

AN ACT

relating to procedures in certain suits affecting the parent-child relationship and the operation of the child protective services and foster care systems.

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

SECTION 1. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3013 to read as follows:

Sec. 261.3013. CASE CLOSURE AGREEMENTS PROHIBITED.

(a) Except as provided by Subsection (b), on closing a case, the department may not enter into a written agreement with a child's parent or another adult with whom the child resides that requires the parent or other adult to take certain actions after the case is closed to ensure the child's safety.

(b) This section does not apply to an agreement that is entered into by a parent or other adult:

(1) following the removal of a child and that is subject to the approval of a court with continuing jurisdiction over the child;

(2) as a result of the person's participation in family group conferencing; or

(3) as part of a formal case closure plan agreed to by the person who will continue to care for a child as a result of a parental child safety placement.

(c) The department shall develop policies to guide

caseworkers in the development of case closure agreements authorized under Subsections (b)(2) and (3).

SECTION 2. Subchapter A, Chapter 262, Family Code, is amended by adding Section 262.010 to read as follows:

Sec. 262.010. CHILD WITH SEXUALLY TRANSMITTED DISEASE.

(a) If during an investigation by the Department of Family and Protective Services the department discovers that a child younger than 11 years of age has a sexually transmitted disease, the department shall:

(1) appoint a special investigator to assist in the investigation of the case; and

(2) file an original suit requesting an emergency order under this chapter for possession of the child unless the department determines, after taking the following actions, that emergency removal is not necessary for the protection of the child:

(A) reviewing the medical evidence to determine whether the medical evidence supports a finding that abuse likely occurred;

(B) interviewing the child and other persons residing in the child's home;

(C) conferring with law enforcement;

(D) determining whether any other child in the home has a sexually transmitted disease and, if so, referring the child for a sexual abuse examination;

(E) if the department determines a forensic interview is appropriate based on the child's age and development, ensuring that each child alleged to have been abused undergoes a

1 forensic interview by a children's advocacy center established
2 under Section 264.402 or another professional with specialized
3 training in conducting forensic interviews if a children's advocacy
4 center is not available in the county in which the child resides;

5 (F) consulting with a department staff nurse or
6 other medical expert to obtain additional information regarding the
7 nature of the sexually transmitted disease and the ways the disease
8 is transmitted and an opinion as to whether abuse occurred based on
9 the facts of the case;

10 (G) contacting any additional witness who may
11 have information relevant to the investigation, including other
12 individuals who had access to the child; and

13 (H) if the department determines after taking the
14 actions described by Paragraphs (A)-(G) that a finding of sexual
15 abuse is not supported, obtaining an opinion from the Forensic
16 Assessment Center Network as to whether the evidence in the case
17 supports a finding that abuse likely occurred.

18 (b) If the department determines that abuse likely
19 occurred, the department shall work with law enforcement to obtain
20 a search warrant to require an individual the department reasonably
21 believes may have sexually abused the child to undergo medically
22 appropriate diagnostic testing for sexually transmitted diseases.

23 SECTION 3. Section 262.1015, Family Code, is amended by
24 adding Subsection (a-1) to read as follows:

25 (a-1) Notwithstanding Subsection (a), if the Department of
26 Family and Protective Services determines that a protective order
27 issued under Title 4 provides a reasonable alternative to obtaining

1 an order under that subsection, the department may:

2 (1) file an application for a protective order on
3 behalf of the child instead of or in addition to obtaining a
4 temporary restraining order under this section; or

5 (2) assist a parent or other adult with whom a child
6 resides in obtaining a protective order.

7 SECTION 4. Section 263.103, Family Code, is amended to read
8 as follows:

9 Sec. 263.103. ORIGINAL SERVICE PLAN: SIGNING AND TAKING
10 EFFECT. (a) The original service plan shall be developed jointly
11 by the child's parents and a representative of the department or
12 other authorized agency, including informing the parents of their
13 rights in connection with the service plan process. If a parent is
14 not able or willing to participate in the development of the service
15 plan, it should be so noted in the plan.

16 (a-1) Before the original service plan is signed, the
17 child's parents and the representative of the department or other
18 authorized agency shall discuss each term and condition of the
19 plan.

20 (b) The child's parents and the person preparing the
21 original service plan shall sign the plan, and the department shall
22 give each parent a copy of the service plan.

23 (c) If the department or other authorized agency determines
24 that the child's parents are unable or unwilling to participate in
25 the development of the original service plan or sign the [service]
26 plan, the department may file the plan without the parents'
27 signatures.

(d) The original service plan takes effect when:

(1) the child's parents and the appropriate representative of the department or other authorized agency sign the plan; or

(2) the court issues an order giving effect to ~~[department or other authorized agency files]~~ the plan without the parents' signatures.

(e) The original service plan is in effect until amended by the court or as provided under Section 263.104.

SECTION 5. Section 263.104, Family Code, is amended to read as follows:

Sec. 263.104. AMENDED SERVICE PLAN. (a) The service plan may be amended at any time. The department shall work with the parents to jointly develop any amendment to the service plan, including informing the parents of their rights in connection with the amended service plan process.

(b) The amended service plan supersedes the previously filed service plan and takes effect when:

(1) the child's parents and the appropriate representative of the department or other authorized agency sign the plan; or

(2) the department or other authorized agency determines that the child's parents are unable or unwilling to sign the amended plan and files it without the parents' signatures.

(c) A parent may file a motion with the court at any time to request a review and modification of the amended service plan ~~[The amended service plan remains in effect until amended by the court]~~.

1 (d) An amended service plan remains in effect until:

2 (1) superseded by a later-amended service plan that
3 goes into effect as provided by Subsection (b); or

4 (2) modified by the court.

5 SECTION 6. Section 263.106, Family Code, is amended to read
6 as follows:

7 Sec. 263.106. COURT IMPLEMENTATION OF SERVICE PLAN. After
8 reviewing the original or any amended service plan and making any
9 changes or modifications it deems necessary, the [The] court shall
10 incorporate the original and any amended service plan into the
11 orders of the court and may render additional appropriate orders to
12 implement or require compliance with an original or amended service
13 plan.

14 SECTION 7. Subsection (a), Section 264.118, Family Code, is
15 amended to read as follows:

16 (a) The department shall collect and report service and
17 outcome information for certain current and former foster care
18 youth for use in the National Youth in Transition Database as
19 required by 42 U.S.C. Section 677(f) and 45 C.F.R. Section 1356.80
20 et seq ~~[conduct an annual random survey of a sample of children from~~
21 ~~each region of the state who are at least 14 years of age and who~~
22 ~~receive substitute care services. The survey must include~~
23 ~~questions regarding:~~

24 ~~[(1) the quality of the substitute care services~~
25 ~~provided to the child;~~

26 ~~[(2) any improvements that could be made to better~~
27 ~~support the child; and~~

1 ~~[(3) any other factor that the department considers~~
2 ~~relevant to enable the department to identify potential program~~
3 ~~enhancements].~~

4 SECTION 8. Subdivision (3), Subsection (a), Section
5 411.114, Government Code, is amended to read as follows:

6 (3) The Department of Family and Protective ~~[and~~
7 ~~Regulatory]~~ Services is entitled to obtain from the department
8 criminal history record information maintained by the department
9 that relates to a person who is:

10 (A) a volunteer or applicant volunteer with a
11 local affiliate in this state of Big Brothers/Big Sisters of
12 America;

13 (B) a volunteer or applicant volunteer with the
14 "I Have a Dream/Houston" program;

15 (C) a volunteer or applicant volunteer with an
16 organization that provides court-appointed special advocates for
17 abused or neglected children;

18 (D) a person providing, at the request of the
19 child's parent, in-home care for a child who is the subject of a
20 report alleging the child has been abused or neglected;

21 (E) a volunteer or applicant volunteer with a
22 Texas chapter of the Make-a-Wish Foundation of America;

23 (F) a person providing, at the request of the
24 child's parent, in-home care for a child only if the person gives
25 written consent to the release and disclosure of the information;

26 (G) a child who is related to the caretaker, as
27 determined under Section 42.002, Human Resources Code, and who

1 resides in or is present in a child-care facility, family home, or
2 maternity home, other than a child described by Subdivision (2)(C),
3 or any other person who has unsupervised access to a child in the
4 care of a child-care facility, family home, or maternity home;

5 (H) an applicant for a position with the
6 Department of Family and Protective [~~and Regulatory~~] Services,
7 other than a position described by Subdivision (2)(D), regardless
8 of the duties of the position;

9 (I) a volunteer or applicant volunteer with the
10 Department of Family and Protective [~~and Regulatory~~] Services,
11 other than a registered volunteer, regardless of the duties to be
12 performed;

13 (J) a person providing or applying to provide
14 in-home, adoptive, or foster care for children to the extent
15 necessary to comply with Subchapter B, Chapter 162, Family Code;

16 (K) a Department of Family and Protective [~~and~~
17 ~~Regulatory~~] Services employee, other than an employee described by
18 Subdivision (2)(H), regardless of the duties of the employee's
19 position;

20 (L) a relative of a child in the care of the
21 Department of Family and Protective [~~and Regulatory~~] Services, to
22 the extent necessary to comply with Section 162.007, Family Code;

23 (M) a person, other than the subject of a report
24 described in Subdivision (2)(I), living in the residence in which
25 the alleged victim of the report resides;

26 (N) a contractor or an employee of a contractor
27 who delivers services to a ward of the Department of Family and

1 Protective [~~and Regulatory~~] Services under a contract with the
2 estate of the ward;

3 (O) a person who seeks unsupervised visits with a
4 ward of the Department of Family and Protective [~~and Regulatory~~]
5 Services, including a relative of the ward; [~~or~~]

6 (P) an employee, volunteer, or applicant
7 volunteer of a children's advocacy center under Subchapter E,
8 Chapter 264, Family Code, including a member of the governing board
9 of a center;

10 (Q) an employee of or volunteer at, or an
11 applicant for employment with or to be a volunteer at, an entity
12 that provides supervised independent living services to a young
13 adult receiving extended foster care services from the Department
14 of Family and Protective Services; or

15 (R) a person 14 years of age or older who will be
16 regularly or frequently working or staying in a host home that is
17 providing supervised independent living services to a young adult
18 receiving extended foster care services from the Department of
19 Family and Protective Services.

20 SECTION 9. Section 40.036, Human Resources Code, is amended
21 to read as follows:

22 Sec. 40.036. ENHANCED TRAINING OF CHILD PROTECTIVE SERVICES
23 CASEWORKERS. To improve the quality and consistency of training
24 provided to child protective services caseworkers, the department
25 shall:

26 (1) augment classroom-based training with a blended
27 learning environment using computer-based modules, structured

1 field experience, and simulation for skills development;

2 (2) use a core curriculum for all new department
3 caseworkers and specialized training for specific jobs;

4 (3) require that department caseworkers transferring
5 from one specialty to another must complete the core curriculum and
6 advanced training for the new specialty before assuming their new
7 responsibilities; ~~and~~

8 (4) centralize accountability and oversight of all
9 department training in order to ensure statewide consistency; and

10 (5) require department caseworkers to receive
11 training relating to the benefits of using a protective order under
12 Title 4, Family Code, to protect a child as an alternative to
13 removing the child from the child's home.

14 SECTION 10. Subchapter I, Chapter 521, Transportation Code,
15 is amended by adding Section 521.1811 to read as follows:

16 Sec. 521.1811. WAIVER OF FEES FOR FOSTER CARE YOUTH. A
17 person is exempt from the payment of any fee for the issuance of a
18 driver's license, as provided under this chapter, if that person
19 is:

20 (1) younger than 18 years of age and in the managing
21 conservatorship of the Department of Family and Protective
22 Services; or

23 (2) at least 18 years of age, but younger than 21 years
24 of age, and resides in a foster care placement, the cost of which is
25 paid by the Department of Family and Protective Services.

26 SECTION 11. (a) The Department of Family and Protective
27 Services shall implement a redesign of the foster care system in

1 accordance with the recommendations contained in the department's
2 December 2010 Foster Care Redesign report submitted to the
3 legislature.

4 (b) The redesign of the foster care system shall be
5 implemented with the understanding that the individual needs of a
6 child are paramount and that not all indicators are appropriate for
7 every child and shall include as goals for the redesign a system
8 that ensures:

- 9 (1) children are safe in their placements;
- 10 (2) children are placed in their home communities;
- 11 (3) children are appropriately served in the least
12 restrictive environment that supports minimal moves for the child;
- 13 (4) connections to family and other persons important
14 to the child are maintained;
- 15 (5) children are placed with siblings;
- 16 (6) services respect the child's culture;
- 17 (7) children and youth are fully prepared for
18 successful adulthood through being provided opportunities,
19 experiences, and activities similar to those experienced by
20 children and youth who are not in foster care; and
- 21 (8) children and youth are provided opportunities to
22 participate in decisions that impact their lives.

23 (c) The Health and Human Services Commission may use payment
24 rates for foster care under the redesigned system that are
25 different from those used on the effective date of this Act for
26 24-hour residential child care. Payment rates for foster care
27 under the redesigned system may include incentive payments for

1 superior performance, as well as funding for additional services
2 provided to families historically included in 24-hour residential
3 child-care rates. Final implementation of the foster care redesign
4 must include a payment system based on performance targets.
5 Payment rates under foster care redesign may not result in total
6 expenditures for any fiscal year during the 2012-2013 fiscal
7 biennium that exceed the amounts appropriated by the 82nd
8 Legislature for foster care and other purchased services, except to
9 the extent that any increase in total foster care expenditures is
10 the direct result of caseload growth.

11 SECTION 12. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 218 passed the Senate on April 13, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 218 passed the House, with amendments, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor