

AN ACT

relating to benefits and services for children in the conservatorship of the Department of Family and Protective Services, including the exchange of information by the department regarding students in foster care.

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

SECTION 1. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.029 to read as follows:

Sec. 7.029. MEMORANDUM OF UNDERSTANDING REGARDING EXCHANGE OF INFORMATION FOR STUDENTS IN FOSTER CARE. (a) The agency and the Department of Family and Protective Services shall enter into a memorandum of understanding regarding the exchange of information as appropriate to facilitate the department's evaluation of educational outcomes of students in foster care. The memorandum of understanding must require:

(1) the department to provide the agency each year with demographic information regarding individual students who during the preceding school year were in the conservatorship of the department following an adversarial hearing under Section 262.201, Family Code; and

(2) the agency, in a manner consistent with federal law, to provide the department with aggregate information regarding educational outcomes of students for whom the agency received demographic information under Subdivision (1).

1 (b) For purposes of Subsection (a)(2), information
2 regarding educational outcomes includes information relating to
3 student academic achievement, graduation rates, school attendance,
4 disciplinary actions, and receipt of special education services.

5 (c) The department may authorize the agency to provide
6 education research centers established under Section 1.005 with
7 demographic information regarding individual students received by
8 the agency in accordance with Subsection (a)(1), as appropriate to
9 allow the centers to perform additional analysis regarding
10 educational outcomes of students in foster care. Any use of
11 information regarding individual students provided to a center
12 under this subsection must be approved by the department.

13 (d) Nothing in this section may be construed to:

14 (1) require the agency or the department to collect or
15 maintain additional information regarding students in foster care;
16 or

17 (2) allow the release of information regarding an
18 individual student in a manner not permitted under the Family
19 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
20 1232g) or another state or federal law.

21 SECTION 2. Section 54.211, Education Code, is amended to
22 read as follows:

23 Sec. 54.211. EXEMPTIONS FOR STUDENTS IN FOSTER OR OTHER
24 RESIDENTIAL CARE. (a) A student is exempt from the payment of
25 tuition and fees authorized in this chapter if the student:

26 (1) was in [~~foster care or other residential care~~
27 ~~under~~] the conservatorship of the Department of Family and

1 Protective Services [~~on or after~~]:

2 (A) on the day preceding the student's 18th
3 birthday;

4 (B) on or after the day of the student's 14th
5 birthday, if the student was also eligible for adoption on or after
6 that day; [~~or~~]

7 (C) on the day the student graduated from high
8 school or received the equivalent of a high school diploma; or

9 (D) on the day preceding:

10 (i) the date the student is adopted, if that
11 date is on or after September 1, 2009; or

12 (ii) the date permanent managing
13 conservatorship of the student is awarded to a person other than the
14 student's parent, if that date is on or after September 1, 2009; and

15 (2) enrolls in an institution of higher education as
16 an undergraduate student not later than[~~+~~

17 [~~(A) the third anniversary of the date the~~
18 ~~student was discharged from the foster or other residential care,~~
19 ~~the date the student graduated from high school, or the date the~~
20 ~~student received the equivalent of a high school diploma, whichever~~
21 ~~date is earliest, or~~

22 [~~(B)~~] the student's 25th [~~21st~~] birthday.

23 (b) The Texas Education Agency and the Texas Higher
24 Education Coordinating Board shall develop outreach programs to
25 ensure that students in the conservatorship of the Department of
26 Family and Protective Services and [~~foster or other residential~~
27 ~~care~~] in grades 9-12 are aware of the availability of the exemption

1 from the payment of tuition and fees provided by this section.

2 SECTION 3. Subsection (b), Section 261.312, Family Code, is
3 amended to read as follows:

4 (b) A review team consists of at least five members who
5 serve staggered two-year terms. Review team members are appointed
6 by the director of the department and consist of volunteers who live
7 in and are broadly representative of the region in which the review
8 team is established and have expertise in the prevention and
9 treatment of child abuse and neglect. At least two members of a
10 review team [~~community representatives and private citizens who~~
11 ~~live in the region for which the team is established. Each member~~]
12 must be parents [~~a parent~~] who have [~~has~~] not been convicted of or
13 indicted for an offense involving child abuse or neglect, have
14 [~~has~~] not been determined by the department to have engaged in child
15 abuse or neglect, and are [~~or is~~] not under investigation by the
16 department for child abuse or neglect. A member of a review team is
17 a department volunteer for the purposes of Section 411.114,
18 Government Code.

19 SECTION 4. Section 263.3025, Family Code, is amended by
20 adding Subsection (d) to read as follows:

21 (d) In accordance with department rules, a child's
22 permanency plan must include concurrent permanency goals
23 consisting of a primary permanency goal and at least one alternate
24 permanency goal.

25 SECTION 5. Subchapter D, Chapter 263, Family Code, is
26 amended by adding Section 263.3026 to read as follows:

27 Sec. 263.3026. PERMANENCY GOALS; LIMITATION. (a) The

1 department's permanency plan for a child may include as a goal:

2 (1) the reunification of the child with a parent or
3 other individual from whom the child was removed;

4 (2) the termination of parental rights and adoption of
5 the child by a relative or other suitable individual;

6 (3) the award of permanent managing conservatorship of
7 the child to a relative or other suitable individual; or

8 (4) another planned, permanent living arrangement for
9 the child.

10 (b) If the goal of the department's permanency plan for a
11 child is to find another planned, permanent living arrangement for
12 the child, the department shall document that there is a compelling
13 reason why the other permanency goals identified in Subsection (a)
14 are not in the child's best interest.

15 SECTION 6. Subsection (b), Section 263.303, Family Code, is
16 amended to read as follows:

17 (b) The permanency progress report must:

18 (1) recommend that the suit be dismissed; or

19 (2) recommend that the suit continue, and:

20 (A) identify the date for dismissal of the suit
21 under this chapter;

22 (B) provide:

23 (i) the name of any person entitled to
24 notice under Chapter 102 who has not been served;

25 (ii) a description of the efforts by the
26 department or another agency to locate and request service of
27 citation; and

1 (iii) a description of each parent's
2 assistance in providing information necessary to locate an unserved
3 party;

4 (C) evaluate the parties' compliance with
5 temporary orders and with the service plan;

6 (D) evaluate whether the child's placement in
7 substitute care meets the child's needs and recommend other plans
8 or services to meet the child's special needs or circumstances;

9 (E) describe the permanency plan for the child
10 and recommend actions necessary to ensure that a final order
11 consistent with that permanency plan, including the concurrent
12 permanency goals contained in that plan, is rendered before the
13 date for dismissal of the suit under this chapter; and

14 (F) with respect to a child 16 years of age or
15 older, identify the services needed to assist the child in the
16 transition to adult life.

17 SECTION 7. Subsection (b), Section 263.306, Family Code, is
18 amended to read as follows:

19 (b) The court shall also review the service plan, permanency
20 report, and other information submitted at the hearing to:

21 (1) determine:

22 (A) the safety of the child;

23 (B) the continuing necessity and appropriateness
24 of the placement;

25 (C) the extent of compliance with the case plan;

26 [~~and~~]

27 (D) the extent of progress that has been made

1 toward alleviating or mitigating the causes necessitating the
2 placement of the child in foster care; and

3 (E) whether the department has made reasonable
4 efforts to finalize the permanency plan that is in effect for the
5 child, including the concurrent permanency goals for the child; and

6 (2) project a likely date by which the child may be
7 returned to and safely maintained in the child's home, placed for
8 adoption, or placed in permanent managing conservatorship.

9 SECTION 8. Subsection (b), Section 263.501, Family Code, is
10 amended to read as follows:

11 (b) If the department has been named as a child's managing
12 conservator in a final order that terminates a parent's parental
13 rights, the court shall conduct a placement review hearing not
14 later than the 90th day after the date the court renders the final
15 order. The court shall conduct additional [a] placement review
16 hearings [hearing] at least once every six months until the date the
17 child is adopted or the child becomes an adult.

18 SECTION 9. Section 263.502, Family Code, is amended by
19 amending Subsection (c) and adding Subsection (d) to read as
20 follows:

21 (c) The placement review report must identify the
22 department's permanency goal for the child and must:

23 (1) evaluate whether the child's current placement is
24 appropriate for meeting the child's needs;

25 (2) evaluate whether efforts have been made to ensure
26 placement of the child in the least restrictive environment
27 consistent with the best interest and special needs of the child if

1 the child is placed in institutional care;

2 (3) contain a transition [~~discharge~~] plan for a child
3 who is at least 16 years of age that identifies the services and
4 specific tasks that are needed to assist the child in making the
5 transition from substitute care to adult living and describes the
6 services that are being provided [~~available~~] through the
7 Transitional Living Services [~~Preparation for Adult Living~~]
8 Program operated by the department;

9 (4) evaluate whether the child's current educational
10 placement is appropriate for meeting the child's academic needs;

11 (5) identify other plans or services that are needed
12 to meet the child's special needs or circumstances; [~~and~~]

13 (6) describe the efforts of the department or
14 authorized agency to place the child for adoption if parental
15 rights to the child have been terminated and the child is eligible
16 for adoption, including efforts to provide adoption promotion and
17 support services as defined by 42 U.S.C. Section 629a and other
18 efforts consistent with the federal Adoption and Safe Families Act
19 of 1997 (Pub. L. No. 105-89); and

20 (7) for a child for whom the department has been named
21 managing conservator in a final order that does not include
22 termination of parental rights, describe the efforts of the
23 department to find a permanent placement for the child, including
24 efforts to:

25 (A) work with the caregiver with whom the child
26 is placed to determine whether that caregiver is willing to become a
27 permanent placement for the child;

1 (B) locate a relative or other suitable
2 individual to serve as permanent managing conservator of the child;
3 and

4 (C) evaluate any change in a parent's
5 circumstances to determine whether:

6 (i) the child can be returned to the parent;
7 or

8 (ii) parental rights should be terminated.

9 (d) If the goal of the department's permanency plan for a
10 child is to find another planned, permanent living arrangement, the
11 placement review report must document a compelling reason why
12 adoption, permanent managing conservatorship with a relative or
13 other suitable individual, or returning the child to a parent are
14 not in the child's best interest.

15 SECTION 10. Section 263.503, Family Code, is amended to
16 read as follows:

17 Sec. 263.503. PLACEMENT REVIEW HEARINGS; PROCEDURE. (a)
18 At each placement review hearing, the court shall determine
19 whether:

20 (1) the child's current placement is necessary, safe,
21 and appropriate for meeting the child's needs, including with
22 respect to a child placed outside of the state, whether the
23 placement continues to be appropriate and in the best interest of
24 the child;

25 (2) efforts have been made to ensure placement of the
26 child in the least restrictive environment consistent with the best
27 interest and special needs of the child if the child is placed in

1 institutional care;

2 (3) the services that are needed to assist a child who
3 is at least 16 years of age in making the transition from substitute
4 care to independent living are available in the community;

5 (4) other plans or services are needed to meet the
6 child's special needs or circumstances;

7 (5) the department or authorized agency has exercised
8 due diligence in attempting to place the child for adoption if
9 parental rights to the child have been terminated and the child is
10 eligible for adoption; ~~and~~

11 (6) for a child for whom the department has been named
12 managing conservator in a final order that does not include
13 termination of parental rights, a permanent placement, including
14 appointing a relative as permanent managing conservator or
15 returning the child to a parent, is appropriate for the child;

16 (7) for a child whose permanency goal is another
17 planned, permanent living arrangement, the department has:

18 (A) documented a compelling reason why adoption,
19 permanent managing conservatorship with a relative or other
20 suitable individual, or returning the child to a parent is not in
21 the child's best interest; and

22 (B) identified a family or other caring adult who
23 has made a permanent commitment to the child; and

24 (8) the department or authorized agency has made
25 reasonable efforts to finalize the permanency plan that is in
26 effect for the child.

27 (b) For a child for whom the department has been named

1 managing conservator in a final order that does not include
2 termination of parental rights, the court may order the department
3 to provide services to a parent for not more than six months after
4 the date of the placement review hearing if:

5 (1) the child has not been placed with a relative or
6 other individual, including a foster parent, who is seeking
7 permanent managing conservatorship of the child; and

8 (2) the court determines that further efforts at
9 reunification with a parent are:

10 (A) in the best interest of the child; and

11 (B) likely to result in the child's safe return
12 to the child's parent.

13 SECTION 11. The Texas Education Agency and the Department
14 of Family and Protective Services shall enter into the memorandum
15 of understanding required by Section 7.029, Education Code, as
16 added by this Act, not later than January 1, 2010.

17 SECTION 12. (a) The changes in law made by this Act to
18 Section 54.211, Education Code, apply beginning with tuition and
19 fees imposed by a public institution of higher education for the
20 2009 fall semester. Tuition and fees for a term or semester before
21 the 2009 fall semester are covered by the law in effect immediately
22 before the effective date of this Act, and the former law is
23 continued in effect for that purpose.

24 (b) The change in law made by this Act to Subsection (b),
25 Section 263.501, Family Code, applies only to a child in the
26 conservatorship of the Department of Family and Protective Services
27 for whom a final order in a suit affecting the parent-child

1 relationship is rendered on or after the effective date of this Act.
2 A child in the conservatorship of the Department of Family and
3 Protective Services for whom a final order in a suit affecting the
4 parent-child relationship is rendered before the effective date of
5 this Act is governed by the law in effect on the date the final order
6 was rendered, and the former law is continued in effect for that
7 purpose.

8 SECTION 13. Notwithstanding any other provision of this Act
9 providing an effective date of this Act, this section and the
10 section of this Act that amends Section 54.211, Education Code,
11 take effect immediately if this Act receives a vote of two-thirds of
12 all the members elected to each house, as provided by Section 39,
13 Article III, Texas Constitution. If this Act does not receive the
14 vote necessary for immediate effect, those sections take effect
15 September 1, 2009.

16 SECTION 14. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 939 passed the Senate on April 9, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 939 passed the House, with amendment, on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor