 (i) intensive services that
21 could prevent placement of the child in an
22 institution; and

23 (ii) available placement
24 options; and

25 (B) permanency planning is initiated
26 for each child.

27 Revised Law

28 Sec. 546.0207. DESIGNATION OF VOLUNTEER ADVOCATE. (a) The
29 commission shall designate an individual, including a member of a
30 community-based organization, to serve as a volunteer advocate for
31 a child residing in an institution to assist in developing a
32 permanency plan for the child if:

33 (1) the child's parent or guardian requests the
34 assistance of an advocate;

35 (2) the institution in which the child is placed
36 cannot locate the child's parent or guardian; or

37 (3) the child resides in an institution the commission
38 operates.

39 (b) The individual designated to serve as the child's
40 volunteer advocate may be:

41 (1) an individual the child's parent or guardian
42 selects, except that the individual may not be employed by or under
43 a contract with the institution in which the child resides;

44 (2) an adult relative of the child; or

45 (3) a child advocacy group representative.

46 (c) The commission shall provide to each individual
47 designated to serve as a child's volunteer advocate information

1 regarding permanency planning under this subchapter. (Gov. Code,
2 Sec. 531.156.)

3 Source Law

4 Sec. 531.156. DESIGNATION OF ADVOCATE. (a) The
5 Department of Aging and Disability Services shall
6 designate a person, including a member of a
7 community-based organization, to serve as a volunteer
8 advocate for a child residing in an institution to
9 assist in developing a permanency plan for the child
10 if:

11 (1) the child's parent or guardian
12 requests the assistance of an advocate;

13 (2) the institution in which the child is
14 placed cannot locate the child's parent or guardian; or

15 (3) the child resides in an institution
16 operated by the department.

17 (b) The person designated to serve as the
18 child's volunteer advocate under this section may be:

19 (1) a person selected by the child's parent
20 or guardian, except that the person may not be employed
21 by or under a contract with the institution in which
22 the child resides;

23 (2) an adult relative of the child; or

24 (3) a representative of a child advocacy
25 group.

26 (c) The Department of Aging and Disability
27 Services shall provide to each person designated to
28 serve as a child's volunteer advocate information
29 regarding permanency planning under this subchapter.

30 Revised Law

31 Sec. 546.0208. PREADMISSION NOTICE AND INFORMATION. (a)

32 The requirements of this section do not apply to a request to place
33 a child in an institution if the child:

34 (1) is involved in an emergency situation, as defined
35 by rules the executive commissioner adopts; or

36 (2) has been committed to an institution under:

37 (A) Chapter 46B, Code of Criminal Procedure; or

38 (B) Chapter 55, Family Code.

39 (b) The executive commissioner by rule shall develop and
40 implement a system by which the commission ensures that, for each
41 child with respect to whom the commission or a local intellectual
42 and developmental disability authority is notified of a request for
43 placement in an institution, the child's parent or guardian is
44 fully informed before the child is placed in the institution of all
45 community-based services and any other service and support options
46 for which the child may be eligible. The system must be designed to

1 ensure that the commission provides the information through:

2 (1) a local intellectual and developmental disability
3 authority;

4 (2) any private entity that has knowledge and
5 expertise regarding the needs of and full spectrum of care options
6 available to children with disabilities as well as the philosophy
7 and purpose of permanency planning; or

8 (3) a commission employee.

9 (c) The commission shall develop comprehensive information
10 consistent with the policy stated in Section 546.0202 to explain to
11 a parent or guardian considering placing a child in an institution:

12 (1) options for community-based services;

13 (2) the benefits to the child of residing in a family
14 or community setting;

15 (3) that the child's placement in an institution is
16 considered temporary in accordance with Section 546.0215; and

17 (4) that an ongoing permanency planning process is
18 required under this subchapter and other state law.

19 (d) An institution in which a child's parent or guardian is
20 considering placing the child may provide the information required
21 under Subsection (b), but the information must also be provided by a
22 local intellectual and developmental disability authority, private
23 entity, or employee of the commission as required by that
24 subsection.

25 (e) Except as otherwise provided by this subsection and
26 Subsection (a), the commission shall ensure that, not later than
27 the 14th working day after the date the commission is notified of a
28 request for a child's placement in an institution, the child's
29 parent or guardian is provided the information described by
30 Subsections (b) and (c). The commission may provide the information
31 after the 14th working day after the date the commission is notified
32 of the request if the child's parent or guardian waives the
33 requirement that the information be provided within the period
34 otherwise required by this subsection. (Gov. Code, Sec. 531.1521.)

Source Law

1
2 Sec. 531.1521. PREAMISSION INFORMATION. (a)
3 The executive commissioner by rule shall develop and
4 implement a system by which the Department of Aging and
5 Disability Services ensures that, for each child with
6 respect to whom the department or a local intellectual
7 and developmental disability authority is notified of
8 a request for placement in an institution, the child's
9 parent or guardian is fully informed before the child
10 is placed in the institution of all community-based
11 services and any other service and support options for
12 which the child may be eligible. The system must be
13 designed to ensure that the department provides the
14 information through:

15 (1) a local intellectual and developmental
16 disability authority;

17 (2) any private entity that has knowledge
18 and expertise regarding the needs of and full spectrum
19 of care options available to children with
20 disabilities as well as the philosophy and purpose of
21 permanency planning; or

22 (3) a department employee.

23 (b) An institution in which a child's parent or
24 guardian is considering placing the child may provide
25 information required under Subsection (a), but the
26 information must also be provided by a local
27 intellectual and developmental disability authority,
28 private entity, or employee of the Department of Aging
29 and Disability Services as required by Subsection (a).

30 (c) The Department of Aging and Disability
31 Services shall develop comprehensive information
32 consistent with the policy stated in Section 531.152
33 to explain to a parent or guardian considering placing
34 a child in an institution:

35 (1) options for community-based services;

36 (2) the benefits to the child of living in
37 a family or community setting;

38 (3) that the placement of the child in an
39 institution is considered temporary in accordance with
40 Section 531.159; and

41 (4) that an ongoing permanency planning
42 process is required under this subchapter and other
43 state law.

44 (d) Except as otherwise provided by this
45 subsection and Subsection (e), the Department of Aging
46 and Disability Services shall ensure that, not later
47 than the 14th working day after the date the department
48 is notified of a request for the placement of a child
49 in an institution, the child's parent or guardian is
50 provided the information described by Subsections (a)
51 and (c). The department may provide the information
52 after the 14th working day after the date the
53 department is notified of the request if the child's
54 parent or guardian waives the requirement that the
55 information be provided within the period otherwise
56 required by this subsection.

57 (e) The requirements of this section do not
58 apply to a request for the placement of a child in an
59 institution if the child:

60 (1) is involved in an emergency situation,
61 as defined by rules adopted by the executive
62 commissioner; or

63 (2) has been committed to an institution
64 under Chapter 46B, Code of Criminal Procedure, or
65 Chapter 55, Family Code.

1 Revisor's Note

2 Section 531.1521, Government Code, requires the
3 Health and Human Services Commission to provide
4 certain information to the parent or guardian
5 considering placing a child in an institution,
6 including that the child's placement is considered
7 temporary in accordance with "Section 531.159."
8 Section 531.159 is revised in this chapter as Sections
9 531.0215, 531.0216, 531.0217, and 531.0222. The
10 relevant provisions relating to the temporary
11 placement of a child in an institution are revised as
12 Section 546.0215 of this chapter, and the revised law
13 is drafted accordingly.

14 Revised Law

15 Sec. 546.0209. REQUIREMENTS OF PARENT OR GUARDIAN ON
16 CHILD'S ADMISSION TO CERTAIN INSTITUTIONS. On the admission of a
17 child to an institution described by Section 546.0201(4)(A), (B),
18 or (D), the commission shall require the child's parent or guardian
19 to submit:

20 (1) an admission form that includes:

21 (A) the parent's or guardian's:

22 (i) name, address, and telephone number;

23 (ii) driver's license number and state of
24 issuance or personal identification card number the Department of
25 Public Safety issued; and

26 (iii) place of employment and the
27 employer's address and telephone number; and

28 (B) the name, address, and telephone number of a
29 relative of the child or other individual whom the commission or
30 institution may contact in an emergency, a statement indicating the
31 relation between that individual and the child, and at the parent's
32 or guardian's option:

33 (i) that individual's driver's license
34 number and state of issuance or personal identification card number

1 the Department of Public Safety issued; and
2 (ii) the name, address, and telephone
3 number of that individual's employer; and
4 (2) a signed acknowledgment of responsibility stating
5 that the parent or guardian agrees to:
6 (A) notify the institution in which the child is
7 placed of any changes to the information submitted under
8 Subdivision (1)(A); and
9 (B) make reasonable efforts to participate in the
10 child's life and in planning activities for the child. (Gov. Code,
11 Sec. 531.1533.)

12 Source Law

13 Sec. 531.1533. REQUIREMENTS ON ADMISSIONS OF
14 CHILDREN TO CERTAIN INSTITUTIONS. On the admission of
15 a child to an institution described by Section
16 531.151(3)(A), (B), or (D), the Department of Aging
17 and Disability Services shall require the child's
18 parent or guardian to submit:

19 (1) an admission form that includes:
20 (A) the parent's or guardian's:
21 (i) name, address, and
22 telephone number;
23 (ii) driver's license number
24 and state of issuance or personal identification card
25 number issued by the Department of Public Safety; and
26 (iii) place of employment and
27 the employer's address and telephone number; and
28 (B) the name, address, and telephone
29 number of a relative of the child or other person whom
30 the department or institution may contact in an
31 emergency, a statement indicating the relation between
32 that person and the child, and at the parent's or
33 guardian's option, that person's:
34 (i) driver's license number and
35 state of issuance or personal identification card
36 number issued by the Department of Public Safety; and
37 (ii) the name, address, and
38 telephone number of that person's employer; and
39 (2) a signed acknowledgment of
40 responsibility stating that the parent or guardian
41 agrees to:
42 (A) notify the institution in which
43 the child is placed of any changes to the information
44 submitted under Subdivision (1)(A); and
45 (B) make reasonable efforts to
46 participate in the child's life and in planning
47 activities for the child.

48 Revised Law

49 Sec. 546.0210. DUTIES OF CERTAIN INSTITUTIONS:
50 NOTIFICATION REQUIREMENTS AND PARENT OR GUARDIAN ACCOMMODATIONS.
51 (a) This section applies only to an institution described by

1 Section 546.0201(4)(A), (B), or (D).

2 (b) An institution described by Section 546.0201(4)(A) or
3 (B) shall notify the local intellectual and developmental
4 disability authority for the region in which the institution is
5 located of a request for a child's placement in the institution. An
6 institution described by Section 546.0201(4)(D) shall notify the
7 commission of a request for a child's placement in the institution.

8 (c) An institution must make reasonable accommodations to
9 promote the participation of the parent or guardian of a child
10 residing in the institution in all planning and decision-making
11 regarding the child's care, including participation in:

12 (1) the initial development of the child's permanency
13 plan and periodic review of the plan;

14 (2) an annual review and reauthorization of the
15 child's service plan;

16 (3) routine interdisciplinary team meetings;

17 (4) decision-making regarding the child's medical
18 care; and

19 (5) decision-making and other activities involving
20 the child's health and safety.

21 (d) Reasonable accommodations that an institution must make
22 include:

23 (1) conducting a meeting in person or by telephone, as
24 mutually agreed upon by the institution and the parent or guardian;

25 (2) conducting a meeting at a time and, if the meeting
26 is in person, at a location that is mutually agreed upon by the
27 institution and the parent or guardian;

28 (3) if a parent or guardian has a disability,
29 providing reasonable accommodations in accordance with the
30 Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.),
31 including providing an accessible meeting location or a sign
32 language interpreter, as applicable; and

33 (4) providing a language interpreter, if applicable.

34 (e) Except as otherwise provided by Subsection (f):

1 (1) an ICF-IID must:

2 (A) attempt to notify the parent or guardian of a
3 child who resides in the ICF-IID in writing of a periodic permanency
4 planning meeting or annual service plan review and reauthorization
5 meeting not later than the 21st day before the date the meeting is
6 scheduled to be held; and

7 (B) request a response from the parent or
8 guardian; and

9 (2) a nursing facility must:

10 (A) attempt to notify the parent or guardian of a
11 child who resides in the facility in writing of an annual service
12 plan review and reauthorization meeting not later than the 21st day
13 before the date the meeting is scheduled to be held; and

14 (B) request a response from the parent or
15 guardian.

16 (f) If an emergency situation involving a child residing in
17 an ICF-IID or nursing facility occurs, the ICF-IID or nursing
18 facility, as applicable, must:

19 (1) attempt to notify the child's parent or guardian as
20 soon as possible; and

21 (2) request a response from the parent or guardian.

22 (g) If a child's parent or guardian does not respond to the
23 notice provided under Subsection (e) or (f), the ICF-IID or nursing
24 facility, as applicable, must attempt to locate the parent or
25 guardian by contacting another individual whose information was
26 provided by the parent or guardian under Section 546.0209(1)(B).

27 (h) Not later than the 30th day after the date an ICF-IID or
28 nursing facility determines that the ICF-IID or nursing facility is
29 unable to locate a child's parent or guardian for participation in
30 activities listed under Subsection (e)(1) or (2), the ICF-IID or
31 nursing facility must notify the commission of that determination
32 and request that the commission initiate a search for the child's
33 parent or guardian. (Gov. Code, Sec. 531.164.)

Source Law

2 Sec. 531.164. DUTIES OF CERTAIN INSTITUTIONS.
3 (a) This section applies only to an institution
4 described by Section 531.151(3)(A), (B), or (D).

5 (b) An institution described by Section
6 531.151(3)(A) or (B) shall notify the local
7 intellectual and developmental disability authority
8 for the region in which the institution is located of a
9 request for placement of a child in the institution. An
10 institution described by Section 531.151(3)(D) shall
11 notify the Department of Aging and Disability Services
12 of a request for placement of a child in the
13 institution.

14 (c) An institution must make reasonable
15 accommodations to promote the participation of the
16 parent or guardian of a child residing in the
17 institution in all planning and decision-making
18 regarding the child's care, including participation
19 in:

20 (1) the initial development of the child's
21 permanency plan and periodic review of the plan;

22 (2) an annual review and reauthorization
23 of the child's service plan;

24 (3) decision-making regarding the child's
25 medical care;

26 (4) routine interdisciplinary team
27 meetings; and

28 (5) decision-making and other activities
29 involving the child's health and safety.

30 (d) Reasonable accommodations that an
31 institution must make under this section include:

32 (1) conducting a meeting in person or by
33 telephone, as mutually agreed upon by the institution
34 and the parent or guardian;

35 (2) conducting a meeting at a time and, if
36 the meeting is in person, at a location that is
37 mutually agreed upon by the institution and the parent
38 or guardian;

39 (3) if a parent or guardian has a
40 disability, providing reasonable accommodations in
41 accordance with the Americans with Disabilities Act
42 (42 U.S.C. Section 12101 et seq.), including providing
43 an accessible meeting location or a sign language
44 interpreter, as applicable; and

45 (4) providing a language interpreter, if
46 applicable.

47 (e) Except as otherwise provided by Subsection
48 (f):

49 (1) an ICF-IID must:

50 (A) attempt to notify the parent or
51 guardian of a child who resides in the ICF-IID in
52 writing of a periodic permanency planning meeting or
53 annual service plan review and reauthorization meeting
54 not later than the 21st day before the date the meeting
55 is scheduled to be held; and

56 (B) request a response from the
57 parent or guardian; and

58 (2) a nursing facility must:

59 (A) attempt to notify the parent or
60 guardian of a child who resides in the facility in
61 writing of an annual service plan review and
62 reauthorization meeting not later than the 21st day
63 before the date the meeting is scheduled to be held;
64 and

65 (B) request a response from the
66 parent or guardian.

1 (f) If an emergency situation involving a child
2 residing in an ICF-IID or nursing facility occurs, the
3 ICF-IID or nursing facility, as applicable, must:

4 (1) attempt to notify the child's parent or
5 guardian as soon as possible; and
6 (2) request a response from the parent or
7 guardian.

8 (g) If a child's parent or guardian does not
9 respond to a notice under Subsection (e) or (f), the
10 ICF-IID or nursing facility, as applicable, must
11 attempt to locate the parent or guardian by contacting
12 another person whose information was provided by the
13 parent or guardian under Section 531.1533(1)(B).

14 (h) Not later than the 30th day after the date an
15 ICF-IID or nursing facility determines that it is
16 unable to locate a child's parent or guardian for
17 participation in activities listed under Subsection
18 (e)(1) or (2), the ICF-IID or nursing facility must
19 notify the Department of Aging and Disability Services
20 of that determination and request that the department
21 initiate a search for the child's parent or guardian.

22 Revised Law

23 Sec. 546.0211. NOTIFICATION OF PLACEMENT REQUIRED. (a)

24 Not later than the third day after the date a child is initially
25 placed in an institution, the institution shall notify:

26 (1) the commission, if the child is placed in a nursing
27 facility;

28 (2) the local intellectual and developmental
29 disability authority for the region in which the institution is
30 located, if the child:

31 (A) is placed in an ICF-IID; or

32 (B) is placed by a child protective services
33 agency in a general residential operation for children with an
34 intellectual disability that the commission licenses;

35 (3) the community resource coordination group in the
36 county of residence of the child's parent or guardian;

37 (4) if the child is at least three years of age, the
38 school district for the area in which the institution is located;
39 and

40 (5) if the child is less than three years of age, the
41 local early childhood intervention program for the area in which
42 the institution is located.

43 (b) The commission shall notify the local intellectual and
44 developmental disability authority of a child's placement in a

1 nursing facility if the child is known or suspected to have an
2 intellectual disability or another disability for which the child
3 may receive services through the commission. (Gov. Code, Sec.
4 531.154.)

5 Source Law

6 Sec. 531.154. NOTIFICATION REQUIRED. (a) Not
7 later than the third day after the date a child is
8 initially placed in an institution, the institution
9 shall notify:

10 (1) the Department of Aging and Disability
11 Services, if the child is placed in a nursing facility;

12 (2) the local intellectual and
13 developmental disability authority, as defined by
14 Section 531.002, Health and Safety Code, where the
15 institution is located, if the child:

16 (A) is placed in an ICF-IID, as
17 defined by Section 531.002, Health and Safety Code; or

18 (B) is placed by a child protective
19 services agency in a general residential operation for
20 children with an intellectual disability that is
21 licensed by the Department of Family and Protective
22 Services;

23 (3) the community resource coordination
24 group in the county of residence of a parent or
25 guardian of the child;

26 (4) if the child is at least three years of
27 age, the school district for the area in which the
28 institution is located; and

29 (5) if the child is less than three years
30 of age, the local early childhood intervention program
31 for the area in which the institution is located.

32 (b) The Department of Aging and Disability
33 Services shall notify the local intellectual and
34 developmental disability authority, as defined by
35 Section 531.002, Health and Safety Code, of a child's
36 placement in a nursing facility if the child is known
37 or suspected to have an intellectual disability or
38 another disability for which the child may receive
39 services through the Department of Aging and
40 Disability Services.

41 Revised Law

42 Sec. 546.0212. NOTICE TO PARENT OR GUARDIAN REGARDING
43 PLACEMENT OPTIONS AND SERVICES. Each entity receiving notice of a
44 child's initial placement in an institution under Section 546.0211
45 may contact the child's parent or guardian to ensure that the parent
46 or guardian is aware of:

47 (1) services and support that could provide
48 alternatives to placing the child in the institution;

49 (2) available placement options; and

50 (3) opportunities for permanency planning. (Gov.
51 Code, Sec. 531.155.)

1 Source Law

2 Sec. 531.155. OFFER OF SERVICES. Each entity
3 receiving notice of the initial placement of a child in
4 an institution under Section 531.154 may contact the
5 child's parent or guardian to ensure that the parent or
6 guardian is aware of:

7 (1) services and support that could
8 provide alternatives to placement of the child in the
9 institution;

10 (2) available placement options; and

11 (3) opportunities for permanency
12 planning.

13 Revised Law

14 Sec. 546.0213. PLACEMENT ON WAIVER PROGRAM WAITING LIST. A
15 state agency that receives notice of a child's placement in an
16 institution shall ensure that, on or before the third day after the
17 date the agency is notified of the child's placement in the
18 institution, the child is also placed on a waiting list for Section
19 1915(c) waiver program services appropriate to the child's needs.
20 (Gov. Code, Sec. 531.157.)

21 Source Law

22 Sec. 531.157. COMMUNITY-BASED SERVICES. A state
23 agency that receives notice of a child's placement in
24 an institution shall ensure that, on or before the
25 third day after the date the agency is notified of the
26 child's placement in the institution, the child is also
27 placed on a waiting list for waiver program services
28 under Section 1915(c) of the federal Social Security
29 Act (42 U.S.C. Section 1396n), as amended, appropriate
30 to the child's needs.

31 Revised Law

32 Sec. 546.0214. INTERFERENCE WITH PERMANENCY PLANNING
33 EFFORTS. An entity that provides information to a child's parent or
34 guardian relating to permanency planning shall refrain from
35 providing the child's parent or guardian with inaccurate or
36 misleading information regarding the risks of moving the child to
37 another facility or community setting. (Gov. Code, Sec. 531.1532.)

38 Source Law

39 Sec. 531.1532. INTERFERENCE WITH PERMANENCY
40 PLANNING EFFORTS. An entity that provides information
41 to a child's parent or guardian relating to permanency
42 planning shall refrain from providing the child's
43 parent or guardian with inaccurate or misleading
44 information regarding the risks of moving the child to
45 another facility or community setting.

1 Revised Law

2 Sec. 546.0215. INITIAL PLACEMENT OF CHILD IN INSTITUTION
3 AND PLACEMENT EXTENSIONS. (a) The chief executive officer of each
4 appropriate health and human services agency or the officer's
5 designee must approve a child's placement in an institution. The
6 child's initial placement in the institution is temporary and may
7 not exceed six months unless the appropriate chief executive
8 officer or the officer's designee approves an extension of an
9 additional six months after conducting a review of documented
10 permanency planning efforts to unite the child with a family in a
11 permanent living arrangement.

12 (b) After the initial six-month extension of a child's
13 placement in an institution approved under Subsection (a), the
14 chief executive officer or the officer's designee shall conduct a
15 review of the child's placement in the institution at least
16 semiannually to determine whether continuing that placement is
17 warranted. If, based on the review, the chief executive officer or
18 the officer's designee determines that an additional extension is
19 warranted, the officer or the officer's designee shall recommend to
20 the executive commissioner that the child continue residing in the
21 institution.

22 (c) On receipt of a recommendation made under Subsection
23 (b), the executive commissioner, the executive commissioner's
24 designee, or another person with whom the commission contracts
25 shall conduct a review of the child's placement. Based on the
26 results of the review, the executive commissioner or the executive
27 commissioner's designee may approve a six-month extension of the
28 child's placement if the extension is appropriate.

29 (d) A child may continue residing in an institution after
30 the six-month extension approved under Subsection (c) only if the
31 chief executive officer of the appropriate health and human
32 services agency or the officer's designee makes subsequent
33 recommendations as provided by Subsection (b) for each additional
34 six-month extension and the executive commissioner or the executive

1 commissioner's designee approves each extension as provided by
2 Subsection (c). (Gov. Code, Secs. 531.159(b), (c), (d).)

3 Source Law

4 (b) The chief executive officer of each
5 appropriate health and human services agency or the
6 officer's designee must approve the placement of a
7 child in an institution. The initial placement of the
8 child in the institution is temporary and may not
9 exceed six months unless the appropriate chief
10 executive officer or the officer's designee approves
11 an extension of an additional six months after
12 conducting a review of documented permanency planning
13 efforts to unite the child with a family in a permanent
14 living arrangement. After the initial six-month
15 extension of a child's placement in an institution
16 approved under this subsection, the chief executive
17 officer or the officer's designee shall conduct a
18 review of the child's placement in the institution at
19 least semiannually to determine whether a continuation
20 of that placement is warranted. If, based on the
21 review, the chief executive officer or the officer's
22 designee determines that an additional extension is
23 warranted, the officer or the officer's designee shall
24 recommend to the executive commissioner that the child
25 continue residing in the institution.

26 (c) On receipt of a recommendation made under
27 Subsection (b) for an extension of a child's placement,
28 the executive commissioner, the executive
29 commissioner's designee, or another person with whom
30 the commission contracts shall conduct a review of the
31 child's placement. Based on the results of the review,
32 the executive commissioner or the executive
33 commissioner's designee may approve a six-month
34 extension of the child's placement if the extension is
35 appropriate.

36 (d) The child may continue residing in the
37 institution after the six-month extension approved
38 under Subsection (c) only if the chief executive
39 officer of the appropriate health and human services
40 agency or the officer's designee makes subsequent
41 recommendations as provided by Subsection (b) for each
42 additional six-month extension and the executive
43 commissioner or the executive commissioner's designee
44 approves each extension as provided by Subsection (c).

45 Revised Law

46 Sec. 546.0216. REVIEW OF CERTAIN PLACEMENT DATA. (a) The
47 executive commissioner or the executive commissioner's designee
48 shall conduct a semiannual review of data received from health and
49 human services agencies regarding all children who reside in
50 institutions in this state.

51 (b) The executive commissioner, the executive
52 commissioner's designee, or a person with whom the commission
53 contracts shall also review the recommendations of the chief
54 executive officer of each appropriate health and human services

1 agency or the officer's designee if the officer or the officer's
2 designee repeatedly recommends that children continue residing in
3 an institution. (Gov. Code, Sec. 531.159(e).)

4 Source Law

5 (e) The executive commissioner or the executive
6 commissioner's designee shall conduct a semiannual
7 review of data received from health and human services
8 agencies regarding all children who reside in
9 institutions in this state. The executive
10 commissioner, the executive commissioner's designee,
11 or a person with whom the commission contracts shall
12 also review the recommendations of the chief executive
13 officers of each appropriate health and human services
14 agency or the officer's designee if the officer or the
15 officer's designee repeatedly recommends that children
16 continue residing in an institution.

17 Revised Law

18 Sec. 546.0217. PROCEDURES FOR PLACEMENT REVIEWS. The
19 executive commissioner by rule shall develop procedures for
20 conducting the reviews required by Sections 546.0215(c) and (d) and
21 546.0216. (Gov. Code, Sec. 531.159(f) (part).)

22 Source Law

23 (f) The executive commissioner by rule shall
24 develop procedures by which to conduct the reviews
25 required by Subsections (c), (d), and (e). . . .

26 Revisor's Note

27 Section 531.159(f), Government Code, authorizes
28 the Health and Human Services Commission to seek
29 certain input from the work group on children's
30 long-term services, health services, and mental health
31 services established under Section 22.035, Human
32 Resources Code. Section 22.035, including the work
33 group, expired on September 1, 2017, and because of the
34 expiration, the revised law omits the reference to the
35 work group and that section. The omitted law reads:

36 (f) . . . In developing the
37 procedures, the commission may seek input
38 from the work group on children's long-term
39 services, health services, and mental
40 health services established under Section
41 22.035, Human Resources Code.

42 Revised Law

43 Sec. 546.0218. ANNUAL REAUTHORIZATION OF PLANS OF CARE FOR

1 CERTAIN CHILDREN. (a) The executive commissioner shall adopt
2 rules under which the commission requires a nursing facility in
3 which a child resides to request from the child's parent or guardian
4 a written reauthorization of the child's plan of care.

5 (b) The rules must require that the written reauthorization
6 be requested annually. (Gov. Code, Sec. 531.1591.)

7 Source Law

8 Sec. 531.1591. ANNUAL REAUTHORIZATION OF PLANS
9 OF CARE FOR CERTAIN CHILDREN. (a) The executive
10 commissioner shall adopt rules under which the
11 Department of Aging and Disability Services requires a
12 nursing facility in which a child resides to request
13 from the child's parent or guardian a written
14 reauthorization of the child's plan of care.

15 (b) The rules adopted under this section must
16 require that the written reauthorization be requested
17 annually.

18 Revised Law

19 Sec. 546.0219. TRANSFER OF CHILD BETWEEN INSTITUTIONS. (a)
20 This section applies only to an institution described by Section
21 546.0201(4)(A), (B), or (D) in which a child resides.

22 (b) Before transferring a child who is 17 years of age or
23 younger, or a child who is at least 18 years of age and for whom a
24 guardian has been appointed, from one institution to another
25 institution, the institution in which the child resides must
26 attempt to obtain consent for the transfer from the child's parent
27 or guardian unless the transfer is in response to an emergency
28 situation, as defined by rules the executive commissioner adopts.
29 (Gov. Code, Sec. 531.166.)

30 Source Law

31 Sec. 531.166. TRANSFER OF CHILD BETWEEN
32 INSTITUTIONS. (a) This section applies only to an
33 institution described by Section 531.151(3)(A), (B),
34 or (D) in which a child resides.

35 (b) Before transferring a child who is 17 years
36 of age or younger, or a child who is at least 18 years
37 of age and for whom a guardian has been appointed, from
38 one institution to another institution, the
39 institution in which the child resides must attempt to
40 obtain consent for the transfer from the child's parent
41 or guardian unless the transfer is in response to an
42 emergency situation, as defined by rules adopted by
43 the executive commissioner.

1 Revised Law

2 Sec. 546.0220. COMPLIANCE WITH PERMANENCY PLAN
3 REQUIREMENTS AS PART OF INSPECTION, SURVEY, OR INVESTIGATION. As
4 part of each inspection, survey, or investigation of an
5 institution, including a nursing facility, a general residential
6 operation for children with an intellectual disability that the
7 commission licenses, or an ICF-IID, in which a child resides, the
8 agency or the agency's designee shall determine the extent to which
9 the nursing facility, general residential operation, or ICF-IID is
10 complying with the permanency planning requirements under this
11 subchapter. (Gov. Code, Sec. 531.160.)

12 Source Law

13 Sec. 531.160. INSPECTIONS. As part of each
14 inspection, survey, or investigation of an
15 institution, including a nursing facility, general
16 residential operation for children with an
17 intellectual disability that is licensed by the
18 Department of Family and Protective Services, or
19 ICF-IID, as defined by Section 531.002, Health and
20 Safety Code, in which a child resides, the agency or
21 the agency's designee shall determine the extent to
22 which the nursing facility, general residential
23 operation, or ICF-IID is complying with the permanency
24 planning requirements under this subchapter.

25 Revised Law

26 Sec. 546.0221. SEARCH FOR CHILD'S PARENT OR GUARDIAN. (a)
27 The commission shall develop and implement a process by which the
28 commission, on receipt of notification under Section 546.0210(h)
29 that a child's parent or guardian cannot be located, conducts a
30 search for the parent or guardian. If, on the first anniversary of
31 the date the commission receives the notification under that
32 subsection, the commission has been unsuccessful in locating the
33 parent or guardian, the commission shall refer the case to:

34 (1) the department's child protective services
35 division if the child is 17 years of age or younger; or

36 (2) the department's adult protective services
37 division if the child is 18 years of age or older.

38 (b) On receipt of a referral under Subsection (a)(1), the
39 department's child protective services division shall exercise

1 intense due diligence in attempting to locate the child's parent or
2 guardian. If the division is unable to locate the child's parent or
3 guardian, the department shall file a suit affecting the
4 parent-child relationship requesting an order appointing the
5 department as the child's temporary managing conservator.

6 (c) A child is considered abandoned for purposes of the
7 Family Code if the child's parent or guardian cannot be located
8 following the department's exercise of intense due diligence in
9 attempting to locate the parent or guardian.

10 (d) On receipt of a referral under Subsection (a)(2), the
11 department's adult protective services division shall notify the
12 court that appointed the child's guardian that the guardian cannot
13 be located. (Gov. Code, Sec. 531.165.)

14 Source Law

15 Sec. 531.165. SEARCH FOR PARENT OR GUARDIAN OF A
16 CHILD. (a) The Department of Aging and Disability
17 Services shall develop and implement a process by
18 which the department, on receipt of notification under
19 Section 531.164(h) that a child's parent or guardian
20 cannot be located, conducts a search for the parent or
21 guardian. If, on the first anniversary of the date the
22 department receives the notification under Section
23 531.164(h), the department has been unsuccessful in
24 locating the parent or guardian, the department shall
25 refer the case to:

26 (1) the child protective services division
27 of the Department of Family and Protective Services if
28 the child is 17 years of age or younger; or

29 (2) the adult protective services division
30 of the Department of Family and Protective Services if
31 the child is 18 years of age or older.

32 (b) On receipt of a referral under Subsection
33 (a)(1), the child protective services division of the
34 Department of Family and Protective Services shall
35 exercise intense due diligence in attempting to locate
36 the child's parent or guardian. If the division is
37 unable to locate the child's parent or guardian, the
38 department shall file a suit affecting the
39 parent-child relationship requesting an order
40 appointing the department as the child's temporary
41 managing conservator.

42 (c) A child is considered abandoned for purposes
43 of the Family Code if the child's parent or guardian
44 cannot be located following the exercise of intense
45 due diligence in attempting to locate the parent or
46 guardian by the Department of Family and Protective
47 Services under Subsection (b).

48 (d) On receipt of a referral under Subsection
49 (a)(2), the adult protective services division of the
50 Department of Family and Protective Services shall
51 notify the court that appointed the child's guardian
52 that the guardian cannot be located.

1 Revised Law

2 Sec. 546.0222. DOCUMENTATION OF ONGOING PERMANENCY
3 PLANNING EFFORTS. The commission and each appropriate health and
4 human services agency shall require a person who develops a
5 permanency plan for a child residing in an institution to identify
6 and document in the child's permanency plan all ongoing permanency
7 planning efforts at least semiannually to ensure that, as soon as
8 possible, the child will benefit from a permanent living
9 arrangement with an enduring and nurturing parental relationship.
10 (Gov. Code, Sec. 531.159(a).)

11 Source Law

12 Sec. 531.159. MONITORING OF PERMANENCY PLANNING
13 EFFORTS. (a) The commission and each appropriate
14 health and human services agency shall require a
15 person who develops a permanency plan for a child
16 residing in an institution to identify and document in
17 the child's permanency plan all ongoing permanency
18 planning efforts at least semiannually to ensure that,
19 as soon as possible, the child will benefit from a
20 permanent living arrangement with an enduring and
21 nurturing parental relationship.

22 Revised Law

23 Sec. 546.0223. ACCESS TO RECORDS. Each institution in
24 which a child resides shall allow the following to have access to
25 the child's records to assist in complying with the requirements of
26 this subchapter:

27 (1) the commission;

28 (2) appropriate health and human services agencies;

29 and

30 (3) to the extent not otherwise prohibited by state or
31 federal confidentiality laws, a local intellectual and
32 developmental disability authority or private entity that enters
33 into a contract or memorandum of understanding under Section
34 546.0203(d) to develop a permanency plan for the child. (Gov. Code,
35 Sec. 531.161.)

36 Source Law

37 Sec. 531.161. ACCESS TO RECORDS. Each
38 institution in which a child resides shall allow the
39 following to have access to the child's records to
40 assist in complying with the requirements of this

1 subchapter:

- 2 (1) the commission;
3 (2) appropriate health and human services
4 agencies; and
5 (3) to the extent not otherwise prohibited
6 by state or federal confidentiality laws, a local
7 intellectual and developmental disability authority
8 or private entity that enters into a contract or
9 memorandum of understanding under Section 531.153(d)
10 to develop a permanency plan for the child.

11 Revised Law

12 Sec. 546.0224. COLLECTION OF INFORMATION REGARDING
13 INVOLVEMENT OF CERTAIN PARENTS AND GUARDIANS. (a) The commission
14 shall collect and maintain aggregate information regarding the
15 involvement of parents and guardians of children residing in
16 institutions described by Sections 546.0201(4)(A), (B), and (D) in
17 the lives of and planning activities relating to those children.
18 The commission shall obtain input from stakeholders concerning the
19 types of information most useful in assessing the involvement of
20 those parents and guardians.

21 (b) The commission shall make the aggregate information
22 available to the public on request. (Gov. Code, Sec. 531.167.)

23 Source Law

24 Sec. 531.167. COLLECTION OF INFORMATION
25 REGARDING INVOLVEMENT OF CERTAIN PARENTS AND
26 GUARDIANS. (a) The Department of Aging and Disability
27 Services shall collect and maintain aggregate
28 information regarding the involvement of parents and
29 guardians of children residing in institutions
30 described by Sections 531.151(3)(A), (B), and (D) in
31 the lives of and planning activities relating to those
32 children. The department shall obtain input from
33 stakeholders concerning the types of information that
34 are most useful in assessing the involvement of those
35 parents and guardians.

36 (b) The Department of Aging and Disability
37 Services shall make the aggregate information
38 available to the public on request.

39 Revised Law

40 Sec. 546.0225. REPORTING SYSTEMS: SEMIANNUAL REPORTING.

41 (a) For each of the local permanency planning sites, the commission
42 shall develop a reporting system under which each appropriate
43 health and human services agency responsible for permanency
44 planning under this subchapter is required to semiannually provide
45 to the commission:

- 46 (1) the number of permanency plans the agency develops

1 for children residing in institutions or children at risk of being
2 placed in institutions;

3 (2) progress achieved in implementing permanency
4 plans;

5 (3) the number of children the agency serves residing
6 in institutions;

7 (4) the number of children the agency serves at risk of
8 being placed in an institution served by the local permanency
9 planning sites;

10 (5) the number of children the agency serves reunited
11 with their families or placed with alternate permanent families;
12 and

13 (6) cost data related to developing and implementing
14 permanency plans.

15 (b) The executive commissioner shall submit to the governor
16 and the committees of the senate and the house of representatives
17 having primary jurisdiction over health and human services agencies
18 a semiannual report on:

19 (1) the number of children residing in institutions in
20 this state and the number of those children for whom a
21 recommendation has been made for a transition to a community-based
22 residence but who have not yet made that transition;

23 (2) the circumstances of each child described by
24 Subdivision (1), including the type of institution and name of the
25 institution in which the child resides, the child's age, the
26 residence of the child's parents or guardians, and the length of
27 time during which the child has resided in the institution;

28 (3) the number of permanency plans developed for
29 children residing in institutions in this state, progress achieved
30 in implementing those plans, and barriers to implementing those
31 plans;

32 (4) the number of children who previously resided in
33 an institution in this state and have made the transition to a
34 community-based residence;

1 (5) the number of children who previously resided in
2 an institution in this state and have been reunited with their
3 families or placed with alternate families;

4 (6) the community supports that resulted in the
5 successful placement of children described by Subdivision (5) with
6 alternate families; and

7 (7) the community supports that are unavailable but
8 necessary to address the needs of children who continue to reside in
9 an institution in this state after being recommended to make a
10 transition from the institution to an alternate family or
11 community-based residence. (Gov. Code, Sec. 531.162.)

12 Source Law

13 Sec. 531.162. PERMANENCY REPORTING. (a) For
14 each of the local permanency planning sites, the
15 commission shall develop a reporting system under
16 which each appropriate health and human services
17 agency responsible for permanency planning under this
18 subchapter is required to provide to the commission
19 semiannually:

20 (1) the number of permanency plans
21 developed by the agency for children residing in
22 institutions or children at risk of being placed in
23 institutions;

24 (2) progress achieved in implementing
25 permanency plans;

26 (3) the number of children served by the
27 agency residing in institutions;

28 (4) the number of children served by the
29 agency at risk of being placed in an institution served
30 by the local permanency planning sites;

31 (5) the number of children served by the
32 agency reunited with their families or placed with
33 alternate permanent families; and

34 (6) cost data related to the development
35 and implementation of permanency plans.

36 (b) The executive commissioner shall submit a
37 semiannual report to the governor and the committees
38 of each house of the legislature that have primary
39 oversight jurisdiction over health and human services
40 agencies regarding:

41 (1) the number of children residing in
42 institutions in this state and, of those children, the
43 number for whom a recommendation has been made for a
44 transition to a community-based residence but who have
45 not yet made that transition;

46 (2) the circumstances of each child
47 described by Subdivision (1), including the type of
48 institution and name of the institution in which the
49 child resides, the child's age, the residence of the
50 child's parents or guardians, and the length of time in
51 which the child has resided in the institution;

52 (3) the number of permanency plans
53 developed for children residing in institutions in
54 this state, the progress achieved in implementing
55 those plans, and barriers to implementing those plans;

1 (4) the number of children who previously
2 resided in an institution in this state and have made
3 the transition to a community-based residence;

4 (5) the number of children who previously
5 resided in an institution in this state and have been
6 reunited with their families or placed with alternate
7 families;

8 (6) the community supports that resulted
9 in the successful placement of children described by
10 Subdivision (5) with alternate families; and

11 (7) the community supports that are
12 unavailable but necessary to address the needs of
13 children who continue to reside in an institution in
14 this state after being recommended to make a
15 transition from the institution to an alternate family
16 or community-based residence.

17 Revised Law

18 Sec. 546.0226. EFFECT ON OTHER LAW. This subchapter does
19 not affect responsibilities imposed by federal or other state law
20 on a physician or other professional. (Gov. Code, Sec. 531.163.)

21 Source Law

22 Sec. 531.163. EFFECT ON OTHER LAW. This
23 subchapter does not affect responsibilities imposed by
24 federal or other state law on a physician or other
25 professional.

26 SUBCHAPTER F. FAMILY-BASED ALTERNATIVES FOR CHILDREN

27 Revised Law

28 Sec. 546.0251. DEFINITIONS. In this subchapter:

29 (1) "Child" means an individual younger than 22 years
30 of age who:

31 (A) has a physical or developmental disability;

32 or

33 (B) is medically fragile.

34 (2) "Family-based alternative" means a family setting
35 in which the family provider or providers are specially trained to
36 provide support and in-home care to children with disabilities or
37 children who are medically fragile.

38 (3) "Family-based alternatives system" means the
39 system of family-based alternatives required under this
40 subchapter.

41 (4) "Institution" means any congregate care facility,
42 including:

43 (A) a nursing facility;

- 1 (B) an ICF-IID;
- 2 (C) a group home operated by the commission; and
- 3 (D) a general residential operation for children
- 4 with an intellectual disability that the commission licenses.
- 5 (5) "Waiver services" means services provided under:
- 6 (A) the medically dependent children (MDCP)
- 7 waiver program;
- 8 (B) the community living assistance and support
- 9 services (CLASS) waiver program;
- 10 (C) the home and community-based services (HCS)
- 11 waiver program;
- 12 (D) the deaf-blind with multiple disabilities
- 13 (DBMD) waiver program; and
- 14 (E) any other Section 1915(c) waiver program that
- 15 provides long-term care services to children. (Gov. Code, Sec.
- 16 531.060(c); New.)

17 Source Law

- 18 (c) In this section:
- 19 (1) "Child" means a person younger than 22
- 20 years of age who has a physical or developmental
- 21 disability or who is medically fragile.
- 22 (2) "Family-based alternative" means a
- 23 family setting in which the family provider or
- 24 providers are specially trained to provide support and
- 25 in-home care for children with disabilities or
- 26 children who are medically fragile.
- 27 (3) "Institution" means any congregate
- 28 care facility, including:
- 29 (A) a nursing facility;
- 30 (B) an ICF-IID, as defined by Section
- 31 531.002, Health and Safety Code;
- 32 (C) a group home operated by the
- 33 Department of Aging and Disability Services; and
- 34 (D) a general residential operation
- 35 for children with an intellectual disability that is
- 36 licensed by the Department of Family and Protective
- 37 Services.
- 38 (4) "Waiver services" means services
- 39 provided under:
- 40 (A) the Medically Dependent Children
- 41 Program (MDCP);
- 42 (B) the Community Living Assistance
- 43 and Support Services (CLASS) waiver program;
- 44 (C) the Home and Community-based
- 45 Services (HCS) waiver program;
- 46 (D) the Deaf Blind with Multiple
- 47 Disabilities (DBMD) waiver program; and
- 48 (E) any other Section 1915(c) waiver
- 49 program that provides long-term care services for
- 50 children.

1 Revisor's Note

2 (1) Section 531.060(c), Government Code,
3 provides definitions for "this section." The revised
4 law substitutes "this subchapter" for "this section"
5 because the provisions of Section 531.060 are revised
6 as Subchapter F of this chapter. Throughout this
7 subchapter, in this and similar contexts, the revised
8 law is drafted accordingly.

9 (2) The revised law adds the definition of
10 "family-based alternatives system" for drafting
11 convenience and to avoid frequent, unnecessary
12 repetition of the substance of the definition.

13 (3) Section 531.060(c)(4)(A), Government Code,
14 refers to the "Medically Dependent Children Program
15 (MDCP)." The revised law substitutes "medically
16 dependent children (MDCP) waiver program" for
17 "Medically Dependent Children Program (MDCP)" because
18 that is the more commonly used name for the waiver
19 program.

20 Revised Law

21 Sec. 546.0252. FAMILY-BASED ALTERNATIVES SYSTEM: PURPOSE,
22 IMPLEMENTATION, AND ADMINISTRATION. (a) The purpose of the
23 family-based alternatives system is to further this state's policy
24 of providing for a child's basic needs for safety, security, and
25 stability by ensuring that a child becomes a part of a successful
26 permanent family as soon as possible.

27 (b) In achieving the purpose described by Subsection (a),
28 the family-based alternatives system is intended to operate in a
29 manner that recognizes that parents are a valued and integral part
30 of the process established under the system. The system must:

31 (1) encourage parents to participate in all decisions
32 affecting their children; and

33 (2) respect the authority of parents, other than
34 parents whose parental rights have been terminated, to make

1 decisions regarding their children.

2 (c) The commission shall begin implementing the
3 family-based alternatives system in areas of this state with high
4 numbers of children who reside in institutions.

5 (d) The family-based alternatives system may be
6 administered in cooperation with public and private entities. (Gov.
7 Code, Secs. 531.060(a), (b), (f), (h).)

8 Source Law

9 Sec. 531.060. FAMILY-BASED ALTERNATIVES FOR
10 CHILDREN. (a) The purpose of the system of
11 family-based alternatives required by this section is
12 to further the state's policy of providing for a
13 child's basic needs for safety, security, and
14 stability through ensuring that a child becomes a part
15 of a successful permanent family as soon as possible.

16 (b) In achieving the purpose described by
17 Subsection (a), the system is intended to be operated
18 in a manner that recognizes that parents are a valued
19 and integral part of the process established under the
20 system. The system shall encourage parents to
21 participate in all decisions affecting their children
22 and shall respect the authority of parents, other than
23 parents whose parental rights have been terminated, to
24 make decisions regarding their children.

25 (f) The commission shall begin implementation
26 of the system in areas of this state with high numbers
27 of children who reside in institutions.

28 (h) The system may be administered in
29 cooperation with public and private entities.

30 Revised Law

31 Sec. 546.0253. FAMILY-BASED ALTERNATIVES SYSTEM DESIGN
32 REQUIREMENTS. (a) The family-based alternatives system must
33 provide for:

34 (1) recruiting and training alternative families to
35 provide services for children;

36 (2) comprehensively assessing each child in need of
37 services and each alternative family available to provide services,
38 as necessary to identify the most appropriate alternative family
39 for the child's placement;

40 (3) providing to a child's parents or guardian
41 information regarding the availability of a family-based
42 alternative;

43 (4) identifying each child residing in an institution

1 and offering support services, including waiver services, that
2 would enable the child to return to the child's birth family or be
3 placed in a family-based alternative; and

4 (5) determining through a child's permanency plan
5 other circumstances in which the child must be offered waiver
6 services, including circumstances in which changes in an
7 institution's status affect the child's placement or the quality of
8 services the child receives.

9 (b) In complying with the requirement imposed by Subsection
10 (a)(3), the commission shall ensure that the procedures for
11 providing information to parents or a guardian permit and encourage
12 the participation of an individual who is not affiliated with the
13 institution in which the child resides or with an institution in
14 which the child could be placed.

15 (c) In designing the family-based alternatives system, the
16 commission shall consider and, when appropriate, incorporate
17 current research and recommendations developed by other public and
18 private entities involved in analyzing public policy relating to
19 children residing in institutions. (Gov. Code, Secs. 531.060(i),
20 (j), (m).)

21 Source Law

22 (i) The system must provide for:
23 (1) recruiting and training alternative
24 families to provide services for children;
25 (2) comprehensively assessing each child
26 in need of services and each alternative family
27 available to provide services, as necessary to
28 identify the most appropriate alternative family for
29 placement of the child;
30 (3) providing to a child's parents or
31 guardian information regarding the availability of a
32 family-based alternative;
33 (4) identifying each child residing in an
34 institution and offering support services, including
35 waiver services, that would enable the child to return
36 to the child's birth family or be placed in a
37 family-based alternative; and
38 (5) determining through a child's
39 permanency plan other circumstances in which the child
40 must be offered waiver services, including
41 circumstances in which changes in an institution's
42 status affect the child's placement or the quality of
43 services received by the child.
44 (j) In complying with the requirement imposed by
45 Subsection (i)(3), the commission shall ensure that
46 the procedures for providing information to parents or

1 a guardian permit and encourage the participation of
2 an individual who is not affiliated with the
3 institution in which the child resides or with an
4 institution in which the child could be placed.

5 (m) In designing the system, the commission
6 shall consider and, when appropriate, incorporate
7 current research and recommendations developed by
8 other public and private entities involved in
9 analyzing public policy relating to children residing
10 in institutions.

11 Revised Law

12 Sec. 546.0254. MEDICAID WAIVER PROGRAM ALIGNMENT. As
13 necessary to implement this subchapter, the commission shall:

14 (1) ensure that an appropriate number of openings for
15 waiver services that become available as a result of funding for
16 transferring individuals with disabilities into community-based
17 services are made available to both children and adults;

18 (2) ensure that service definitions applicable to
19 waiver services are modified as necessary to permit the provision
20 of waiver services through family-based alternatives;

21 (3) ensure that procedures are implemented for making
22 a level of care determination for each child and identifying the
23 most appropriate waiver service for the child, including procedures
24 under which the commission's director of long-term care, after
25 considering any preference of the child's birth family or
26 alternative family, resolves disputes among agencies about the most
27 appropriate waiver service; and

28 (4) require that the health and human services agency
29 responsible for providing a specific waiver service to a child also
30 assume responsibility for identifying any necessary transition
31 activities or services. (Gov. Code, Sec. 531.060(n).)

32 Source Law

33 (n) As necessary to implement this section, the
34 commission shall:

35 (1) ensure that an appropriate number of
36 openings for waiver services that become available as
37 a result of funding for the purpose of transferring
38 persons with disabilities into community-based
39 services are made available to both children and
40 adults;

41 (2) ensure that service definitions
42 applicable to waiver services are modified as
43 necessary to permit the provision of waiver services
44 through family-based alternatives;

1 (3) ensure that procedures are implemented
2 for making a level of care determination for each child
3 and identifying the most appropriate waiver service
4 for the child, including procedures under which the
5 director of long-term care for the commission, after
6 considering any preference of the child's birth family
7 or alternative family, resolves disputes among
8 agencies about the most appropriate waiver service;
9 and

10 (4) require that the health and human
11 services agency responsible for providing a specific
12 waiver service to a child also assume responsibility
13 for identifying any necessary transition activities or
14 services.

15 Revised Law

16 Sec. 546.0255. COMMUNITY ORGANIZATION ELIGIBILITY;
17 CONTRACT AND REQUIREMENTS. (a) The commission shall contract with
18 a community organization, including a faith-based community
19 organization, or a nonprofit organization to develop and implement
20 a family-based alternatives system under which a child who cannot
21 reside with the child's birth family may receive necessary services
22 in a family-based alternative instead of an institution. For
23 purposes of this subsection, a community organization, including a
24 faith-based community organization, or a nonprofit organization
25 does not include:

26 (1) a governmental entity; or

27 (2) a quasi-governmental entity to which a state
28 agency delegates authority and responsibility for planning,
29 supervising, providing, or ensuring the provision of state
30 services.

31 (b) To be eligible for the contract under Subsection (a), an
32 organization must possess knowledge regarding the support needs of
33 children with disabilities and their families.

34 (c) The contracted organization may subcontract for one or
35 more components of implementing the family-based alternatives
36 system with:

37 (1) community organizations, including faith-based
38 community organizations;

39 (2) nonprofit organizations;

40 (3) governmental entities; or

41 (4) quasi-governmental entities described by

1 Subsection (a)(2). (Gov. Code, Secs. 531.060(d), (e).)

2 Source Law

3 (d) The commission shall contract with a
4 community organization, including a faith-based
5 community organization, or a nonprofit organization
6 for the development and implementation of a system
7 under which a child who cannot reside with the child's
8 birth family may receive necessary services in a
9 family-based alternative instead of an institution.
10 To be eligible for the contract under this subsection,
11 an organization must possess knowledge regarding the
12 support needs of children with disabilities and their
13 families. For purposes of this subsection, a
14 community organization, including a faith-based
15 community organization, or a nonprofit organization
16 does not include:

- 17 (1) any governmental entity; or
18 (2) any quasi-governmental entity to which
19 a state agency delegates its authority and
20 responsibility for planning, supervising, providing,
21 or ensuring the provision of state services.

22 (e) The contractor may subcontract for one or
23 more components of implementation of the system with:

- 24 (1) community organizations, including
25 faith-based community organizations;
26 (2) nonprofit organizations;
27 (3) governmental entities; or
28 (4) quasi-governmental entities to which
29 state agencies delegate authority and responsibility
30 for planning, supervising, providing, or ensuring the
31 provision of state services.

32 Revised Law

33 Sec. 546.0256. PLACEMENT OPTIONS. (a) In placing a child
34 in a family-based alternative, the family-based alternatives
35 system may use a variety of placement options, including a shared
36 parenting arrangement between the alternative family and the
37 child's birth family. Regardless of the option used, a
38 family-based alternative placement must be designed as a long-term
39 arrangement, except in cases in which the child's birth family
40 chooses to return the child to their home.

41 (b) Adoption of the child by the child's alternative family
42 is an available option in cases in which the child's birth family's
43 parental rights have been terminated. (Gov. Code, Sec. 531.060(k).)

44 Source Law

45 (k) In placing a child in a family-based
46 alternative, the system may use a variety of placement
47 options, including an arrangement in which shared
48 parenting occurs between the alternative family and
49 the child's birth family. Regardless of the option
50 used, a family-based alternative placement must be
51 designed to be a long-term arrangement, except in

1 cases in which the child's birth family chooses to
2 return the child to their home. In cases in which the
3 birth family's parental rights have been terminated,
4 adoption of the child by the child's alternative family
5 is an available option.

6 Revised Law

7 Sec. 546.0257. AGENCY COOPERATION. Each affected health
8 and human services agency shall:

9 (1) cooperate with the contracted organization and any
10 subcontractors; and

11 (2) take all action necessary to implement the
12 family-based alternatives system and comply with the requirements
13 of this subchapter. (Gov. Code, Sec. 531.060(g) (part).)

14 Source Law

15 (g) Each affected health and human services
16 agency shall cooperate with the contractor and any
17 subcontractors and take all action necessary to
18 implement the system and comply with the requirements
19 of this section. . . .

20 Revised Law

21 Sec. 546.0258. DISPUTE RESOLUTION. The commission has
22 final authority to make any decisions and resolve any disputes
23 regarding the family-based alternatives system. (Gov. Code, Sec.
24 531.060(g) (part).)

25 Source Law

26 (g) . . . The commission has final authority to
27 make any decisions and resolve any disputes regarding
28 the system.

29 Revised Law

30 Sec. 546.0259. GIFTS, GRANTS, AND DONATIONS. The
31 commission or the contracted organization may solicit and accept
32 gifts, grants, and donations to support the family-based
33 alternatives system's functions under this subchapter. (Gov. Code,
34 Sec. 531.060(1).)

35 Source Law

36 (1) The commission or the contractor may solicit
37 and accept gifts, grants, and donations to support the
38 system's functions under this section.

39 Revised Law

40 Sec. 546.0260. ANNUAL REPORT. Not later than January 1 of

1 each year, the commission shall report to the legislature on the
2 implementation of the family-based alternatives system. The report
3 must include a statement of:

4 (1) the number of children currently receiving care in
5 an institution;

6 (2) the number of children placed in a family-based
7 alternative under the system during the preceding year;

8 (3) the number of children who left an institution
9 during the preceding year under an arrangement other than a
10 family-based alternative under the system or for another reason
11 unrelated to the availability of a family-based alternative under
12 the system;

13 (4) the number of children waiting for an available
14 placement in a family-based alternative under the system; and

15 (5) the number of alternative families trained and
16 available to accept placement of a child under the system. (Gov.
17 Code, Sec. 531.060(o).)

18 Source Law

19 (o) Not later than January 1 of each year, the
20 commission shall report to the legislature on the
21 implementation of the system. The report must include
22 a statement of:

23 (1) the number of children currently
24 receiving care in an institution;

25 (2) the number of children placed in a
26 family-based alternative under the system during the
27 preceding year;

28 (3) the number of children who left an
29 institution during the preceding year under an
30 arrangement other than a family-based alternative
31 under the system or for another reason unrelated to the
32 availability of a family-based alternative under the
33 system;

34 (4) the number of children waiting for an
35 available placement in a family-based alternative
36 under the system; and

37 (5) the number of alternative families
38 trained and available to accept placement of a child
39 under the system.

40 SUBCHAPTER G. LONG-TERM CARE INSTITUTIONS AND FACILITIES

41 Revised Law

42 Sec. 546.0301. PROCEDURES TO REVIEW CONDUCT RELATED TO
43 CERTAIN INSTITUTIONS AND FACILITIES. The commission shall adopt
44 procedures to review:

1 (1) citations or penalties assessed for a violation of
2 a rule or law against an institution or facility licensed under
3 Chapter 242, 247, or 252, Health and Safety Code, or certified to
4 participate in Medicaid administered in accordance with Chapter 32,
5 Human Resources Code, considering:

6 (A) the number of violations by geographic
7 region;

8 (B) the patterns of violations in each region;
9 and

10 (C) the outcomes following the assessment of a
11 citation or penalty; and

12 (2) the performance of duties by employees and agents
13 of a state agency responsible for licensing, inspecting, surveying,
14 or investigating institutions and facilities licensed under
15 Chapter 242, 247, or 252, Health and Safety Code, or certified to
16 participate in Medicaid administered in accordance with Chapter 32,
17 Human Resources Code, related to:

18 (A) complaints the commission receives; or

19 (B) violations of standards or rules by those
20 employees or agents. (Gov. Code, Sec. 531.056.)

21 Source Law

22 Sec. 531.056. REVIEW OF SURVEY PROCESS IN
23 CERTAIN INSTITUTIONS AND FACILITIES. (a) The
24 commission shall adopt procedures to review:

25 (1) citations or penalties assessed for a
26 violation of a rule or law against an institution or
27 facility licensed under Chapter 242, 247, or 252,
28 Health and Safety Code, or certified to participate in
29 Medicaid administered in accordance with Chapter 32,
30 Human Resources Code, considering:

31 (A) the number of violations by
32 geographic region;

33 (B) the patterns of violations in
34 each region; and

35 (C) the outcomes following the
36 assessment of a penalty or citation; and

37 (2) the performance of duties by employees
38 and agents of a state agency responsible for
39 licensing, inspecting, surveying, or investigating
40 institutions and facilities licensed under Chapter
41 242, 247, or 252, Health and Safety Code, or certified
42 to participate in Medicaid administered in accordance
43 with Chapter 32, Human Resources Code, related to:

44 (A) complaints received by the
45 commission; or

46 (B) any standards or rules violated

1 by an employee or agent of a state agency.

2 Revised Law

3 Sec. 546.0302. ISSUANCE OF MATERIALS TO CERTAIN LONG-TERM
4 CARE FACILITIES. The executive commissioner shall:

5 (1) review the commission's methods for issuing
6 informational letters, policy updates, policy clarifications, and
7 other related materials to an entity licensed under Chapter 103,
8 Human Resources Code, or Chapter 242, 247, 248A, or 252, Health and
9 Safety Code; and

10 (2) develop and implement more efficient methods to
11 issue those materials, as appropriate. (Gov. Code, Sec. 531.0585.)

12 Source Law

13 Sec. 531.0585. ISSUANCE OF MATERIALS TO CERTAIN
14 LONG-TERM CARE FACILITIES. The executive commissioner
15 shall review the commission's methods for issuing
16 informational letters, policy updates, policy
17 clarifications, and other related materials to an
18 entity licensed under Chapter 103, Human Resources
19 Code, or Chapter 242, 247, 248A, or 252, Health and
20 Safety Code, and develop and implement more efficient
21 methods to issue those materials as appropriate.

22 SUBCHAPTER H. INCENTIVE PAYMENT PROGRAM FOR CERTAIN NURSING
23 FACILITIES

24 Revised Law

25 Sec. 546.0351. DEFINITIONS. In this subchapter:

26 (1) "Incentive payment program" means the program
27 established under this subchapter.

28 (2) "Nursing facility" means a convalescent or nursing
29 home or related institution licensed under Chapter 242, Health and
30 Safety Code, that provides long-term care services, as defined by
31 Section 22.0011, Human Resources Code, to recipients. (Gov. Code,
32 Sec. 531.912(a); New.)

33 Source Law

34 Sec. 531.912. COMMON PERFORMANCE MEASUREMENTS
35 AND PAY-FOR-PERFORMANCE INCENTIVES FOR CERTAIN
36 NURSING FACILITIES. (a) In this section, "nursing
37 facility" means a convalescent or nursing home or
38 related institution licensed under Chapter 242, Health
39 and Safety Code, that provides long-term care
40 services, as defined by Section 22.0011, Human
41 Resources Code, to Medicaid recipients.

1 Revisor's Note

2 (1) The revised law adds the definition of
3 "incentive payment program" for drafting convenience
4 and to avoid frequent, unnecessary repetition of the
5 substance of the definition.

6 (2) Section 531.912, Government Code, refers to
7 "Medicaid recipients." Throughout this chapter, the
8 revised law substitutes "recipient" for the quoted
9 language for clarity and consistency in the
10 terminology used within the chapter and because
11 "recipient" is the defined term under Section
12 546.0001, which is applicable to the revised law.

13 Revised Law

14 Sec. 546.0352. INCENTIVE PAYMENT PROGRAM. (a) If
15 feasible, the executive commissioner by rule may establish an
16 incentive payment program for nursing facilities that choose to
17 participate. The program must be designed to improve the quality of
18 care and services provided to recipients.

19 (b) Subject to Section 546.0354, the incentive payment
20 program may provide incentive payments in accordance with this
21 section to encourage facilities to participate in the program.

22 (c) The executive commissioner may:

23 (1) determine the amount of any incentive payment
24 under the incentive payment program; and

25 (2) enter into a contract with a qualified person, as
26 the executive commissioner determines, for the following services
27 related to the program:

28 (A) data collection;

29 (B) data analysis; and

30 (C) technical support. (Gov. Code, Secs.
31 531.912(b), (e).)

32 Source Law

33 (b) If feasible, the executive commissioner by
34 rule may establish an incentive payment program for
35 nursing facilities that choose to participate. The

1 program must be designed to improve the quality of care
2 and services provided to Medicaid recipients. Subject
3 to Subsection (f), the program may provide incentive
4 payments in accordance with this section to encourage
5 facilities to participate in the program.

6 (e) The executive commissioner may:

7 (1) determine the amount of any incentive
8 payment under the program; and

9 (2) enter into a contract with a qualified
10 person, as determined by the executive commissioner,
11 for the following services related to the program:

- 12 (A) data collection;
13 (B) data analysis; and
14 (C) technical support.

15 Revised Law

16 Sec. 546.0353. COMMON PERFORMANCE MEASURES. (a) In
17 establishing an incentive payment program, the executive
18 commissioner shall adopt common performance measures to be used in
19 evaluating nursing facilities that are related to structure,
20 process, and outcomes that positively correlate to nursing facility
21 quality and improvement. The common performance measures:

22 (1) must be:

23 (A) recognized by the executive commissioner as
24 valid indicators of the overall quality of care recipients receive;
25 and

26 (B) designed to encourage and reward
27 evidence-based practices among nursing facilities; and

28 (2) may include measures of:

29 (A) quality of care, as determined by clinical
30 performance ratings published by the Centers for Medicare and
31 Medicaid Services, the Agency for Healthcare Research and Quality,
32 or another federal agency;

33 (B) direct-care staff retention and turnover;

34 (C) recipient satisfaction, including the
35 satisfaction of recipients who are short-term and long-term
36 facility residents, and family satisfaction, as determined by the
37 Consumer Assessment of Healthcare Providers and Systems Nursing
38 Home Surveys relied on by the Centers for Medicare and Medicaid
39 Services;

40 (D) employee satisfaction and engagement;

1 (E) the incidence of preventable acute care
2 emergency room services use;

3 (F) regulatory compliance;

4 (G) level of person-centered care; and

5 (H) direct-care staff training, including a
6 facility's use of independent distance learning programs for
7 continuously training direct-care staff.

8 (b) The executive commissioner shall maximize the use of
9 available information technology and limit the number of
10 performance measures adopted under this section to achieve
11 administrative cost efficiency and avoid an unreasonable
12 administrative burden on participating nursing facilities. (Gov.
13 Code, Secs. 531.912(c), (d).)

14 Source Law

15 (c) In establishing an incentive payment
16 program under this section, the executive commissioner
17 shall, subject to Subsection (d), adopt common
18 performance measures to be used in evaluating nursing
19 facilities that are related to structure, process, and
20 outcomes that positively correlate to nursing facility
21 quality and improvement. The common performance
22 measures:

23 (1) must be:

24 (A) recognized by the executive
25 commissioner as valid indicators of the overall
26 quality of care received by Medicaid recipients; and

27 (B) designed to encourage and reward
28 evidence-based practices among nursing facilities;
29 and

30 (2) may include measures of:

31 (A) quality of care, as determined by
32 clinical performance ratings published by the federal
33 Centers for Medicare and Medicaid Services, the Agency
34 for Healthcare Research and Quality, or another
35 federal agency;

36 (B) direct-care staff retention and
37 turnover;

38 (C) recipient satisfaction,
39 including the satisfaction of recipients who are
40 short-term and long-term residents of facilities, and
41 family satisfaction, as determined by the Nursing Home
42 Consumer Assessment of Healthcare Providers and
43 Systems surveys relied upon by the federal Centers for
44 Medicare and Medicaid Services;

45 (D) employee satisfaction and
46 engagement;

47 (E) the incidence of preventable
48 acute care emergency room services use;

49 (F) regulatory compliance;

50 (G) level of person-centered care;

51 and

52 (H) direct-care staff training,
53 including a facility's utilization of independent

1 distance learning programs for the continuous training
2 of direct-care staff.

3 (d) The executive commissioner shall maximize
4 the use of available information technology and limit
5 the number of performance measures adopted under
6 Subsection (c) to achieve administrative cost
7 efficiency and avoid an unreasonable administrative
8 burden on participating nursing facilities.

9 Revisor's Note

10 Section 531.912(c)(2)(C), Government Code,
11 refers to the "Nursing Home Consumer Assessment of
12 Healthcare Providers and Systems surveys." The revised
13 law substitutes "Consumer Assessment of Healthcare
14 Providers and Systems Nursing Home Surveys" for
15 consistency in the terminology used within state law
16 and by the federal government.

17 Revised Law

18 Sec. 546.0354. SUBJECT TO APPROPRIATIONS. The commission
19 may make incentive payments under an incentive payment program only
20 if money is appropriated for that purpose. (Gov. Code, Sec.
21 531.912(f).)

22 Source Law

23 (f) The commission may make incentive payments
24 under the program only if money is appropriated for
25 that purpose.

26 SUBCHAPTER I. MEDICAID GENERALLY

27 Revised Law

28 Sec. 546.0401. MEDICAID LONG-TERM CARE SYSTEM. (a) The
29 commission shall ensure that the Medicaid long-term care system
30 provides the broadest array of choices possible for recipients
31 while ensuring that the services are delivered in a manner that is
32 cost-effective and makes the best use of available money.

33 (b) The commission shall also make every effort to improve
34 the quality of care for recipients of Medicaid long-term care
35 services by:

36 (1) evaluating the need for expanding the provider
37 base for consumer-directed services and, if the commission
38 identifies a demand for that expansion, encouraging area agencies
39 on aging, independent living centers, and other potential long-term

1 care providers to become providers through contracts with the
2 commission;

3 (2) ensuring that all recipients who reside in a
4 nursing facility are provided information about end-of-life care
5 options and the importance of planning for end-of-life care; and

6 (3) developing policies to encourage a recipient who
7 resides in a nursing facility to receive treatment at that facility
8 whenever possible, while ensuring that the recipient receives an
9 appropriate continuum of care. (Gov. Code, Sec. 531.083.)

10 Source Law

11 Sec. 531.083. MEDICAID LONG-TERM CARE SYSTEM.
12 The commission shall ensure that the Medicaid
13 long-term care system provides the broadest array of
14 choices possible for recipients while ensuring that
15 the services are delivered in a manner that is
16 cost-effective and makes the best use of available
17 funds. The commission shall also make every effort to
18 improve the quality of care for recipients of Medicaid
19 long-term care services by:

20 (1) evaluating the need for expanding the
21 provider base for consumer-directed services and, if
22 the commission identifies a demand for that expansion,
23 encouraging area agencies on aging, independent living
24 centers, and other potential long-term care providers
25 to become providers through contracts with the
26 Department of Aging and Disability Services;

27 (2) ensuring that all recipients who
28 reside in a nursing facility are provided information
29 about end-of-life care options and the importance of
30 planning for end-of-life care; and

31 (3) developing policies to encourage a
32 recipient who resides in a nursing facility to receive
33 treatment at that facility whenever possible, while
34 ensuring that the recipient receives an appropriate
35 continuum of care.

36 Revised Law

37 Sec. 546.0402. ADMINISTRATION AND DELIVERY OF CERTAIN
38 WAIVER PROGRAMS; PUBLIC INPUT. (a) To the extent authorized by
39 law, the commission shall make uniform the functions relating to
40 the administration and delivery of Section 1915(c) waiver programs,
41 including:

42 (1) rate-setting;

43 (2) the applicability and use of service definitions;

44 (3) quality assurance; and

45 (4) intake data elements.

46 (b) Subsection (a) does not apply to functions of a Section

1 1915(c) waiver program that is operated in conjunction with a
2 federally funded state Medicaid program that is authorized under
3 Section 1915(b) of the Social Security Act (42 U.S.C. Section
4 1396n(b)).

5 (c) The commission shall ensure that information on
6 individuals seeking to obtain services from Section 1915(c) waiver
7 programs is maintained in a single computerized database that is
8 accessible to staff of each of the state agencies administering
9 those programs.

10 (d) In complying with the requirements of this section, the
11 commission shall regularly consult with and obtain input from:

- 12 (1) consumers and family members;
- 13 (2) providers;
- 14 (3) advocacy groups;
- 15 (4) state agencies that administer a Section 1915(c)
16 waiver program; and
- 17 (5) other interested persons. (Gov. Code, Secs.
18 531.0218, 531.02191.)

19 Source Law

20 Sec. 531.0218. LONG-TERM CARE MEDICAID
21 PROGRAMS. (a) To the extent authorized by state and
22 federal law, the commission shall make uniform the
23 functions relating to the administration and delivery
24 of Section 1915(c) waiver programs, including:

- 25 (1) rate-setting;
- 26 (2) the applicability and use of service
27 definitions;
- 28 (3) quality assurance; and
- 29 (4) intake data elements.

30 (b) Subsection (a) does not apply to functions
31 of a Section 1915(c) waiver program that is operated in
32 conjunction with a federally funded program of the
33 state under Medicaid that is authorized under Section
34 1915(b) of the federal Social Security Act (42 U.S.C.
35 Section 1396n(b)).

36 (c) The commission shall ensure that
37 information on individuals seeking to obtain services
38 from Section 1915(c) waiver programs is maintained in
39 a single computerized database that is accessible to
40 staff of each of the state agencies administering
41 those programs.

42 Sec. 531.02191. PUBLIC INPUT. In complying
43 with the requirements of Section 531.0218, the
44 commission shall regularly consult with and obtain
45 input from:

- 46 (1) consumers and family members;
- 47 (2) providers;

- 1 (3) advocacy groups;
2 (4) state agencies that administer a
3 Section 1915(c) waiver program; and
4 (5) other interested persons.

5 Revised Law

6 Sec. 546.0403. RECOVERY OF CERTAIN ASSISTANCE; MEDICAID
7 ACCOUNT. (a) The executive commissioner shall ensure that Section
8 1917(b)(1) of the Social Security Act (42 U.S.C. Section
9 1396p(b)(1)) is implemented under Medicaid.

10 (b) The Medicaid account is an account in the general
11 revenue fund. Any money recovered by implementing the provisions of
12 Section 1917(b)(1) of the Social Security Act (42 U.S.C. Section
13 1396p(b)(1)) must be deposited in the Medicaid account. Money in
14 the account may be appropriated only to fund long-term care,
15 including community-based care and facility-based care. (Gov.
16 Code, Sec. 531.077.)

17 Source Law

18 Sec. 531.077. RECOVERY OF CERTAIN ASSISTANCE.
19 (a) The executive commissioner shall ensure that
20 Medicaid implements 42 U.S.C. Section 1396p(b)(1).

21 (b) The Medicaid account is an account in the
22 general revenue fund. Any funds recovered by
23 implementing 42 U.S.C. Section 1396p(b)(1) shall be
24 deposited in the Medicaid account. Money in the
25 account may be appropriated only to fund long-term
26 care, including community-based care and
27 facility-based care.

28 SUBCHAPTER J. MEDICAID WAIVER PROGRAMS

29 Revised Law

30 Sec. 546.0451. COMPETITIVE AND INTEGRATED EMPLOYMENT
31 INITIATIVE FOR CERTAIN RECIPIENTS; BIENNIAL REPORT. (a) This
32 section applies to an individual receiving services under:

33 (1) any of the following Section 1915(c) waiver
34 programs:

35 (A) the home and community-based services (HCS)
36 waiver program;

37 (B) the Texas home living (TxHmL) waiver program;

38 (C) the deaf-blind with multiple disabilities
39 (DBMD) waiver program; and

40 (D) the community living assistance and support

1 services (CLASS) waiver program; and

2 (2) the STAR+PLUS home and community-based services
3 (HCBS) waiver program established under Section 1115, Social
4 Security Act (42 U.S.C. Section 1315).

5 (b) The executive commissioner by rule shall develop a
6 uniform process that complies with the policy adopted under Section
7 546.0003 to:

8 (1) assess the goals of and competitive and integrated
9 employment opportunities and related employment services available
10 to an individual to whom this section applies; and

11 (2) use the identified goals and available
12 opportunities and services to direct the individual's plan of care
13 at the time the plan is developed or renewed.

14 (c) The entity responsible for developing and renewing the
15 plan of care for an individual to whom this section applies shall
16 use the uniform process developed under Subsection (b) to assess
17 the individual's goals, opportunities, and services described by
18 that subsection and incorporate those goals, opportunities, and
19 services into the individual's plan of care.

20 (d) The executive commissioner by rule shall:

21 (1) identify strategies to increase the number of
22 individuals receiving employment services from the Texas Workforce
23 Commission or through the waiver program in which an individual is
24 enrolled;

25 (2) determine a reasonable number of individuals who
26 indicate a desire to work to receive employment services and ensure
27 those individuals:

28 (A) have received employment services during the
29 state fiscal biennium ending August 31, 2023, or during the period
30 beginning September 1, 2023, and ending December 31, 2023, from the
31 Texas Workforce Commission or through the waiver program in which
32 an individual is enrolled; or

33 (B) are receiving employment services on
34 December 31, 2023, from the Texas Workforce Commission or through

1 the waiver program in which an individual is enrolled; and

2 (3) ensure each individual who indicates a desire to
3 work is referred to receive employment services from the Texas
4 Workforce Commission or through the waiver program in which the
5 individual is enrolled.

6 (e) Not later than December 31 of each even-numbered year,
7 the executive commissioner shall prepare and submit to the
8 governor, lieutenant governor, speaker of the house of
9 representatives, and legislature a written report that outlines:

10 (1) the number of individuals to whom this section
11 applies who are receiving employment services in accordance with
12 rules adopted under this section;

13 (2) whether the employment services described by
14 Subdivision (1) are provided by the Texas Workforce Commission,
15 through the waiver program in which an individual is enrolled, or
16 both; and

17 (3) the number of individuals to whom this section
18 applies who have obtained competitive and integrated employment,
19 categorized by waiver program and, if applicable, an individual's
20 level of care. (Gov. Code, Sec. 531.02448.)

21 Source Law

22 Sec. 531.02448. COMPETITIVE AND INTEGRATED
23 EMPLOYMENT INITIATIVE FOR CERTAIN MEDICAID
24 RECIPIENTS. (a) This section applies to an individual
25 receiving services under:

26 (1) any of the following waiver programs
27 established under Section 1915(c), Social Security Act
28 (42 U.S.C. Section 1396n(c)):

29 (A) the home and community-based
30 services (HCS) waiver program;

31 (B) the Texas home living (TxHmL)
32 waiver program;

33 (C) the deaf-blind with multiple
34 disabilities (DBMD) waiver program; and

35 (D) the community living assistance
36 and support services (CLASS) waiver program; and

37 (2) the STAR+PLUS home and community-based
38 services (HCBS) waiver program established under
39 Section 1115, Social Security Act (42 U.S.C. Section
40 1315).

41 (b) The executive commissioner by rule shall
42 develop a uniform process that complies with the
43 policy adopted under Section 531.02447 to:

44 (1) assess the goals of and competitive
45 and integrated employment opportunities and related
46 employment services available to an individual to whom

1 this section applies; and

2 (2) use the identified goals and available
3 opportunities and services to direct the individual's
4 plan of care at the time the plan is developed or
5 renewed.

6 (c) The entity responsible for the development
7 and renewal of the plan of care for an individual to
8 whom this section applies shall use the uniform
9 process the executive commissioner develops to assess
10 the individual's goals, opportunities, and services
11 described by Subsection (b) and incorporate those
12 goals, opportunities, and services into the plan of
13 care.

14 (d) The executive commissioner by rule shall:

15 (1) identify strategies to increase the
16 number of individuals who are receiving employment
17 services from the Texas Workforce Commission or
18 through the waiver program in which an individual is
19 enrolled;

20 (2) determine a reasonable number of
21 individuals who indicate a desire to work to receive
22 employment services and ensure those individuals:

23 (A) have received employment
24 services during the state fiscal biennium ending
25 August 31, 2023, or during the period beginning
26 September 1, 2023, and ending December 31, 2023, from
27 the Texas Workforce Commission or through the waiver
28 program in which an individual is enrolled; or

29 (B) are receiving employment
30 services on December 31, 2023, from the Texas
31 Workforce Commission or through the waiver program in
32 which an individual is enrolled; and

33 (3) ensure each individual who indicates a
34 desire to work is referred to receive employment
35 services from the Texas Workforce Commission or
36 through the waiver program in which the individual is
37 enrolled.

38 (e) Not later than December 31 of each
39 even-numbered year, the executive commissioner shall
40 prepare and submit to the governor, lieutenant
41 governor, speaker of the house of representatives, and
42 legislature a written report that outlines:

43 (1) the number of individuals to whom this
44 section applies who are receiving employment services
45 in accordance with rules adopted under this section;

46 (2) whether the employment services
47 described by Subdivision (1) are provided by the Texas
48 Workforce Commission, through the waiver program in
49 which an individual is enrolled, or both; and

50 (3) the number of individuals to whom this
51 section applies who have obtained competitive and
52 integrated employment, categorized by waiver program
53 and, if applicable, an individual's level of care.

54 Revised Law

55 Sec. 546.0452. RISK MANAGEMENT CRITERIA FOR CERTAIN WAIVER
56 PROGRAMS. (a) In this section, "legally authorized

57 representative" has the meaning assigned by Section 546.0101.

58 (b) The commission shall consider developing risk
59 management criteria under home and community-based services waiver
60 programs designed to allow individuals eligible to receive services

1 under the programs to assume greater choice and responsibility over
2 the services and supports the individuals receive.

3 (c) The commission shall ensure that any risk management
4 criteria developed include:

5 (1) a requirement that if an individual who will be
6 provided services and supports has a legally authorized
7 representative, the representative is involved in determining
8 which services and supports the individual will receive; and

9 (2) a requirement that if services or supports are
10 declined, the decision to decline is clearly documented. (Gov.
11 Code, Sec. 531.0515.)

12 Source Law

13 Sec. 531.0515. RISK MANAGEMENT CRITERIA FOR
14 CERTAIN WAIVER PROGRAMS. (a) In this section,
15 "legally authorized representative" has the meaning
16 assigned by Section 531.051.

17 (b) The commission shall consider developing
18 risk management criteria under home and
19 community-based services waiver programs designed to
20 allow individuals eligible to receive services under
21 the programs to assume greater choice and
22 responsibility over the services and supports the
23 individuals receive.

24 (c) The commission shall ensure that any risk
25 management criteria developed under this section
26 include:

27 (1) a requirement that if an individual to
28 whom services and supports are to be provided has a
29 legally authorized representative, the representative
30 be involved in determining which services and supports
31 the individual will receive; and

32 (2) a requirement that if services or
33 supports are declined, the decision to decline is
34 clearly documented.

35 Revisor's Note

36 Section 531.0515(a), Government Code, defines
37 "legally authorized representative" as having the
38 meaning assigned by Section 531.051, Government Code.
39 The substantive provision of Section 531.051 defining
40 "legally authorized representative" is revised in this
41 chapter as part of Section 546.0101. The revised law
42 is drafted accordingly.

43 Revised Law

44 Sec. 546.0453. PROTOCOL FOR MAINTAINING CONTACT

1 INFORMATION OF INDIVIDUALS INTERESTED IN MEDICAID WAIVER PROGRAMS.
2 The commission shall develop a protocol in the office of the
3 ombudsman to improve the capture and updating of contact
4 information for an individual who contacts the office of the
5 ombudsman regarding Medicaid waiver programs or services. (Gov.
6 Code, Sec. 531.0501(d).)

7 Source Law

8 (d) The commission shall develop a protocol in
9 the office of the ombudsman to improve the capture and
10 updating of contact information for an individual who
11 contacts the office of the ombudsman regarding
12 Medicaid waiver programs or services.

13 Revised Law

14 Sec. 546.0454. INTEREST LIST MANAGEMENT FOR CERTAIN
15 MEDICAID WAIVER PROGRAMS. (a) This section applies only to the
16 following waiver programs:

17 (1) the community living assistance and support
18 services (CLASS) waiver program;

19 (2) the home and community-based services (HCS) waiver
20 program;

21 (3) the deaf-blind with multiple disabilities (DBMD)
22 waiver program;

23 (4) the Texas home living (TxHmL) waiver program;

24 (5) the medically dependent children (MDCP) waiver
25 program; and

26 (6) the STAR+PLUS home and community-based services
27 (HCBS) program.

28 (b) The commission, in consultation with the Intellectual
29 and Developmental Disability System Redesign Advisory Committee
30 established under Section _____ [[[Section 534.053]]], the state
31 Medicaid managed care advisory committee, and interested
32 stakeholders, shall develop a questionnaire to be completed by or
33 on behalf of an individual who requests to be placed on or is
34 currently on an interest list for a waiver program.

35 (c) The questionnaire developed under Subsection (b) must,
36 at a minimum, request the following information about an individual

1 seeking or receiving services under a waiver program:

2 (1) contact information for the individual or the
3 individual's parent or other legally authorized representative;

4 (2) the individual's general demographic information;

5 (3) the individual's living arrangement;

6 (4) the types of assistance the individual requires;

7 (5) the individual's current caregiver supports and
8 circumstances that may cause the individual to lose those supports;
9 and

10 (6) when the delivery of services under a waiver
11 program should begin to ensure the individual's health and welfare
12 and that the individual receives services and supports in the least
13 restrictive setting possible.

14 (d) If an individual is on a waiver program's interest list
15 and the individual or the individual's parent or other legally
16 authorized representative does not respond to a written or verbal
17 request made by the commission to update information concerning the
18 individual or otherwise fails to maintain contact with the
19 commission, the commission:

20 (1) shall designate the individual's status on the
21 interest list as inactive until the individual or the individual's
22 parent or other legally authorized representative notifies the
23 commission that the individual is still interested in receiving
24 services under the waiver program; and

25 (2) at the time the individual or the individual's
26 parent or other legally authorized representative provides notice
27 to the commission under Subdivision (1), shall designate the
28 individual's status on the interest list as active and restore the
29 individual to the position on the list that corresponds with the
30 date the individual was initially placed on the list.

31 (e) The commission's designation of an individual's status
32 on an interest list as inactive under Subsection (d) may not result
33 in the removal of the individual from that list or any other waiver
34 program interest list.

1 (f) Not later than September 1 of each year, the commission
2 shall provide to the Intellectual and Developmental Disability
3 System Redesign Advisory Committee established under Section
4 _____ [[[Section 534.053]]], or, if that advisory committee is
5 abolished, an appropriate stakeholder advisory committee, as
6 determined by the executive commissioner, the number of
7 individuals, including individuals whose status is designated as
8 inactive by the commission, who are on an interest list to receive
9 services under a waiver program. (Gov. Code, Sec. 531.06011.)

10 Source Law

11 Sec. 531.06011. CERTAIN MEDICAID WAIVER
12 PROGRAMS: INTEREST LIST MANAGEMENT. (a) This section
13 applies only with respect to the following waiver
14 programs:

15 (1) the community living assistance and
16 support services (CLASS) waiver program;

17 (2) the home and community-based services
18 (HCS) waiver program;

19 (3) the deaf-blind with multiple
20 disabilities (DBMD) waiver program;

21 (4) the Texas home living (TxHmL) waiver
22 program;

23 (5) the medically dependent children
24 (MDCP) waiver program; and

25 (6) the STAR+PLUS home and community-based
26 services (HCBS) program.

27 (b) The commission, in consultation with the
28 Intellectual and Developmental Disability System
29 Redesign Advisory Committee established under Section
30 534.053, the state Medicaid managed care advisory
31 committee, and interested stakeholders, shall develop
32 a questionnaire to be completed by or on behalf of an
33 individual who requests to be placed on or is currently
34 on an interest list for a waiver program.

35 (c) The questionnaire developed under
36 Subsection (b) must, at a minimum, request the
37 following information about an individual seeking or
38 receiving services under a waiver program:

39 (1) contact information for the individual
40 or the individual's parent or other legally authorized
41 representative;

42 (2) the individual's general demographic
43 information;

44 (3) the individual's living arrangement;

45 (4) the types of assistance the individual
46 requires;

47 (5) the individual's current caregiver
48 supports and circumstances that may cause the
49 individual to lose those supports; and

50 (6) when the delivery of services under a
51 waiver program should begin to ensure the individual's
52 health and welfare and that the individual receives
53 services and supports in the least restrictive setting
54 possible.

55 (d) If an individual is on a waiver program's
56 interest list and the individual or the individual's
57 parent or other legally authorized representative does

1 not respond to a written or verbal request made by the
2 commission to update information concerning the
3 individual or otherwise fails to maintain contact with
4 the commission, the commission:

5 (1) shall designate the individual's
6 status on the interest list as inactive until the
7 individual or the individual's parent or other legally
8 authorized representative notifies the commission
9 that the individual is still interested in receiving
10 services under the waiver program; and

11 (2) at the time the individual or the
12 individual's parent or other legally authorized
13 representative provides notice to the commission under
14 Subdivision (1), shall designate the individual's
15 status on the interest list as active and restore the
16 individual to the position on the list that
17 corresponds with the date the individual was initially
18 placed on the list.

19 (e) The commission's designation of an
20 individual's status on an interest list as inactive
21 under Subsection (d) may not result in the removal of
22 the individual from that list or any other waiver
23 program interest list.

24 (f) Not later than September 1 of each year, the
25 commission shall provide to the Intellectual and
26 Developmental Disability System Redesign Advisory
27 Committee established under Section 534.053, or, if
28 that advisory committee is abolished, an appropriate
29 stakeholder advisory committee, as determined by the
30 executive commissioner, the number of individuals,
31 including individuals whose status is designated as
32 inactive by the commission, who are on an interest list
33 to receive services under a waiver program.

34 Revised Law

35 Sec. 546.0455. INTEREST LIST MANAGEMENT FOR CERTAIN
36 CHILDREN ENROLLED IN MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER
37 PROGRAM. (a) This section applies only to a child who is enrolled
38 in the medically dependent children (MDCP) waiver program but
39 becomes ineligible for services under the program because the child
40 no longer meets:

41 (1) the level of care criteria for medical necessity
42 for nursing facility care; or

43 (2) the age requirement for the program.

44 (b) A legally authorized representative of a child who is
45 notified by the commission that the child is no longer eligible for
46 the medically dependent children (MDCP) waiver program following a
47 Medicaid fair hearing, or without a Medicaid fair hearing if the
48 representative opted in writing to forgo the hearing, may request
49 that the commission:

50 (1) return the child to the interest list for the

1 program unless the child is ineligible due to the child's age; or

2 (2) place the child on the interest list for another
3 Section 1915(c) waiver program.

4 (c) At the time a child's legally authorized representative
5 makes a request under Subsection (b), the commission shall:

6 (1) for a child who becomes ineligible for the reason
7 described by Subsection (a)(1), place the child:

8 (A) on the interest list for the medically
9 dependent children (MDCP) waiver program in the first position on
10 the list; or

11 (B) except as provided by Subdivision (3), on the
12 interest list for another Section 1915(c) waiver program in a
13 position relative to other individuals on the list that is based on
14 the date the child was initially placed on the interest list for the
15 medically dependent children (MDCP) waiver program;

16 (2) except as provided by Subdivision (3), for a child
17 who becomes ineligible for the reason described by Subsection
18 (a)(2), place the child on the interest list for another Section
19 1915(c) waiver program in a position relative to other individuals
20 on the list that is based on the date the child was initially placed
21 on the interest list for the medically dependent children (MDCP)
22 waiver program; or

23 (3) for a child who becomes ineligible for a reason
24 described by Subsection (a) and who is already on an interest list
25 for another Section 1915(c) waiver program, move the child to a
26 position on the interest list relative to other individuals on the
27 list that is based on the date the child was initially placed on the
28 interest list for the medically dependent children (MDCP) waiver
29 program, if that date is earlier than the date the child was
30 initially placed on the interest list for the other waiver program.

31 (d) Notwithstanding Subsection (c)(1)(B) or (c)(2), a child
32 may be placed on an interest list for a Section 1915(c) waiver
33 program in the position described by those subsections only if the
34 child has previously been placed on the interest list for that

1 waiver program.

2 (e) At the time the commission provides notice to a legally
3 authorized representative that a child is no longer eligible for
4 the medically dependent children (MDCP) waiver program following a
5 Medicaid fair hearing, or without a Medicaid fair hearing if the
6 representative opted in writing to forgo the hearing, the
7 commission shall inform the representative in writing about:

8 (1) the options under this section for placing the
9 child on an interest list; and

10 (2) the process for applying for the Medicaid buy-in
11 program for children with disabilities implemented under Section
12 _____ [[[Section 531.02444]]]. (Gov. Code, Sec. 531.0601.)

13 Source Law

14 Sec. 531.0601. LONG-TERM CARE SERVICES WAIVER
15 PROGRAM INTEREST LISTS. (a) This section applies only
16 to a child who is enrolled in the medically dependent
17 children (MDCP) waiver program but becomes ineligible
18 for services under the program because the child no
19 longer meets:

20 (1) the level of care criteria for medical
21 necessity for nursing facility care; or

22 (2) the age requirement for the program.

23 (b) A legally authorized representative of a
24 child who is notified by the commission that the child
25 is no longer eligible for the medically dependent
26 children (MDCP) waiver program following a Medicaid
27 fair hearing, or without a Medicaid fair hearing if the
28 representative opted in writing to forego the hearing,
29 may request that the commission:

30 (1) return the child to the interest list
31 for the program unless the child is ineligible due to
32 the child's age; or

33 (2) place the child on the interest list
34 for another Section 1915(c) waiver program.

35 (c) At the time a child's legally authorized
36 representative makes a request under Subsection (b),
37 the commission shall:

38 (1) for a child who becomes ineligible for
39 the reason described by Subsection (a)(1), place the
40 child:

41 (A) on the interest list for the
42 medically dependent children (MDCP) waiver program in
43 the first position on the list; or

44 (B) except as provided by Subdivision
45 (3), on the interest list for another Section 1915(c)
46 waiver program in a position relative to other persons
47 on the list that is based on the date the child was
48 initially placed on the interest list for the
49 medically dependent children (MDCP) waiver program;

50 (2) except as provided by Subdivision (3),
51 for a child who becomes ineligible for the reason
52 described by Subsection (a)(2), place the child on the
53 interest list for another Section 1915(c) waiver
54 program in a position relative to other persons on the

1 list that is based on the date the child was initially
2 placed on the interest list for the medically
3 dependent children (MDCP) waiver program; or

4 (3) for a child who becomes ineligible for
5 a reason described by Subsection (a) and who is already
6 on an interest list for another Section 1915(c) waiver
7 program, move the child to a position on the interest
8 list relative to other persons on the list that is
9 based on the date the child was initially placed on the
10 interest list for the medically dependent children
11 (MDCP) waiver program, if that date is earlier than the
12 date the child was initially placed on the interest
13 list for the other waiver program.

14 (d) Notwithstanding Subsection (c)(1)(B) or
15 (c)(2), a child may be placed on an interest list for a
16 Section 1915(c) waiver program in the position
17 described by those subsections only if the child has
18 previously been placed on the interest list for that
19 waiver program.

20 (e) At the time the commission provides notice
21 to a legally authorized representative that a child is
22 no longer eligible for the medically dependent
23 children (MDCP) waiver program following a Medicaid
24 fair hearing, or without a Medicaid fair hearing if the
25 representative opted in writing to forego the hearing,
26 the commission shall inform the representative in
27 writing about:

28 (1) the options under this section for
29 placing the child on an interest list; and

30 (2) the process for applying for the
31 Medicaid buy-in program for children with disabilities
32 implemented under Section 531.02444.

33 Revised Law

34 Sec. 546.0456. ELIGIBILITY OF CERTAIN CHILDREN FOR
35 MEDICALLY DEPENDENT CHILDREN (MDCP) OR DEAF-BLIND WITH MULTIPLE
36 DISABILITIES (DBMD) WAIVER PROGRAM; INTEREST LIST PLACEMENT. (a)
37 Notwithstanding any other law and to the extent allowed by federal
38 law, in determining a child's eligibility for the medically
39 dependent children (MDCP) waiver program, the deaf-blind with
40 multiple disabilities (DBMD) waiver program, or a "Money Follows
41 the Person" demonstration project, the commission shall consider
42 whether the child:

43 (1) is diagnosed as having a condition included in the
44 list of compassionate allowances conditions published by the United
45 States Social Security Administration; or

46 (2) receives Medicaid hospice or palliative care
47 services.

48 (b) If the commission determines a child is eligible for a
49 waiver program under Subsection (a), the child's enrollment in the
50 applicable program is contingent on the availability of a slot in

1 the program. If a slot is not immediately available, the commission
2 shall place the child in the first position on the interest list for
3 the medically dependent children (MDCP) waiver program or
4 deaf-blind with multiple disabilities (DBMD) waiver program, as
5 applicable. (Gov. Code, Sec. 531.0603.)

6 Source Law

7 Sec. 531.0603. ELIGIBILITY OF CERTAIN CHILDREN
8 FOR MEDICALLY DEPENDENT CHILDREN (MDCP) OR DEAF-BLIND
9 WITH MULTIPLE DISABILITIES (DBMD) WAIVER PROGRAM. (a)
10 Notwithstanding any other law and to the extent
11 allowed by federal law, in determining eligibility of
12 a child for the medically dependent children (MDCP)
13 waiver program, the deaf-blind with multiple
14 disabilities (DBMD) waiver program, or a "Money
15 Follows the Person" demonstration project, the
16 commission shall consider whether the child:

17 (1) is diagnosed as having a condition
18 included in the list of compassionate allowances
19 conditions published by the United States Social
20 Security Administration; or

21 (2) receives Medicaid hospice or
22 palliative care services.

23 (b) If the commission determines a child is
24 eligible for a waiver program under Subsection (a),
25 the child's enrollment in the applicable program is
26 contingent on the availability of a slot in the
27 program. If a slot is not immediately available, the
28 commission shall place the child in the first position
29 on the interest list for the medically dependent
30 children (MDCP) waiver program or deaf-blind with
31 multiple disabilities (DBMD) waiver program, as
32 applicable.

33 SUBCHAPTER K. MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM

34 Revised Law

35 Sec. 546.0501. LIMITATION ON NURSING FACILITY LEVEL OF CARE
36 REQUIREMENT. To the extent allowed by federal law, the commission
37 may not require that a child reside in a nursing facility for an
38 extended period of time to meet the nursing facility level of care
39 required for the child to be determined eligible for the medically
40 dependent children (MDCP) waiver program. (Gov. Code, Sec.
41 531.0604.)

42 Source Law

43 Sec. 531.0604. MEDICALLY DEPENDENT CHILDREN
44 PROGRAM ELIGIBILITY REQUIREMENTS; NURSING FACILITY
45 LEVEL OF CARE. To the extent allowed by federal law,
46 the commission may not require that a child reside in a
47 nursing facility for an extended period of time to meet
48 the nursing facility level of care required for the
49 child to be determined eligible for the medically
50 dependent children (MDCP) waiver program.

1 Revised Law

2 Sec. 546.0502. CONSUMER DIRECTION OF SERVICES.
3 Notwithstanding Sections 546.0102(b) and 546.0103(1), a consumer
4 direction model implemented under Subchapter C, including the
5 consumer-directed service option, for the delivery of services
6 under the medically dependent children (MDCP) waiver program must
7 allow for the delivery of all services and supports available under
8 that program through consumer direction. (Gov. Code, Sec.
9 531.0511.)

10 Source Law

11 Sec. 531.0511. MEDICALLY DEPENDENT CHILDREN
12 WAIVER PROGRAM: CONSUMER DIRECTION OF SERVICES.
13 Notwithstanding Sections 531.051(c)(1) and (d), a
14 consumer direction model implemented under Section
15 531.051, including the consumer-directed service
16 option, for the delivery of services under the
17 medically dependent children (MDCP) waiver program
18 must allow for the delivery of all services and
19 supports available under that program through consumer
20 direction.

21 Revised Law

22 Sec. 546.0503. ASSESSMENTS AND REASSESSMENTS. (a) The
23 commission shall ensure that the care coordinator for a Medicaid
24 managed care organization under the STAR Kids managed care program
25 provides for review the results of the initial assessment or annual
26 reassessment of medical necessity to the parent or legally
27 authorized representative of a recipient receiving benefits under
28 the medically dependent children (MDCP) waiver program. The
29 commission shall ensure that providing the results does not delay
30 the determination of the services to be provided to the recipient or
31 the ability to authorize and initiate services.

32 (b) The commission shall require the signature of a parent
33 or legally authorized representative to verify the parent's or
34 representative's receipt of the results of the initial assessment
35 or reassessment from the care coordinator. A Medicaid managed care
36 organization may not delay the delivery of care pending the
37 signature.

38 (c) The commission shall provide to a parent or legally

1 authorized representative who disagrees with the results of the
2 initial assessment or reassessment an opportunity to request to
3 dispute the results with the Medicaid managed care organization
4 through a peer-to-peer review with the treating physician of
5 choice.

6 (d) This section does not affect any rights of a recipient
7 to appeal an initial assessment or reassessment determination
8 through the Medicaid managed care organization's internal appeal
9 process, the Medicaid fair hearing process, or the external medical
10 review process. (Gov. Code, Sec. 531.0602.)

11 Source Law

12 Sec. 531.0602. MEDICALLY DEPENDENT CHILDREN
13 (MDCP) WAIVER PROGRAM ASSESSMENTS AND REASSESSMENTS.

14 (a) The commission shall ensure that the care
15 coordinator for a Medicaid managed care organization
16 under the STAR Kids managed care program provides the
17 results of the initial assessment or annual
18 reassessment of medical necessity to the parent or
19 legally authorized representative of a recipient
20 receiving benefits under the medically dependent
21 children (MDCP) waiver program for review. The
22 commission shall ensure the provision of the results
23 does not delay the determination of the services to be
24 provided to the recipient or the ability to authorize
25 and initiate services.

26 (b) The commission shall require the parent's or
27 representative's signature to verify the parent or
28 representative received the results of the initial
29 assessment or reassessment from the care coordinator
30 under Subsection (a). A Medicaid managed care
31 organization may not delay the delivery of care
32 pending the signature.

33 (c) The commission shall provide a parent or
34 representative who disagrees with the results of the
35 initial assessment or reassessment an opportunity to
36 request to dispute the results with the Medicaid
37 managed care organization through a peer-to-peer
38 review with the treating physician of choice.

39 (d) This section does not affect any rights of a
40 recipient to appeal an initial assessment or
41 reassessment determination through the Medicaid
42 managed care organization's internal appeal process,
43 the Medicaid fair hearing process, or the external
44 medical review process.

45 Revised Law

46 Sec. 546.0504. QUALITY MONITORING BY EXTERNAL QUALITY
47 REVIEW ORGANIZATION. The commission, based on the state's external
48 quality review organization's initial report on the STAR Kids
49 managed care program, shall determine whether the findings of the
50 report necessitate additional data and research to improve the

1 program. If the commission determines additional data and research
2 are needed, the commission, through the external quality review
3 organization, may:

4 (1) conduct annual surveys of recipients receiving
5 benefits under the medically dependent children (MDCP) waiver
6 program, or their representatives, using the Consumer Assessment of
7 Healthcare Providers and Systems;

8 (2) conduct annual focus groups with recipients
9 described by Subdivision (1) or their representatives on issues
10 identified through:

11 (A) the Consumer Assessment of Healthcare
12 Providers and Systems;

13 (B) other external quality review organization
14 activities; or

15 (C) stakeholders; and

16 (3) as frequently as feasible, calculate Medicaid
17 managed care organizations' performance on performance measures
18 using available data sources such as the collaborative innovation
19 improvement network. (Gov. Code, Sec. 531.06021(a).)

20 Source Law

21 Sec. 531.06021. MEDICALLY DEPENDENT CHILDREN
22 (MDCP) WAIVER PROGRAM QUALITY MONITORING;
23 REPORT. (a) The commission, based on the state's
24 external quality review organization's initial report
25 on the STAR Kids managed care program, shall determine
26 whether the findings of the report necessitate
27 additional data and research to improve the program.
28 If the commission determines additional data and
29 research are needed, the commission, through the
30 external quality review organization, may:

31 (1) conduct annual surveys of Medicaid
32 recipients receiving benefits under the medically
33 dependent children (MDCP) waiver program, or their
34 representatives, using the Consumer Assessment of
35 Healthcare Providers and Systems;

36 (2) conduct annual focus groups with
37 recipients described by Subdivision (1) or their
38 representatives on issues identified through:

39 (A) the Consumer Assessment of
40 Healthcare Providers and Systems;

41 (B) other external quality review
42 organization activities; or

43 (C) stakeholders, including the STAR
44 Kids Managed Care Advisory Committee described by
45 Section 533.00254; and

46 (3) in consultation with the STAR Kids
47 Managed Care Advisory Committee described by Section

1 533.00254 and as frequently as feasible, calculate
2 Medicaid managed care organizations' performance on
3 performance measures using available data sources such
4 as the collaborative innovation improvement network.

5 Revisor's Note

6 Sections 531.06021(a)(2)(C) and (a)(3),
7 Government Code, refer to the STAR Kids Managed Care
8 Advisory Committee described by Section 533.00254,
9 Government Code. The revised law omits the reference
10 to the advisory committee because the committee and
11 the provision establishing the committee expire
12 December 31, 2023, which is prior to the effective date
13 of the revision.

14 Revised Law

15 Sec. 546.0505. QUARTERLY REPORT. Not later than the 30th
16 day after the last day of each state fiscal quarter, the commission
17 shall submit to the governor, the lieutenant governor, the speaker
18 of the house of representatives, the Legislative Budget Board, and
19 each standing legislative committee with primary jurisdiction over
20 Medicaid a report containing, for the most recent state fiscal
21 quarter, the following information and data related to access to
22 care for recipients receiving benefits under the medically
23 dependent children (MDCP) waiver program:

24 (1) enrollment in the Medicaid buy-in for children
25 program implemented under Section _____ [[[Section
26 531.02444]]];

27 (2) requests relating to interest list placements
28 under Section 546.0455;

29 (3) use of the Medicaid escalation help line
30 established under Section _____ [[[Section 533.00253]]], if the
31 help line was operational during the applicable state fiscal
32 quarter;

33 (4) use of, requests for, and outcomes of the external
34 medical review procedure established under Section _____
35 [[[Section 531.024164]]]; and

36 (5) complaints relating to the medically dependent

1 children (MDCP) waiver program, categorized by disposition. (Gov.
2 Code, Sec. 531.06021(b).)

3 Source Law

4 (b) Not later than the 30th day after the last
5 day of each state fiscal quarter, the commission shall
6 submit to the governor, the lieutenant governor, the
7 speaker of the house of representatives, the
8 Legislative Budget Board, and each standing
9 legislative committee with primary jurisdiction over
10 Medicaid a report containing, for the most recent
11 state fiscal quarter, the following information and
12 data related to access to care for Medicaid recipients
13 receiving benefits under the medically dependent
14 children (MDCP) waiver program:

15 (1) enrollment in the Medicaid buy-in for
16 children program implemented under Section 531.02444;

17 (2) requests relating to interest list
18 placements under Section 531.0601;

19 (3) use of the Medicaid escalation help
20 line established under Section 533.00253, if the help
21 line was operational during the applicable state
22 fiscal quarter;

23 (4) use of, requests for, and outcomes of
24 the external medical review procedure established
25 under Section 531.024164; and

26 (5) complaints relating to the medically
27 dependent children (MDCP) waiver program, categorized
28 by disposition.

29 SUBCHAPTER L. QUALITY ASSURANCE FEE PROGRAM

30 Revised Law

31 Sec. 546.0551. QUALITY ASSURANCE FEE FOR CERTAIN MEDICAID
32 WAIVER PROGRAM SERVICES. (a) In this section, "gross receipts"
33 means money received as compensation for services under an
34 intermediate care facility for individuals with an intellectual
35 disability waiver program, such as a home and community services
36 waiver or a community living assistance and support services
37 waiver. The term does not include:

38 (1) a charitable contribution;

39 (2) revenues received for services or goods other than
40 waivers; or

41 (3) any money received from consumers or their
42 families as reimbursement for services or goods not normally
43 covered under a waiver program.

44 (b) The executive commissioner by rule shall modify the
45 quality assurance fee program under Subchapter H, Chapter 252,
46 Health and Safety Code, by providing for a quality assurance fee

1 program that imposes a quality assurance fee on persons providing
2 services under a home and community services waiver or a community
3 living assistance and support services waiver.

4 (c) The executive commissioner shall establish the fee at an
5 amount that will produce annual revenues of not more than six
6 percent of the total annual gross receipts in this state.

7 (d) The executive commissioner shall adopt rules governing:

8 (1) the reporting required to compute and collect the
9 fee and the manner and times of collecting the fee; and

10 (2) the administration of the fee, including the
11 imposition of penalties for a violation of the rules.

12 (e) Fees collected under this section must be deposited in
13 the waiver program quality assurance fee account. (Gov. Code, Sec.
14 531.078.)

15 Source Law

16 Sec. 531.078. QUALITY ASSURANCE FEES ON CERTAIN
17 WAIVER PROGRAM SERVICES. (a) In this section, "gross
18 receipts" means money received as compensation for
19 services under an intermediate care facility for
20 individuals with an intellectual disability waiver
21 program such as a home and community services waiver or
22 a community living assistance and support services
23 waiver. The term does not include a charitable
24 contribution, revenues received for services or goods
25 other than waivers, or any money received from
26 consumers or their families as reimbursement for
27 services or goods not normally covered by the waivers.

28 (b) The executive commissioner by rule shall
29 modify the quality assurance fee program under
30 Subchapter H, Chapter 252, Health and Safety Code, by
31 providing for a quality assurance fee program that
32 imposes a quality assurance fee on persons providing
33 services under a home and community services waiver or
34 a community living assistance and support services
35 waiver.

36 (c) The executive commissioner shall establish
37 the fee at an amount that will produce annual revenues
38 of not more than six percent of the total annual gross
39 receipts in this state.

40 (d) The executive commissioner shall adopt
41 rules governing:

42 (1) the reporting required to compute and
43 collect the fee and the manner and times of collecting
44 the fee; and

45 (2) the administration of the fee,
46 including the imposition of penalties for a violation
47 of the rules.

48 (e) Fees collected under this section shall be
49 deposited in the waiver program quality assurance fee
50 account.

1 Revised Law

2 Sec. 546.0552. WAIVER PROGRAM QUALITY ASSURANCE FEE
3 ACCOUNT. (a) The waiver program quality assurance fee account is a
4 dedicated account in the general revenue fund. The account is
5 exempt from the application of Section 403.095.

6 (b) The account consists of fees collected under Section
7 546.0551.

8 (c) Subject to legislative appropriation and state and
9 federal law, money in the account may be appropriated only to the
10 commission to:

11 (1) increase reimbursement rates paid under:

12 (A) the home and community services waiver
13 program; or

14 (B) the community living assistance and support
15 services (CLASS) waiver program; or

16 (2) offset allowable expenses under Medicaid. (Gov.
17 Code, Sec. 531.079.)

18 Source Law

19 Sec. 531.079. WAIVER PROGRAM QUALITY ASSURANCE
20 FEE ACCOUNT. (a) The waiver program quality assurance
21 fee account is a dedicated account in the general
22 revenue fund. The account is exempt from the
23 application of Section 403.095.

24 (b) The account consists of fees collected under
25 Section 531.078.

26 (c) Subject to legislative appropriation and
27 state and federal law, money in the account may be
28 appropriated only to the Department of Aging and
29 Disability Services to increase reimbursement rates
30 paid under the home and community services waiver
31 program or the community living assistance and support
32 services waiver program or to offset allowable
33 expenses under Medicaid.

34 Revisor's Note

35 Section 531.079(c), Government Code, refers to
36 the "community living assistance and support services
37 waiver program." The revised law substitutes
38 "community living assistance and support services
39 (CLASS) waiver program" for "community living
40 assistance and support services waiver program" for
41 clarity and consistency in the terminology used within

1 the Government Code.

2 Revised Law

3 Sec. 546.0553. REIMBURSEMENT UNDER CERTAIN MEDICAID WAIVER
4 PROGRAMS. Subject to legislative appropriation and state and
5 federal law, the commission shall use money from the waiver program
6 quality assurance fee account, together with any federal money
7 available to match money from the account, to increase
8 reimbursement rates paid under:

9 (1) the home and community services waiver program; or

10 (2) the community living assistance and support
11 services (CLASS) waiver program. (Gov. Code, Sec. 531.080.)

12 Source Law

13 Sec. 531.080. REIMBURSEMENT OF WAIVER PROGRAMS.
14 Subject to legislative appropriation and state and
15 federal law, the Department of Aging and Disability
16 Services shall use money from the waiver program
17 quality assurance fee account, together with any
18 federal money available to match money from the
19 account, to increase reimbursement rates paid under
20 the home and community services waiver program or the
21 community living assistance and support services
22 waiver program.

23 Revised Law

24 Sec. 546.0554. INVALIDITY; FEDERAL MONEY. If any portion
25 of Section 546.0551, 546.0552, or 546.0553 is held invalid by a
26 final order of a court that is not subject to appeal, or if the
27 commission determines that the imposition of the quality assurance
28 fee and the expenditure of the money collected as provided by those
29 sections will not entitle this state to receive additional federal
30 money under Medicaid, the commission shall:

31 (1) stop collecting the quality assurance fee; and

32 (2) not later than the 30th day after the date the
33 commission stops collecting the quality assurance fee, return any
34 money collected under Section 546.0551, but not spent under Section
35 546.0553, to the persons who paid the fees in proportion to the
36 total amount paid by those persons. (Gov. Code, Sec. 531.081.)

37 Source Law

38 Sec. 531.081. INVALIDITY; FEDERAL FUNDS. If
39 any portion of Sections 531.078-531.080 is held

1 invalid by a final order of a court that is not subject
2 to appeal, or if the commission determines that the
3 imposition of the quality assurance fee and the
4 expenditure of the money collected as provided by
5 those sections will not entitle this state to receive
6 additional federal money under Medicaid, the
7 commission shall:

8 (1) stop collection of the quality
9 assurance fee; and

10 (2) not later than the 30th day after the
11 date the collection of the quality assurance fee is
12 stopped, return any money collected under Section
13 531.078, but not spent under Section 531.080, to the
14 persons who paid the fees in proportion to the total
15 amount paid by those persons.

16 Revised Law

17 Sec. 546.0555. EXPIRATION OF QUALITY ASSURANCE FEE PROGRAM.

18 If Subchapter H, Chapter 252, Health and Safety Code, expires, this
19 subchapter expires on the same date. (Gov. Code, Sec. 531.082.)

20 Source Law

21 Sec. 531.082. EXPIRATION OF QUALITY ASSURANCE
22 FEE ON WAIVER PROGRAMS. If Subchapter H, Chapter 252,
23 Health and Safety Code, expires, this section and
24 Sections 531.078-531.081 expire on the same date.

25 SUBCHAPTER M. VOLUNTEER ADVOCATE PROGRAM FOR CERTAIN ELDERLY

26 INDIVIDUALS

27 Revised Law

28 Sec. 546.0601. DEFINITIONS. In this subchapter:

29 (1) "Designated caregiver" means:

30 (A) a person designated as a caregiver by an
31 elderly individual receiving services from or under the direction
32 of the commission or a health and human services agency; or

33 (B) a court-appointed guardian of an elderly
34 individual receiving services from or under the direction of the
35 commission or a health and human services agency.

36 (2) "Elderly individual" means an individual who is at
37 least 60 years of age.

38 (3) "Program" means the volunteer advocate program
39 created under this subchapter for elderly individuals receiving
40 services from or under the direction of the commission or a health
41 and human services agency.

42 (4) "Volunteer advocate" means a person who
43 successfully completes the volunteer advocate curriculum described

1 by Section 546.0602(2). (Gov. Code, Sec. 531.057(a).)

2 Source Law

3 Sec. 531.057. VOLUNTEER ADVOCATE PROGRAM FOR
4 THE ELDERLY. (a) In this section:

5 (1) "Designated caregiver" means:

6 (A) a person designated as a
7 caregiver by an elderly individual receiving services
8 from or under the direction of the commission or a
9 health and human services agency; or

10 (B) a court-appointed guardian of an
11 elderly individual receiving services from or under
12 the direction of the commission or a health and human
13 services agency.

14 (2) "Elderly" means individuals who are at
15 least 60 years of age.

16 (3) "Program" means the volunteer advocate
17 program created under this section for the elderly
18 receiving services from or under the direction of the
19 commission or a health and human services agency.

20 (4) "Volunteer advocate" means a person
21 who successfully completes the volunteer advocate
22 curriculum described by Subsection (c)(2).

23 Revisor's Note

24 Section 531.057(a)(2), Government Code, provides
25 a definition for "elderly." The revised law
26 substitutes "elderly individual" for the defined term
27 because it is clear from the context that the terms are
28 synonymous and "elderly individual" is more commonly
29 used throughout the section.

30 Revised Law

31 Sec. 546.0602. PROGRAM PRINCIPLES. The program must adhere
32 to the following principles:

33 (1) the intent of the program is to evaluate, through
34 the operation of pilot projects, whether providing the services of
35 a trained volunteer advocate selected by an elderly individual or
36 the individual's designated caregiver is effective in achieving the
37 following goals:

38 (A) extend the time the elderly individual can
39 remain in an appropriate home setting;

40 (B) maximize the efficiency of services
41 delivered to the elderly individual by focusing on services needed
42 to sustain family caregiving;

43 (C) protect the elderly individual by providing a

1 knowledgeable third party to review the quality of care and
2 services delivered to the individual and the care options available
3 to the individual and the individual's family; and

4 (D) facilitate communication between the elderly
5 individual or the individual's designated caregiver and providers
6 of health care and other services;

7 (2) a volunteer advocate curriculum must be maintained
8 that incorporates best practices as determined and recognized by a
9 professional organization recognized in the elder health care
10 field;

11 (3) the use of pro bono assistance from qualified
12 professionals must be maximized in modifying the volunteer advocate
13 curriculum and the program;

14 (4) trainers must be certified on the ability to
15 deliver training;

16 (5) training shall be offered through multiple
17 community-based organizations; and

18 (6) participation in the program is voluntary and must
19 be initiated by an elderly individual or the individual's
20 designated caregiver. (Gov. Code, Sec. 531.057(c).)

21 Source Law

22 (c) The program shall adhere to the following
23 principles:

24 (1) the intent of the program is to
25 evaluate, through operation of pilot projects, whether
26 providing the services of a trained volunteer advocate
27 selected by an elderly individual or the individual's
28 designated caregiver is effective in achieving the
29 following goals:

30 (A) extend the time the elderly
31 individual can remain in an appropriate home setting;

32 (B) maximize the efficiency of
33 services delivered to the elderly individual by
34 focusing on services needed to sustain family
35 caregiving;

36 (C) protect the elderly individual by
37 providing a knowledgeable third party to review the
38 quality of care and services delivered to the
39 individual and the care options available to the
40 individual and the individual's family; and

41 (D) facilitate communication between
42 the elderly individual or the individual's designated
43 caregiver and providers of health care and other
44 services;

45 (2) a volunteer advocate curriculum must
46 be maintained that incorporates best practices as

1 determined and recognized by a professional
2 organization recognized in the elder health care
3 field;

4 (3) the use of pro bono assistance from
5 qualified professionals must be maximized in modifying
6 the volunteer advocate curriculum and the program;

7 (4) trainers must be certified on the
8 ability to deliver training;

9 (5) training shall be offered through
10 multiple community-based organizations; and

11 (6) participation in the program is
12 voluntary and must be initiated by the elderly
13 individual or the individual's designated caregiver.

14 Revisor's Note

15 Section 531.057(c), Government Code, outlines
16 certain principles that the volunteer advocate program
17 "shall" adhere to. The revised law substitutes "must"
18 for "shall" because the term "shall" imposes a duty on
19 an actor and the term "must" is more commonly used when
20 no duty is imposed on an actor and the sentence's
21 subject is an inanimate object.

22 Revised Law

23 Sec. 546.0603. AGREEMENTS WITH NONPROFIT ORGANIZATIONS;
24 ORGANIZATION ELIGIBILITY. The executive commissioner may enter
25 into agreements with appropriate nonprofit organizations to
26 provide services under the program. A nonprofit organization is
27 eligible to provide services under the program if the organization:

28 (1) has significant experience in providing services
29 to elderly individuals;

30 (2) has the capacity to provide training and
31 supervision for individuals interested in serving as volunteer
32 advocates; and

33 (3) meets any other criteria prescribed by the
34 executive commissioner. (Gov. Code, Sec. 531.057(d).)

35 Source Law

36 (d) The executive commissioner may enter into
37 agreements with appropriate nonprofit organizations
38 for the provision of services under the program. A
39 nonprofit organization is eligible to provide services
40 under the program if the organization:

41 (1) has significant experience in
42 providing services to elderly individuals;

43 (2) has the capacity to provide training
44 and supervision for individuals interested in serving
45 as volunteer advocates; and

1 (3) meets any other criteria prescribed by
2 the executive commissioner.

3 Revised Law

4 Sec. 546.0604. FUNDING. (a) The commission shall fund the
5 program, including the design and evaluation of pilot projects,
6 modification of the volunteer advocate curriculum, and training of
7 volunteers, through existing appropriations to the commission.

8 (b) Notwithstanding Subsection (a), the commission may
9 accept gifts, grants, or donations for the program from any source
10 to:

11 (1) carry out the design of the program;

12 (2) develop criteria for evaluating any proposed pilot
13 projects operated under the program;

14 (3) modify a volunteer advocate training curriculum;

15 (4) conduct training for volunteer advocates; and

16 (5) develop a request for offers to conduct any
17 proposed pilot projects under the program. (Gov. Code, Secs.
18 531.057(e), (f).)

19 Source Law

20 (e) The commission shall fund the program,
21 including the design and evaluation of pilot projects,
22 modification of the volunteer advocate curriculum, and
23 training of volunteers, through existing
24 appropriations to the commission.

25 (f) Notwithstanding Subsection (e), the
26 commission may accept gifts, grants, or donations for
27 the program from any public or private source to:

28 (1) carry out the design of the program;

29 (2) develop criteria for evaluation of any
30 proposed pilot projects operated under the program;

31 (3) modify a volunteer advocate training
32 curriculum;

33 (4) conduct training for volunteer
34 advocates; and

35 (5) develop a request for offers to
36 conduct any proposed pilot projects under the program.

37 Revisor's Note

38 Section 531.057(f), Government Code, refers to
39 the acceptance of gifts, grants, or donations from any
40 "public or private" source. The revised law omits
41 "public or private" as unnecessary because the term
42 "source" includes by its own terms both public and
43 private sources.

1 Revised Law

2 Sec. 546.0605. RULES. The executive commissioner may adopt
3 rules as necessary to implement the program. (Gov. Code, Sec.
4 531.057(g).)

5 Source Law

6 (g) The executive commissioner may adopt rules
7 as necessary to implement the program.

8 SUBCHAPTER N. ADVANCING CARE FOR EXCEPTIONAL KIDS PILOT PROGRAM

9 Revised Law

10 Sec. 546.0651. DEFINITION. In this subchapter, "pilot
11 program" means the pilot program established under this subchapter.
12 (New.)

13 Revisor's Note

14 The revised law adds the definition of "pilot
15 program" for drafting convenience and to avoid
16 frequent, unnecessary repetition of the substance of
17 the definition.

18 Revised Law

19 Sec. 546.0652. PILOT PROGRAM. The commission shall
20 collaborate with recipients, family members of children with
21 complex medical conditions, children's health care advocates,
22 Medicaid managed care organizations, and other stakeholders to
23 develop and implement a pilot program that is substantially similar
24 to the program described by Section 3, Medicaid Services Investment
25 and Accountability Act of 2019 (Pub. L. No. 116-16), to provide
26 coordinated care through a health home to children with complex
27 medical conditions. (Gov. Code, Sec. 531.0605(a).)

28 Source Law

29 Sec. 531.0605. ADVANCING CARE FOR EXCEPTIONAL
30 KIDS PILOT PROGRAM. (a) The commission shall
31 collaborate with the STAR Kids Managed Care Advisory
32 Committee, Medicaid recipients, family members of
33 children with complex medical conditions, children's
34 health care advocates, Medicaid managed care
35 organizations, and other stakeholders to develop and
36 implement a pilot program that is substantially
37 similar to the program described by Section 3,
38 Medicaid Services Investment and Accountability Act of
39 2019 (Pub. L. No. 116-16), to provide coordinated care
40 through a health home to children with complex medical

1 conditions.

2 Revisor's Note

3 Section 531.0605(a), Government Code, refers to
4 the "STAR Kids Managed Care Advisory Committee." The
5 revised law omits the reference to the advisory
6 committee for the reason stated in the revisor's note
7 to Section 546.0504.

8 Revised Law

9 Sec. 546.0653. FEDERAL GUIDANCE AND FUNDING. The
10 commission shall seek guidance from the Centers for Medicare and
11 Medicaid Services and the United States Department of Health and
12 Human Services regarding the design of the program and, based on the
13 guidance, may actively seek and apply for federal funding to
14 implement the program. (Gov. Code, Sec. 531.0605(b).)

15 Source Law

16 (b) The commission shall seek guidance from the
17 Centers for Medicare and Medicaid Services and the
18 United States Department of Health and Human Services
19 regarding the design of the program and, based on the
20 guidance, may actively seek and apply for federal
21 funding to implement the program.

22 Revised Law

23 Sec. 546.0654. REPORT. Not later than December 31, 2024,
24 the commission shall prepare and submit to the legislature a report
25 that includes:

26 (1) a summary of the commission's implementation of
27 the pilot program; and

28 (2) if the pilot program has been operating for a
29 period sufficient to obtain necessary data:

30 (A) a summary of the commission's evaluation of
31 the effect of the pilot program on the coordination of care for
32 children with complex medical conditions; and

33 (B) a recommendation as to whether the pilot
34 program should be continued, expanded, or terminated. (Gov. Code,
35 Sec. 531.0605(c).)

36 Source Law

37 (c) Not later than December 31, 2024, the

1 commission shall prepare and submit a report to the
2 legislature that includes:

3 (1) a summary of the commission's
4 implementation of the pilot program; and

5 (2) if the pilot program has been
6 operating for a period sufficient to obtain necessary
7 data, a summary of the commission's evaluation of the
8 effect of the pilot program on the coordination of care
9 for children with complex medical conditions and a
10 recommendation as to whether the pilot program should
11 be continued, expanded, or terminated.

12 Revised Law

13 Sec. 546.0655. EXPIRATION. The pilot program terminates
14 and this subchapter expires September 1, 2025. (Gov. Code, Sec.
15 531.0605(d).)

16 Source Law

17 (d) The pilot program terminates and this
18 section expires September 1, 2025.

19 SUBCHAPTER O. MORTALITY REVIEW FOR CERTAIN INDIVIDUALS WITH
20 INTELLECTUAL OR DEVELOPMENTAL DISABILITY

21 Revised Law

22 Sec. 546.0701. DEFINITION. In this subchapter, "contracted
23 organization" means an entity that contracts with the commission to
24 provide the services described by Section 546.0702(b). (Gov. Code,
25 Sec. 531.8501.)

26 Source Law

27 Sec. 531.8501. DEFINITION. In this subchapter,
28 "contracted organization" means an entity that
29 contracts with the commission for the provision of
30 services as described by Section 531.851(c).

31 Revised Law

32 Sec. 546.0702. MORTALITY REVIEW SYSTEM. (a) The executive
33 commissioner shall establish an independent mortality review
34 system to review the death of an individual with an intellectual or
35 developmental disability who, at the time of the individual's death
36 or at any time during the 24-hour period preceding the individual's
37 death:

38 (1) resided in or received services from:

39 (A) an ICF-IID operated or licensed by the
40 commission or a community center; or

41 (B) the ICF-IID component of the Rio Grande State

1 Center; or

2 (2) received services through a Section 1915(c) waiver
3 program for individuals who are eligible for ICF-IID services.

4 (b) The executive commissioner shall contract with an
5 institution of higher education or a health care organization or
6 association with experience in conducting research-based mortality
7 studies to conduct independent mortality reviews of individuals
8 with an intellectual or developmental disability. The contract
9 must require the contracted organization to form a review team
10 consisting of:

11 (1) a physician with expertise regarding the medical
12 treatment of individuals with an intellectual or developmental
13 disability;

14 (2) a registered nurse with expertise regarding the
15 medical treatment of individuals with an intellectual or
16 developmental disability;

17 (3) a clinician or other professional with expertise
18 in the delivery of services and supports for individuals with an
19 intellectual or developmental disability; and

20 (4) any other appropriate individual as the executive
21 commissioner provides.

22 (c) A review under this subchapter must be conducted:

23 (1) in addition to any review conducted by the
24 facility in which the individual resided or the facility, agency,
25 or provider from which the individual received services; and

26 (2) after any investigation of alleged or suspected
27 abuse, neglect, or exploitation is completed.

28 (d) To ensure consistency across mortality review systems,
29 a review under this subchapter must collect information consistent
30 with the information required to be collected by another
31 independent mortality review process established specifically for
32 individuals with an intellectual or developmental disability.

33 (e) The executive commissioner shall adopt rules regarding
34 the manner in which the death of an individual described by

1 Subsection (a) must be reported to the contracted organization by a
2 facility or waiver program provider described by that subsection.
3 (Gov. Code, Sec. 531.851.)

4 Source Law

5 Sec. 531.851. MORTALITY REVIEW. (a) The
6 executive commissioner shall establish an independent
7 mortality review system to review the death of a person
8 with an intellectual or developmental disability who,
9 at the time of the person's death or at any time during
10 the 24-hour period before the person's death:

11 (1) resided in or received services from:

12 (A) an ICF-IID operated or licensed
13 by the Department of Aging and Disability Services or a
14 community center; or

15 (B) the ICF-IID component of the Rio
16 Grande State Center; or

17 (2) received services through a Section
18 1915(c) waiver program for individuals who are
19 eligible for ICF-IID services.

20 (b) A review under this subchapter must be
21 conducted in addition to any review conducted by the
22 facility in which the person resided or the facility,
23 agency, or provider from which the person received
24 services. A review under this subchapter must be
25 conducted after any investigation of alleged or
26 suspected abuse, neglect, or exploitation is
27 completed.

28 (c) The executive commissioner shall contract
29 with an institution of higher education or a health
30 care organization or association with experience in
31 conducting research-based mortality studies to
32 conduct independent mortality reviews of persons with
33 an intellectual or developmental disability. The
34 contract must require the contracted organization to
35 form a review team consisting of:

36 (1) a physician with expertise regarding
37 the medical treatment of individuals with an
38 intellectual or developmental disability;

39 (2) a registered nurse with expertise
40 regarding the medical treatment of individuals with an
41 intellectual or developmental disability;

42 (3) a clinician or other professional with
43 expertise in the delivery of services and supports for
44 individuals with an intellectual or developmental
45 disability; and

46 (4) any other appropriate person as
47 provided by the executive commissioner.

48 (d) The executive commissioner shall adopt
49 rules regarding the manner in which the death of a
50 person described by Subsection (a) must be reported to
51 the contracted organization by a facility or waiver
52 program provider described by that subsection.

53 (e) To ensure consistency across mortality
54 review systems, a review under this section must
55 collect information consistent with the information
56 required to be collected by any other independent
57 mortality review process established specifically for
58 persons with an intellectual or developmental
59 disability.

60 Revisor's Note

61 Section 531.851(e), Government Code, refers to a

1 mortality review conducted "under this section." For
2 consistency of terminology and because the provisions
3 related to the mortality review being referred to are
4 contained in the revised subchapter, the revised law
5 substitutes "subchapter" for "section."

6 Revised Law

7 Sec. 546.0703. ACCESS TO INFORMATION AND RECORDS. (a) A
8 contracted organization may request information and records
9 regarding a deceased individual as necessary to carry out the
10 organization's duties. The requested information and records may
11 include:

12 (1) medical, dental, and mental health care
13 information; and

14 (2) information and records maintained by any state or
15 local government agency, including:

16 (A) a birth certificate;

17 (B) law enforcement investigative data;

18 (C) medical examiner investigative data;

19 (D) juvenile court records;

20 (E) parole and probation information and
21 records; and

22 (F) adult or child protective services
23 information and records.

24 (b) On request of the contracted organization, the
25 custodian of the relevant information and records relating to a
26 deceased individual shall provide those records to the organization
27 at no charge. (Gov. Code, Sec. 531.852.)

28 Source Law

29 Sec. 531.852. ACCESS TO INFORMATION. (a) A
30 contracted organization may request information and
31 records regarding a deceased person as necessary to
32 carry out the contracted organization's duties.
33 Records and information that may be requested under
34 this section include:

35 (1) medical, dental, and mental health
36 care information; and

37 (2) information and records maintained by
38 any state or local government agency, including:

39 (A) a birth certificate;

1 (B) law enforcement investigative
2 data;
3 (C) medical examiner investigative
4 data;
5 (D) juvenile court records;
6 (E) parole and probation information
7 and records; and
8 (F) adult or child protective
9 services information and records.

10 (b) On request of the contracted organization,
11 the custodian of the relevant information and records
12 relating to a deceased person shall provide those
13 records to the contracted organization at no charge.

14 Revised Law

15 Sec. 546.0704. MORTALITY REVIEW REPORTS. Subject to
16 Section 546.0705, a contracted organization shall submit:

17 (1) to the commission, the Department of Family and
18 Protective Services, the office of independent ombudsman for state
19 supported living centers, and the commission's office of inspector
20 general a report of the findings of the mortality review; and

21 (2) semiannually to the governor, the lieutenant
22 governor, the speaker of the house of representatives, and the
23 standing committees of the senate and house of representatives with
24 primary jurisdiction over the commission, the department, the
25 office of independent ombudsman for state supported living centers,
26 and the commission's office of inspector general a report that
27 contains:

28 (A) aggregate information regarding the deaths
29 for which the organization performed an independent mortality
30 review;

31 (B) trends in the causes of death the
32 organization identifies; and

33 (C) any suggestions for system-wide improvements
34 to address conditions that contributed to deaths reviewed by the
35 organization. (Gov. Code, Sec. 531.853.)

36 Source Law

37 Sec. 531.853. MORTALITY REVIEW REPORT. Subject
38 to Section 531.854, a contracted organization shall
39 submit:

40 (1) to the Department of Aging and
41 Disability Services, the Department of Family and
42 Protective Services, the office of independent
43 ombudsman for state supported living centers, and the
44 commission's office of inspector general a report of

1 the findings of the mortality review; and
2 (2) semiannually to the governor, the
3 lieutenant governor, the speaker of the house of
4 representatives, and the standing committees of the
5 senate and house of representatives with primary
6 jurisdiction over the Department of Aging and
7 Disability Services, the Department of Family and
8 Protective Services, the office of independent
9 ombudsman for state supported living centers, and the
10 commission's office of inspector general a report that
11 contains:

12 (A) aggregate information regarding
13 the deaths for which the contracted organization
14 performed an independent mortality review;

15 (B) trends in the causes of death
16 identified by the contracted organization; and

17 (C) any suggestions for system-wide
18 improvements to address conditions that contributed to
19 deaths reviewed by the contracted organization.

20 Revised Law

21 Sec. 546.0705. USE AND PUBLICATION RESTRICTIONS;
22 CONFIDENTIALITY. (a) The commission may use or publish
23 information under this subchapter only to advance statewide
24 practices regarding the treatment and care of individuals with an
25 intellectual or developmental disability. A summary of the data in
26 the contracted organization's reports or a statistical compilation
27 of data reports may be released by the commission for general
28 publication if the summary or statistical compilation does not
29 contain any information that would permit the identification of an
30 individual or that is confidential or privileged under this
31 subchapter or other state or federal law.

32 (b) Information and records acquired by the contracted
33 organization in the exercise of the organization's duties under
34 this subchapter:

35 (1) are confidential and exempt from disclosure under
36 Chapter 552; and

37 (2) may be disclosed only as necessary to carry out the
38 organization's duties.

39 (c) The identity of:

40 (1) an individual whose death was reviewed in
41 accordance with this subchapter is confidential and may not be
42 revealed; and

43 (2) a health care provider or the name of a facility or

1 agency that provided services to or was the residence of an
2 individual whose death was reviewed in accordance with this
3 subchapter is confidential and may not be revealed.

4 (d) Reports, information, statements, memoranda, and other
5 information furnished under this subchapter to the contracted
6 organization and any findings or conclusions resulting from a
7 review by the organization are privileged.

8 (e) A contracted organization's report of the findings of
9 the independent mortality review conducted under this subchapter
10 and any records the organization develops relating to the review:

- 11 (1) are confidential and privileged;
- 12 (2) are not subject to discovery or subpoena; and
- 13 (3) may not be introduced into evidence in any civil,
14 criminal, or administrative proceeding.

15 (f) A member of the contracted organization's review team
16 may not testify or be required to testify in a civil, criminal, or
17 administrative proceeding as to observations, factual findings, or
18 conclusions that were made in conducting a review under this
19 subchapter. (Gov. Code, Sec. 531.854.)

20 Source Law

21 Sec. 531.854. USE AND PUBLICATION RESTRICTIONS;
22 CONFIDENTIALITY. (a) The commission may use or
23 publish information under this subchapter only to
24 advance statewide practices regarding the treatment
25 and care of individuals with an intellectual or
26 developmental disability. A summary of the data in the
27 contracted organization's reports or a statistical
28 compilation of data reports may be released by the
29 commission for general publication if the summary or
30 statistical compilation does not contain any
31 information that would permit the identification of an
32 individual or that is confidential or privileged under
33 this subchapter or other state or federal law.

34 (b) Information and records acquired by the
35 contracted organization in the exercise of its duties
36 under this subchapter are confidential and exempt from
37 disclosure under the open records law, Chapter 552,
38 and may be disclosed only as necessary to carry out the
39 contracted organization's duties.

40 (c) The identity of a person whose death was
41 reviewed in accordance with this subchapter is
42 confidential and may not be revealed.

43 (d) The identity of a health care provider or
44 the name of a facility or agency that provided services
45 to or was the residence of a person whose death was
46 reviewed in accordance with this subchapter is
47 confidential and may not be revealed.

1 (e) Reports, information, statements,
2 memoranda, and other information furnished under this
3 subchapter to the contracted organization and any
4 findings or conclusions resulting from a review by the
5 contracted organization are privileged.

6 (f) A contracted organization's report of the
7 findings of the independent mortality review conducted
8 under this subchapter and any records developed by the
9 contracted organization relating to the review:

10 (1) are confidential and privileged;

11 (2) are not subject to discovery or
12 subpoena; and

13 (3) may not be introduced into evidence in
14 any civil, criminal, or administrative proceeding.

15 (g) A member of the contracted organization's
16 review team may not testify or be required to testify
17 in a civil, criminal, or administrative proceeding as
18 to observations, factual findings, or conclusions that
19 were made in conducting a review under this
20 subchapter.

21 Revised Law

22 Sec. 546.0706. LIMITATION ON LIABILITY. A health care
23 provider or other person is not civilly or criminally liable for
24 furnishing information to the contracted organization or to the
25 commission for use by the organization in accordance with this
26 subchapter unless the person acted in bad faith or knowingly
27 provided false information to the organization or the commission.
28 (Gov. Code, Sec. 531.855.)

29 Source Law

30 Sec. 531.855. LIMITATION ON LIABILITY. A
31 health care provider or other person is not civilly or
32 criminally liable for furnishing information to the
33 contracted organization or to the commission for use
34 by the contracted organization in accordance with this
35 subchapter unless the person acted in bad faith or
36 knowingly provided false information to the contracted
37 organization or the commission.