

AN ACT

relating to suits affecting the parent-child relationship,  
including temporary orders, orders for modification, adoption  
assistance, and foster care.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 154.062(c), Family Code, is amended to  
read as follows:

(c) Resources do not include:

- (1) return of principal or capital;
- (2) accounts receivable; ~~[or]~~
- (3) benefits paid in accordance with the Temporary Assistance for Needy Families program; or
- (4) payments for foster care of a child ~~[aid for families with dependent children]~~.

SECTION 2. Section 156.006(b), Family Code, is amended to  
read as follows:

(b) While a suit for modification is pending, the court may  
not render a temporary order that has the effect of changing the  
designation of the person who has the exclusive right to designate  
the primary residence of the child under the final order unless the temporary order is in the best interest of the child and:

- (1) the order is necessary because the child's present  
circumstances would significantly impair the child's physical  
health or emotional development;

(2) the person designated in the final order has voluntarily relinquished the primary care and possession of the child for more than six months ~~[and the temporary order is in the best interest of the child]~~; or

(3) the child is 12 years of age or older and has expressed to ~~[filed with]~~ the court in chambers as provided by Section 153.009 ~~[in writing]~~ the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child ~~[and the temporary order designating that person is in the best interest of the child]~~.

SECTION 3. Section 156.101, Family Code, is amended to read as follows:

Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. The court may modify an order that provides for the appointment of a conservator of a child, that provides the terms and conditions of conservatorship, or that provides for the possession of or access to a child if modification would be in the best interest of the child and:

(1) the circumstances of the child, a conservator, or other party affected by the order have materially and substantially changed since the earlier of:

(A) the date of the rendition of the order; or

(B) the date of the signing of a mediated or collaborative law settlement agreement on which the order is based;

(2) the child is at least 12 years of age and has expressed to ~~[filed with]~~ the court in chambers as provided by

1 Section 153.009 [~~, in writing,~~] the name of the person who is the  
2 child's preference to have the exclusive right to designate the  
3 primary residence of the child; or

4 (3) the conservator who has the exclusive right to  
5 designate the primary residence of the child has voluntarily  
6 relinquished the primary care and possession of the child to  
7 another person for at least six months.

8 SECTION 4. Section 162.3041, Family Code, is amended by  
9 adding Subsection (a-1) and amending Subsection (d) to read as  
10 follows:

11 (a-1) Notwithstanding Subsection (a), if the department  
12 first entered into an adoption assistance agreement with a child's  
13 adoptive parents after the child's 16th birthday, the department  
14 shall, in accordance with rules adopted by the executive  
15 commissioner of the Health and Human Services Commission, offer  
16 adoption assistance after the child's 18th birthday to the child's  
17 adoptive parents under an existing adoption agreement until the  
18 last day of the month of the child's 21st birthday, provided the  
19 child is:

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

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

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

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

1           (5) incapable of doing any of the activities described  
2 by Subdivisions (1)-(4) due to a documented medical condition.

3           (d) If the legislature does not appropriate sufficient  
4 money to provide adoption assistance to the adoptive parents of all  
5 children described by Subsection (a), the department shall provide  
6 adoption assistance only to the adoptive parents of children  
7 described by Subsection (a)(1). The department is not required to  
8 provide adoption assistance benefits under Subsection (a-1) unless  
9 the department is specifically appropriated funds for purposes of  
10 that subsection.

11           SECTION 5. Subchapter A, Chapter 264, Family Code, is  
12 amended by adding Section 264.015 to read as follows:

13           Sec. 264.015. TRAINING. The department shall include  
14 training in trauma-informed programs and services in any training  
15 the department provides to foster parents, adoptive parents,  
16 kinship caregivers, and department caseworkers. The department  
17 shall pay for the training provided under this section with gifts,  
18 donations, and grants and any federal money available through the  
19 Fostering Connections to Success and Increasing Adoptions Act of  
20 2008 (Pub. L. No. 110-351).

21           SECTION 6. Section 264.101, Family Code, is amended by  
22 amending Subsections (a-1) and (d) and adding Subsection (a-2) to  
23 read as follows:

24           (a-1) The department shall continue to pay the cost of  
25 foster care for a child for whom the department provides care,  
26 including medical care, until the last day of the month in which  
27 ~~[later of:~~

1           ~~[(1) the date]~~ the child attains the age of 18. The  
2 department shall continue to pay the cost of foster care for a child  
3 after the month in which the child attains the age of 18 as long as  
4 the child is:

5           (1) regularly attending~~[, or~~  
6           ~~[(2) the date the child graduates from]~~ high school or  
7 ~~[ceases to be]~~ enrolled in a ~~[secondary school in a]~~ program leading  
8 toward a high school diploma or high school equivalency  
9 certificate;

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

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

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

15           (5) incapable of performing the activities described  
16 by Subdivisions (1)-(4) due to a documented medical condition.

17           (a-2) The department shall continue to pay the cost of  
18 foster care under:

19           (1) Subsection (a-1)(1) until the last day of the  
20 month in which the child attains the age of 22; and

21           (2) Subsections (a-1)(2)-(5) until the last day of the  
22 month the child attains the age of 21.

23           (d) The executive commissioner of the Health and Human  
24 Services Commission may adopt rules that establish criteria and  
25 guidelines for the payment of foster care, including medical care,  
26 for a child and for providing care for a child after the child  
27 becomes 18 years of age if the child meets the requirements for

1 continued foster care under Subsection (a-1) ~~[is regularly~~  
2 ~~attending an institution of higher education or a vocational or~~  
3 ~~technical program]~~.

4 SECTION 7. Sections 264.751(1) and (3), Family Code, are  
5 amended to read as follows:

6 (1) "Designated caregiver" means an individual who has  
7 a longstanding and significant relationship with a child for whom  
8 the department has been appointed managing conservator and who:

9 (A) is appointed to provide substitute care for  
10 the child, but is not licensed by the department or verified by a  
11 licensed child-placing agency or the department ~~[certified]~~ to  
12 operate a foster home, foster group home, agency foster home, or  
13 agency foster group home under Chapter 42, Human Resources Code; or

14 (B) is subsequently appointed permanent managing  
15 conservator of the child after providing the care described by  
16 Paragraph (A).

17 (3) "Relative caregiver" means a relative who:

18 (A) provides substitute care for a child for whom  
19 the department has been appointed managing conservator, but who is  
20 not licensed by the department or verified by a licensed  
21 child-placing agency or the department ~~[certified]~~ to operate a  
22 foster home, foster group home, agency foster home, or agency  
23 foster group home under Chapter 42, Human Resources Code; or

24 (B) is subsequently appointed permanent managing  
25 conservator of the child after providing the care described by  
26 Paragraph (A).

27 SECTION 8. Subchapter I, Chapter 264, Family Code, is

amended by adding Section 264.760 to read as follows:

Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of this subchapter, a relative or other designated caregiver who becomes licensed by the department or verified by a licensed child-placing agency or the department to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code, may receive foster care payments in lieu of the benefits provided by this subchapter, beginning with the first month in which the relative or other designated caregiver becomes licensed or is verified.

SECTION 9. Chapter 264, Family Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

Sec. 264.851. DEFINITIONS. In this subchapter:

(1) "Foster child" means a child who is or was in the temporary or permanent managing conservatorship of the department.

(2) "Kinship provider" means a relative of a foster child, or another adult with a longstanding and significant relationship with a foster child before the child was placed with the person by the department, with whom the child resides for at least six consecutive months after the person becomes licensed by the department or verified by a licensed child-placing agency or the department to provide foster care.

(3) "Permanency care assistance agreement" means a written agreement between the department and a kinship provider for the payment of permanency care assistance benefits as provided by

1 this subchapter.

2 (4) "Permanency care assistance benefits" means  
3 monthly payments paid by the department to a kinship provider under  
4 a permanency care assistance agreement.

5 (5) "Relative" means a person related to a foster  
6 child by consanguinity or affinity.

7 Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS. (a)  
8 The department shall enter into a permanency care assistance  
9 agreement with a kinship provider who is eligible to receive  
10 permanency care assistance benefits.

11 (b) The department may enter into a permanency care  
12 assistance agreement with a kinship provider who is the prospective  
13 managing conservator of a foster child only if the kinship provider  
14 meets the eligibility criteria under federal and state law and  
15 department rule.

16 (c) A court may not order the department to enter into a  
17 permanency care assistance agreement with a kinship provider unless  
18 the kinship provider meets the eligibility criteria under federal  
19 and state law and department rule, including requirements relating  
20 to the criminal history background check of a kinship provider.

21 (d) A permanency care assistance agreement may provide for  
22 reimbursement of the nonrecurring expenses a kinship provider  
23 incurs in obtaining permanent managing conservatorship of a foster  
24 child, including attorney's fees and court costs. The  
25 reimbursement of the nonrecurring expenses under this subsection  
26 may not exceed \$2,000.

27 Sec. 264.853. RULES. The executive commissioner shall



adopt rules necessary to implement the permanency care assistance program. The rules must:

(1) establish eligibility requirements to receive permanency care assistance benefits under the program; and

(2) ensure that the program conforms to the requirements for federal assistance as required by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351).

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

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

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

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

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

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

4           (5) incapable of any of the activities described by  
5 Subdivisions (1)-(4) due to a documented medical condition.

6           Sec. 264.856. APPROPRIATION REQUIRED. The department is  
7 not required to provide permanency care assistance benefits under  
8 this subchapter unless the department is specifically appropriated  
9 money for purposes of this subchapter.

10          SECTION 10. Section 153.008, Family Code, is repealed.

11          SECTION 11. The change in law made by this Act to Section  
12 154.062(c), Family Code, applies only to a proceeding to establish  
13 or modify a child support obligation that is pending in a trial  
14 court on or filed on or after the effective date of this Act.

15          SECTION 12. The changes in law made by this Act by the  
16 amendment of Sections 156.006(b) and 156.101, Family Code, apply to  
17 a suit for modification filed on or after the effective date of this  
18 Act. A suit for modification filed before that date is governed by  
19 the law in effect on the date the suit was filed, and the former law  
20 is continued in effect for that purpose.

21          SECTION 13. (a) Not later than April 1, 2010, the executive  
22 commissioner of the Health and Human Services Commission shall  
23 adopt rules to implement and administer the changes to Sections  
24 162.3041 and 264.101, Family Code, as amended by this Act, and  
25 Subchapter K, Chapter 264, Family Code, as added by this Act.

26          (b) The rules adopted under Subsection (a) of this section  
27 shall provide that no payment for adoption assistance or permanency

1 care assistance can be paid on behalf of a child over the age of 17  
2 for any month prior to October 1, 2010.

3 (c) The rules adopted under Subsection (a) of this section  
4 shall provide that no payment of foster care benefits can be made  
5 under the amendments to Section 264.101, Family Code, with respect  
6 to a child over the age of 17 for any month prior to October 1, 2010,  
7 unless the child was eligible for foster care benefits after age 17  
8 under the law and rules as they existed prior to the effective date  
9 of this Act.

10 SECTION 14. If before implementing any provision of this  
11 Act a state agency determines that a waiver or authorization from a  
12 federal agency is necessary for implementation of that provision,  
13 the agency affected by the provision shall request the waiver or  
14 authorization and may delay implementing that provision until the  
15 waiver or authorization is granted.

16 SECTION 15. This Act does not make an appropriation. A  
17 provision in this Act that creates a new governmental program,  
18 creates a new entitlement, or imposes a new duty on a governmental  
19 entity is not mandatory during a fiscal period for which the  
20 legislature has not made a specific appropriation to implement the  
21 provision.

22 SECTION 16. This Act takes effect September 1, 2009.

H.B. No. 1151

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1151 was passed by the House on May 5, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1151 on May 29, 2009, by the following vote: Yeas 141, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1151 was passed by the Senate, with amendments, on May 23, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor