

By: Kolkhorst

S.B. No. 1930

A BILL TO BE ENTITLED

AN ACT

relating to policies and procedures regarding children placed by the Department of Family and Protective Services in a residential treatment center or qualified residential treatment program.

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

SECTION 1. Section 107.002, Family Code, is amended by amending Subsection (b) and adding Subsection (j) to read as follows:

(b) A guardian ad litem appointed for the child under this chapter shall:

(1) within a reasonable time after the appointment, interview:

(A) the child in a developmentally appropriate manner, if the child is four years of age or older;

(B) each person who has significant knowledge of the child's history and condition, including educators, child welfare service providers, and any foster parent of the child; and

(C) the parties to the suit;

(2) seek to elicit in a developmentally appropriate manner the child's:

(A) expressed objectives; and

(B) opinion of and concerns regarding the child's current or proposed placement;

(3) consider the child's expressed objectives without

1 being bound by those objectives;

2 (4) encourage settlement and the use of alternative  
3 forms of dispute resolution; and

4 (5) perform any specific task directed by the court.

5 (j) If a child is or may be placed in a residential treatment  
6 center as defined by Section 263.001, a qualified residential  
7 treatment program as defined by Section 263.00201, or a similar  
8 treatment setting, the guardian ad litem:

9 (1) shall:

10 (A) review any available information regarding  
11 whether the placement is appropriate to meet the child's specific  
12 needs;

13 (B) meet in person with the child before  
14 providing a recommendation under Paragraph (C); and

15 (C) provide to the court by report or testimony a  
16 recommendation regarding the placement that is in the best interest  
17 of the child; and

18 (2) may, as appropriate:

19 (A) request a placement conference; and

20 (B) participate in any conferences conducted by  
21 the Department of Family and Protective Services or the child's  
22 treatment team related to initial and ongoing placement in a  
23 residential treatment center, qualified residential treatment  
24 program, or similar treatment setting unless there is good cause  
25 shown for excluding the guardian ad litem.

26 SECTION 2. Section 107.004, Family Code, is amended by  
27 adding Subsection (f) to read as follows:

1       (f) If a child is considered for placement in a residential  
2 treatment center as defined by Section 263.001, a qualified  
3 residential treatment program as defined by Section 263.00201, or a  
4 similar treatment setting, the attorney ad litem:

5               (1) shall:

6                       (A) review any available information related to  
7 the child's needs, including the child and adolescent needs and  
8 strengths assessment, any psychological evaluations, discharge  
9 notices from current or past placements, recent incident reports,  
10 and counseling notes;

11                      (B) review any available information regarding  
12 whether the placement is appropriate to meet the child's specific  
13 needs;

14                      (C) meet with the child before any hearing to  
15 allow the attorney ad litem to:

16                               (i) prepare for the hearing in accordance  
17 with the child's expressed representation objectives; and

18                               (ii) elicit, in a developmentally  
19 appropriate manner, the child's opinion of and concerns regarding  
20 the child's current or proposed placement;

21                      (D) advise the child in a developmentally  
22 appropriate manner regarding the department's request or  
23 recommendation for placement and the likelihood of the request  
24 being granted; and

25                      (E) advocate to the court for the child's  
26 specific desires regarding the requested placement in accordance  
27 with Subsection (a)(2); and

1           (2) may, as appropriate:

2                   (A) request a placement conference; and

3                   (B) participate in any conferences conducted by  
4 the Department of Family and Protective Services or the child's  
5 treatment team related to initial and ongoing placement in a  
6 residential treatment center, qualified residential treatment  
7 program, or similar treatment setting.

8           SECTION 3. Section 107.0131(a), Family Code, is amended to  
9 read as follows:

10           (a) An attorney ad litem appointed under Section 107.013 to  
11 represent the interests of a parent:

12                   (1) shall:

13                           (A) subject to Rules 4.02, 4.03, and 4.04, Texas  
14 Disciplinary Rules of Professional Conduct, and within a reasonable  
15 time after the appointment, interview:

16                                   (i) the parent, unless the parent's  
17 location is unknown;

18                                   (ii) each person who has significant  
19 knowledge of the case; and

20                                   (iii) the parties to the suit;

21                   (B) investigate the facts of the case;

22                   (C) to ensure competent representation at  
23 hearings, mediations, pretrial matters, and the trial on the  
24 merits:

25                           (i) obtain and review copies of all court  
26 files in the suit during the attorney ad litem's course of  
27 representation; and

1                   (ii) when necessary, conduct formal  
2 discovery under the Texas Rules of Civil Procedure or the discovery  
3 control plan;

4                   (D) take any action consistent with the parent's  
5 interests that the attorney ad litem considers necessary to  
6 expedite the proceedings;

7                   (E) encourage settlement and the use of  
8 alternative forms of dispute resolution;

9                   (F) review and sign, or decline to sign, a  
10 proposed or agreed order affecting the parent;

11                   (G) meet before each court hearing with the  
12 parent, unless the court:

13                   (i) finds at that hearing that the attorney  
14 ad litem has shown good cause why the attorney ad litem's compliance  
15 is not feasible; or

16                   (ii) on a showing of good cause, authorizes  
17 the attorney ad litem to comply by conferring with the parent, as  
18 appropriate, by telephone or video conference;

19                   (H) abide by the parent's objectives for  
20 representation;

21                   (I) become familiar with the American Bar  
22 Association's standards of practice for attorneys who represent  
23 parents in abuse and neglect cases; and

24                   (J) complete at least three hours of continuing  
25 legal education relating to representing parents in child  
26 protection cases as described by Subsection (b) as soon as  
27 practicable after the attorney ad litem is appointed, unless the

1 court finds that the attorney ad litem has experience equivalent to  
2 that education; and

3 (2) is entitled to:

4 (A) request clarification from the court if the  
5 role of the attorney ad litem is ambiguous;

6 (B) request a hearing or trial on the merits;

7 (C) consent or refuse to consent to an interview  
8 of the parent by another attorney;

9 (D) receive a copy of each pleading or other  
10 paper filed with the court;

11 (E) receive notice of each hearing in the suit;

12 (F) participate in any case staffing conducted by  
13 the Department of Family and Protective Services in which the  
14 parent is invited to participate, including, as appropriate, a case  
15 staffing to develop a family plan of service, a family group  
16 conference, a permanency conference, a mediation, a case staffing  
17 to plan for the discharge and return of the child to the parent, a  
18 case staffing related to a placement in a residential treatment  
19 center or qualified residential treatment program, and any other  
20 case staffing that the department determines would be appropriate  
21 for the parent to attend, but excluding any internal department  
22 staffing or staffing between the department and the department's  
23 legal representative; and

24 (G) attend all legal proceedings in the suit.

25 SECTION 4. Section 263.001(a), Family Code, is amended by  
26 adding Subdivision (3-c) to read as follows:

27 (3-c) "Residential treatment center" means a general

1 residential operation licensed under Chapter 42, Human Resources  
2 Code, that provides treatment services.

3 SECTION 5. Section 263.002, Family Code, is amended by  
4 adding Subsections (e) and (f) to read as follows:

5 (e) If a child is or may be placed in a residential treatment  
6 center, the court shall determine whether:

7 (1) the child's needs can be met through placement in a  
8 family-like setting;

9 (2) the recommended or existing program can provide  
10 the most effective and appropriate level of care for the child;

11 (3) the recommended or existing program is the least  
12 restrictive setting consistent with the child's best interest and  
13 individual needs; and

14 (4) the placement is consistent with the short-term  
15 and long-term goals for the child, as specified by the child's  
16 permanency plan.

17 (f) In making a determination under Subsection (e), the  
18 court may consider:

19 (1) medical, psychological, or psychiatric  
20 assessments;

21 (2) the child's current treatment plan and progress  
22 being made;

23 (3) any significant medical, legal, or behavioral  
24 incidents involving the child;

25 (4) the reasons for the child's discharge from any  
26 previous placement or the child's current placement;

27 (5) the programs available at the facility to address

1 the child's needs;

2 (6) the existing program's plan to discharge the child  
3 after treatment;

4 (7) whether there are other programs that more  
5 effectively meet the child's needs; and

6 (8) any other information that would assist the court  
7 in making the determination.

8 SECTION 6. Section 263.202(b), Family Code, is amended to  
9 read as follows:

10 (b) Except as otherwise provided by this subchapter, a  
11 status hearing shall be limited to matters related to the contents  
12 and execution of the service plan filed with the court. The court  
13 shall review the service plan that the department filed under this  
14 chapter for reasonableness, accuracy, and compliance with  
15 requirements of court orders and make findings as to whether:

16 (1) a plan that has the goal of returning the child to  
17 the child's parents adequately ensures that reasonable efforts are  
18 made to enable the child's parents to provide a safe environment for  
19 the child;

20 (2) the child's parents have reviewed and understand  
21 the plan and have been advised that unless the parents are willing  
22 and able to provide the child with a safe environment, even with the  
23 assistance of a service plan, within the reasonable period of time  
24 specified in the plan, the parents' parental and custodial duties  
25 and rights may be subject to restriction or to termination under  
26 this code or the child may not be returned to the parents;

27 (3) the plan is narrowly tailored to address any

1 specific issues identified by the department; [~~and~~]

2 (4) the child's parents and the representative of the  
3 department have signed the plan;

4 (5) based on the court's determination under Section  
5 263.002, continued placement is appropriate if the child is placed  
6 in a residential treatment center; and

7 (6) based on the court's determination under Section  
8 263.00201, continued placement is appropriate if the child is  
9 placed in a qualified residential treatment program.

10 SECTION 7. Section 263.306(a-1), Family Code, is amended to  
11 read as follows:

12 (a-1) At each permanency hearing before a final order is  
13 rendered, the court shall:

14 (1) identify all persons and parties present at the  
15 hearing;

16 (2) review the efforts of the department or other  
17 agency in:

18 (A) locating and requesting service of citation  
19 on all persons entitled to service of citation under Section  
20 102.009; and

21 (B) obtaining the assistance of a parent in  
22 providing information necessary to locate an absent parent, alleged  
23 father, relative of the child, or other adult identified by the  
24 child as a potential relative or designated caregiver;

25 (3) ask all parties present whether the child or the  
26 child's family has a Native American heritage and identify any  
27 Native American tribe with which the child may be associated;

1           (4) review the extent of the parties' compliance with  
2 temporary orders and the service plan and the extent to which  
3 progress has been made toward alleviating or mitigating the causes  
4 necessitating the placement of the child in foster care;

5           (5) review the permanency progress report to  
6 determine:

7           (A) the safety and well-being of the child and  
8 whether the child's needs, including any medical or special needs,  
9 are being adequately addressed;

10           (B) the continuing necessity and appropriateness  
11 of the placement of the child, including with respect to a child who  
12 has been placed outside of this state, whether the placement  
13 continues to be in the best interest of the child;

14           (C) the appropriateness of the primary and  
15 alternative permanency goals for the child developed in accordance  
16 with department rule and whether the department has made reasonable  
17 efforts to finalize the permanency plan, including the concurrent  
18 permanency goals, in effect for the child;

19           (D) whether the child has been provided the  
20 opportunity, in a developmentally appropriate manner, to express  
21 the child's opinion on any medical care provided;

22           (E) whether the child has been provided the  
23 opportunity, in a developmentally appropriate manner, to identify  
24 any adults, particularly an adult residing in the child's  
25 community, who could be a relative or designated caregiver for the  
26 child;

27           (F) for a child receiving psychotropic

1 medication, whether the child:

2 (i) has been provided appropriate  
3 nonpharmacological interventions, therapies, or strategies to meet  
4 the child's needs; or

5 (ii) has been seen by the prescribing  
6 physician, physician assistant, or advanced practice nurse at least  
7 once every 90 days;

8 (G) whether an education decision-maker for the  
9 child has been identified, the child's education needs and goals  
10 have been identified and addressed, and there have been major  
11 changes in the child's school performance or there have been  
12 serious disciplinary events;

13 (H) for a child 14 years of age or older, whether  
14 services that are needed to assist the child in transitioning from  
15 substitute care to independent living are available in the child's  
16 community; ~~and~~

17 (I) for a child whose permanency goal is another  
18 planned permanent living arrangement:

19 (i) the desired permanency outcome for the  
20 child, by asking the child;

21 (ii) whether, as of the date of the hearing,  
22 another planned permanent living arrangement is the best permanency  
23 plan for the child and, if so, provide compelling reasons why it  
24 continues to not be in the best interest of the child to:

25 (a) return home;

26 (b) be placed for adoption;

27 (c) be placed with a legal guardian;

1 or

2 (d) be placed with a fit and willing  
3 relative;

4 (iii) whether the department has conducted  
5 an independent living skills assessment under Section  
6 [264.121\(a-3\)](#);

7 (iv) whether the department has addressed  
8 the goals identified in the child's permanency plan, including the  
9 child's housing plan, and the results of the independent living  
10 skills assessment;

11 (v) if the youth is 16 years of age or  
12 older, whether there is evidence that the department has provided  
13 the youth with the documents and information listed in Section  
14 [264.121\(e\)](#); and

15 (vi) if the youth is 18 years of age or  
16 older or has had the disabilities of minority removed, whether  
17 there is evidence that the department has provided the youth with  
18 the documents and information listed in Section [264.121\(e-1\)](#);

19 (J) based on the court's determination under  
20 Section [263.002](#), whether continued placement is appropriate if the  
21 child is placed in a residential treatment center; and

22 (K) based on the court's determination under  
23 Section [263.00201](#), whether continued placement is appropriate if  
24 the child is placed in a qualified residential treatment program;

25 (6) determine whether to return the child to the  
26 child's parents if the child's parents are willing and able to  
27 provide the child with a safe environment and the return of the

1 child is in the child's best interest;

2 (7) estimate a likely date by which the child may be  
3 returned to and safely maintained in the child's home, placed for  
4 adoption, or placed in permanent managing conservatorship; and

5 (8) announce in open court the dismissal date and the  
6 date of any upcoming hearings.

7 SECTION 8. Section [263.5031\(a\)](#), Family Code, is amended to  
8 read as follows:

9 (a) At each permanency hearing after the court renders a  
10 final order, the court shall:

11 (1) identify all persons and parties present at the  
12 hearing;

13 (2) review the efforts of the department or other  
14 agency in notifying persons entitled to notice under Section  
15 [263.0021](#);

16 (3) for a child placed with a relative of the child or  
17 other designated caregiver, review the efforts of the department to  
18 inform the caregiver of:

19 (A) the option to become verified by a licensed  
20 child-placing agency to operate an agency foster home, if  
21 applicable; and

22 (B) the permanency care assistance program under  
23 Subchapter [K](#), Chapter [264](#); and

24 (4) review the permanency progress report to  
25 determine:

26 (A) the safety and well-being of the child and  
27 whether the child's needs, including any medical or special needs,

1 are being adequately addressed;

2 (B) whether the child has been provided the  
3 opportunity, in a developmentally appropriate manner, to identify  
4 any adult, particularly an adult residing in the child's community,  
5 who could be a relative or designated caregiver for the child;

6 (C) whether the department placed the child with  
7 a relative or designated caregiver and the continuing necessity and  
8 appropriateness of the placement of the child, including with  
9 respect to a child who has been placed outside of this state,  
10 whether the placement continues to be in the best interest of the  
11 child;

12 (D) if the child is placed in institutional care,  
13 whether efforts have been made to ensure that the child is placed in  
14 the least restrictive environment consistent with the child's best  
15 interest and special needs;

16 (E) the appropriateness of the primary and  
17 alternative permanency goals for the child, whether the department  
18 has made reasonable efforts to finalize the permanency plan,  
19 including the concurrent permanency goals, in effect for the child,  
20 and whether:

21 (i) the department has exercised due  
22 diligence in attempting to place the child for adoption if parental  
23 rights to the child have been terminated and the child is eligible  
24 for adoption; or

25 (ii) another permanent placement,  
26 including appointing a relative as permanent managing conservator  
27 or returning the child to a parent, is appropriate for the child;

1 (F) for a child whose permanency goal is another  
2 planned permanent living arrangement:

3 (i) the desired permanency outcome for the  
4 child, by asking the child;

5 (ii) whether, as of the date of the hearing,  
6 another planned permanent living arrangement is the best permanency  
7 plan for the child and, if so, provide compelling reasons why it  
8 continues to not be in the best interest of the child to:

9 (a) return home;

10 (b) be placed for adoption;

11 (c) be placed with a legal guardian;

12 or

13 (d) be placed with a fit and willing  
14 relative;

15 (iii) whether the department has conducted  
16 an independent living skills assessment under Section  
17 [264.121\(a-3\)](#);

18 (iv) whether the department has addressed  
19 the goals identified in the child's permanency plan, including the  
20 child's housing plan, and the results of the independent living  
21 skills assessment;

22 (v) if the youth is 16 years of age or  
23 older, whether there is evidence that the department has provided  
24 the youth with the documents and information listed in Section  
25 [264.121\(e\)](#); and

26 (vi) if the youth is 18 years of age or  
27 older or has had the disabilities of minority removed, whether

1 there is evidence that the department has provided the youth with  
2 the documents and information listed in Section 264.121(e-1);

3 (G) if the child is 14 years of age or older,  
4 whether services that are needed to assist the child in  
5 transitioning from substitute care to independent living are  
6 available in the child's community;

7 (H) whether the child is receiving appropriate  
8 medical care and has been provided the opportunity, in a  
9 developmentally appropriate manner, to express the child's opinion  
10 on any medical care provided;

11 (I) for a child receiving psychotropic  
12 medication, whether the child:

13 (i) has been provided appropriate  
14 nonpharmacological interventions, therapies, or strategies to meet  
15 the child's needs; or

16 (ii) has been seen by the prescribing  
17 physician, physician assistant, or advanced practice nurse at least  
18 once every 90 days;

19 (J) whether an education decision-maker for the  
20 child has been identified, the child's education needs and goals  
21 have been identified and addressed, and there are major changes in  
22 the child's school performance or there have been serious  
23 disciplinary events;

24 (K) for a child for whom the department has been  
25 named managing conservator in a final order that does not include  
26 termination of parental rights, whether to order the department to  
27 provide services to a parent for not more than six months after the

1 date of the permanency hearing if:

2 (i) the child has not been placed with a  
3 relative or other individual, including a foster parent, who is  
4 seeking permanent managing conservatorship of the child; and

5 (ii) the court determines that further  
6 efforts at reunification with a parent are:

7 (a) in the best interest of the child;  
8 and

9 (b) likely to result in the child's  
10 safe return to the child's parent; ~~and~~

11 (L) whether the department has identified a  
12 family or other caring adult who has made a permanent commitment to  
13 the child;

14 (M) based on the court's determination under  
15 Section 263.002, whether continued placement is appropriate if the  
16 child is placed in a residential treatment center; and

17 (N) based on the court's determination under  
18 Section 263.00201, whether continued placement is appropriate if  
19 the child is placed in a qualified residential treatment program.

20 SECTION 9. Section 264.018(a), Family Code, is amended by  
21 amending Subdivision (5) to read as follows:

22 (5) "Significant event" means:

23 (A) a placement change, including failure by the  
24 department to locate an appropriate placement for at least one  
25 night;

26 (B) a significant change in medical condition;

27 (C) an initial prescription of a psychotropic

1 medication or a change in dosage of a psychotropic medication;

2 (D) a major change in school performance or a  
3 serious disciplinary event at school;

4 (E) a placement in a qualified residential  
5 treatment program as that term is defined by 42 U.S.C. Section  
6 672(k)(4) or placement in a residential treatment center as defined  
7 by Section 263.001, including meetings or conferences to determine  
8 the appropriateness of such a placement; or

9 (F) any event determined to be significant under  
10 department rule.

11 SECTION 10. This Act takes effect September 1, 2023.