

1-1 By: Kolkhorst S.B. No. 1930
1-2 (In the Senate - Filed March 8, 2023; March 20, 2023, read
1-3 first time and referred to Committee on Health & Human Services;
1-4 May 8, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 8, 2023, sent
1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1930 By: Kolkhorst

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to policies and procedures regarding children placed by
1-22 the Department of Family and Protective Services in a residential
1-23 treatment center or qualified residential treatment program.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 107.002, Family Code, is amended by
1-26 amending Subsection (b) and adding Subsection (j) to read as
1-27 follows:

1-28 (b) A guardian ad litem appointed for the child under this
1-29 chapter shall:

1-30 (1) within a reasonable time after the appointment,
1-31 interview:

1-32 (A) the child in a developmentally appropriate
1-33 manner, if the child is four years of age or older;

1-34 (B) each person who has significant knowledge of
1-35 the child's history and condition, including educators, child
1-36 welfare service providers, and any foster parent of the child; and

1-37 (C) the parties to the suit;

1-38 (2) seek to elicit in a developmentally appropriate
1-39 manner the child's:

1-40 (A) expressed objectives; and

1-41 (B) opinion of and concerns regarding the child's
1-42 current or proposed placement;

1-43 (3) consider the child's expressed objectives without
1-44 being bound by those objectives;

1-45 (4) encourage settlement and the use of alternative
1-46 forms of dispute resolution; and

1-47 (5) perform any specific task directed by the court.

1-48 (j) If a child is or may be placed in a residential treatment
1-49 center as defined by Section 263.001, a qualified residential
1-50 treatment program as defined by Section 263.00201, or a similar
1-51 treatment setting, the guardian ad litem:

1-52 (1) shall:

1-53 (A) review any available information regarding
1-54 whether the placement is appropriate to meet the child's specific
1-55 needs;

1-56 (B) meet in person with the child before
1-57 providing a recommendation under Paragraph (C); and

1-58 (C) provide to the court by report or testimony a
1-59 recommendation regarding the placement that is in the best interest
1-60 of the child; and

2-1 (2) may, as appropriate:
2-2 (A) request a placement conference; and
2-3 (B) participate in any conferences conducted by
2-4 the Department of Family and Protective Services or the child's
2-5 treatment team related to initial and ongoing placement in a
2-6 residential treatment center, qualified residential treatment
2-7 program, or similar treatment setting unless there is good cause
2-8 shown for excluding the guardian ad litem.

2-9 SECTION 2. Section 107.004, Family Code, is amended by
2-10 adding Subsection (f) to read as follows:

2-11 (f) If a child is considered for placement in a residential
2-12 treatment center as defined by Section 263.001, a qualified
2-13 residential treatment program as defined by Section 263.00201, or a
2-14 similar treatment setting, the attorney ad litem:

2-15 (1) shall:
2-16 (A) review any available information related to
2-17 the child's needs, including the child and adolescent needs and
2-18 strengths assessment, any psychological evaluations, discharge
2-19 notices from current or past placements, recent incident reports,
2-20 and counseling notes;

2-21 (B) review any available information regarding
2-22 whether the placement is appropriate to meet the child's specific
2-23 needs;

2-24 (C) meet with the child before any hearing to
2-25 allow the attorney ad litem to:

2-26 (i) prepare for the hearing in accordance
2-27 with the child's expressed representation objectives; and

2-28 (ii) elicit, in a developmentally
2-29 appropriate manner, the child's opinion of and concerns regarding
2-30 the child's current or proposed placement;

2-31 (D) advise the child in a developmentally
2-32 appropriate manner regarding the department's request or
2-33 recommendation for placement and the likelihood of the request
2-34 being granted; and

2-35 (E) advocate to the court for the child's
2-36 specific desires regarding the requested placement in accordance
2-37 with Subsection (a)(2); and

2-38 (2) may, as appropriate:
2-39 (A) request a placement conference; and
2-40 (B) participate in any conferences conducted by
2-41 the Department of Family and Protective Services or the child's
2-42 treatment team related to initial and ongoing placement in a
2-43 residential treatment center, qualified residential treatment
2-44 program, or similar treatment setting.

2-45 SECTION 3. Section 107.0131(a), Family Code, is amended to
2-46 read as follows:

2-47 (a) An attorney ad litem appointed under Section 107.013 to
2-48 represent the interests of a parent:

2-49 (1) shall:
2-50 (A) subject to Rules 4.02, 4.03, and 4.04, Texas
2-51 Disciplinary Rules of Professional Conduct, and within a reasonable
2-52 time after the appointment, interview:

2-53 (i) the parent, unless the parent's
2-54 location is unknown;

2-55 (ii) each person who has significant
2-56 knowledge of the case; and

2-57 (iii) the parties to the suit;
2-58 (B) investigate the facts of the case;

2-59 (C) to ensure competent representation at
2-60 hearings, mediations, pretrial matters, and the trial on the
2-61 merits:

2-62 (i) obtain and review copies of all court
2-63 files in the suit during the attorney ad litem's course of
2-64 representation; and

2-65 (ii) when necessary, conduct formal
2-66 discovery under the Texas Rules of Civil Procedure or the discovery
2-67 control plan;

2-68 (D) take any action consistent with the parent's
2-69 interests that the attorney ad litem considers necessary to

3-1 expedite the proceedings;

3-2 (E) encourage settlement and the use of

3-3 alternative forms of dispute resolution;

3-4 (F) review and sign, or decline to sign, a

3-5 proposed or agreed order affecting the parent;

3-6 (G) meet before each court hearing with the

3-7 parent, unless the court:

3-8 (i) finds at that hearing that the attorney

3-9 ad litem has shown good cause why the attorney ad litem's compliance

3-10 is not feasible; or

3-11 (ii) on a showing of good cause, authorizes

3-12 the attorney ad litem to comply by conferring with the parent, as

3-13 appropriate, by telephone or video conference;

3-14 (H) abide by the parent's objectives for

3-15 representation;

3-16 (I) become familiar with the American Bar

3-17 Association's standards of practice for attorneys who represent

3-18 parents in abuse and neglect cases; and

3-19 (J) complete at least three hours of continuing

3-20 legal education relating to representing parents in child

3-21 protection cases as described by Subsection (b) as soon as

3-22 practicable after the attorney ad litem is appointed, unless the

3-23 court finds that the attorney ad litem has experience equivalent to

3-24 that education; and

3-25 (2) is entitled to:

3-26 (A) request clarification from the court if the

3-27 role of the attorney ad litem is ambiguous;

3-28 (B) request a hearing or trial on the merits;

3-29 (C) consent or refuse to consent to an interview

3-30 of the parent by another attorney;

3-31 (D) receive a copy of each pleading or other

3-32 paper filed with the court;

3-33 (E) receive notice of each hearing in the suit;

3-34 (F) participate in any case staffing conducted by

3-35 the Department of Family and Protective Services in which the

3-36 parent is invited to participate, including, as appropriate, a case

3-37 staffing to develop a family plan of service, a family group

3-38 conference, a permanency conference, a mediation, a case staffing

3-39 to plan for the discharge and return of the child to the parent, a

3-40 case staffing related to a placement in a residential treatment

3-41 center or qualified residential treatment program, and any other

3-42 case staffing that the department determines would be appropriate

3-43 for the parent to attend, but excluding any internal department

3-44 staffing or staffing between the department and the department's

3-45 legal representative; and

3-46 (G) attend all legal proceedings in the suit.

3-47 SECTION 4. Section 263.001(a), Family Code, is amended by

3-48 adding Subdivision (3-c) to read as follows:

3-49 (3-c) "Residential treatment center" means a general

3-50 residential operation licensed under Chapter 42, Human Resources

3-51 Code, that provides treatment services.

3-52 SECTION 5. Section 263.002, Family Code, is amended by

3-53 adding Subsections (e) and (f) to read as follows:

3-54 (e) If a child is placed or is referred to and awaiting

3-55 placement in a residential treatment center, the court shall

3-56 determine whether:

3-57 (1) the child's needs can be met through placement in a

3-58 family-like setting;

3-59 (2) the recommended or existing program can provide

3-60 the most effective and appropriate level of care for the child;

3-61 (3) the recommended or existing program is the least

3-62 restrictive setting consistent with the child's best interest and

3-63 individual needs; and

3-64 (4) the placement is consistent with the short-term

3-65 and long-term goals for the child, as specified by the child's

3-66 permanency plan.

3-67 (f) In making a determination under Subsection (e), the

3-68 court may consider:

3-69 (1) medical, psychological, or psychiatric

- 4-1 assessments;
- 4-2 (2) the child's current treatment plan and progress
- 4-3 being made;
- 4-4 (3) any significant medical, legal, or behavioral
- 4-5 incidents involving the child;
- 4-6 (4) the reasons for the child's discharge from any
- 4-7 previous placement or the child's current placement;
- 4-8 (5) the programs available at the facility to address
- 4-9 the child's needs;
- 4-10 (6) the program's plan to discharge the child after
- 4-11 treatment;
- 4-12 (7) whether there are other programs that more
- 4-13 effectively meet the child's needs; and
- 4-14 (8) any other information that would assist the court
- 4-15 in making the determination.

4-16 SECTION 6. Section 263.202(b), Family Code, is amended to
4-17 read as follows:

4-18 (b) Except as otherwise provided by this subchapter, a
4-19 status hearing shall be limited to matters related to the contents
4-20 and execution of the service plan filed with the court. The court
4-21 shall review the service plan that the department filed under this
4-22 chapter for reasonableness, accuracy, and compliance with
4-23 requirements of court orders and make findings as to whether:

4-24 (1) a plan that has the goal of returning the child to
4-25 the child's parents adequately ensures that reasonable efforts are
4-26 made to enable the child's parents to provide a safe environment for
4-27 the child;

4-28 (2) the child's parents have reviewed and understand
4-29 the plan and have been advised that unless the parents are willing
4-30 and able to provide the child with a safe environment, even with the
4-31 assistance of a service plan, within the reasonable period of time
4-32 specified in the plan, the parents' parental and custodial duties
4-33 and rights may be subject to restriction or to termination under
4-34 this code or the child may not be returned to the parents;

4-35 (3) the plan is narrowly tailored to address any
4-36 specific issues identified by the department; ~~and~~

4-37 (4) the child's parents and the representative of the
4-38 department have signed the plan;

4-39 (5) based on the court's determination under Section
4-40 263.002, continued placement is appropriate if the child is placed
4-41 in a residential treatment center; and

4-42 (6) based on the court's determination under Section
4-43 263.00201, continued placement is appropriate if the child is
4-44 placed in a qualified residential treatment program.

4-45 SECTION 7. Section 263.306(a-1), Family Code, is amended to
4-46 read as follows:

4-47 (a-1) At each permanency hearing before a final order is
4-48 rendered, the court shall:

4-49 (1) identify all persons and parties present at the
4-50 hearing;

4-51 (2) review the efforts of the department or other
4-52 agency in:

4-53 (A) locating and requesting service of citation
4-54 on all persons entitled to service of citation under Section
4-55 102.009; and

4-56 (B) obtaining the assistance of a parent in
4-57 providing information necessary to locate an absent parent, alleged
4-58 father, relative of the child, or other adult identified by the
4-59 child as a potential relative or designated caregiver;

4-60 (3) ask all parties present whether the child or the
4-61 child's family has a Native American heritage and identify any
4-62 Native American tribe with which the child may be associated;

4-63 (4) review the extent of the parties' compliance with
4-64 temporary orders and the service plan and the extent to which
4-65 progress has been made toward alleviating or mitigating the causes
4-66 necessitating the placement of the child in foster care;

4-67 (5) review the permanency progress report to
4-68 determine:

4-69 (A) the safety and well-being of the child and

5-1 whether the child's needs, including any medical or special needs,
5-2 are being adequately addressed;

5-3 (B) the continuing necessity and appropriateness
5-4 of the placement of the child, including with respect to a child who
5-5 has been placed outside of this state, whether the placement
5-6 continues to be in the best interest of the child;

5-7 (C) the appropriateness of the primary and
5-8 alternative permanency goals for the child developed in accordance
5-9 with department rule and whether the department has made reasonable
5-10 efforts to finalize the permanency plan, including the concurrent
5-11 permanency goals, in effect for the child;

5-12 (D) whether the child has been provided the
5-13 opportunity, in a developmentally appropriate manner, to express
5-14 the child's opinion on any medical care provided;

5-15 (E) whether the child has been provided the
5-16 opportunity, in a developmentally appropriate manner, to identify
5-17 any adults, particularly an adult residing in the child's
5-18 community, who could be a relative or designated caregiver for the
5-19 child;

5-20 (F) for a child receiving psychotropic
5-21 medication, whether the child:

5-22 (i) has been provided appropriate
5-23 nonpharmacological interventions, therapies, or strategies to meet
5-24 the child's needs; or

5-25 (ii) has been seen by the prescribing
5-26 physician, physician assistant, or advanced practice nurse at least
5-27 once every 90 days;

5-28 (G) whether an education decision-maker for the
5-29 child has been identified, the child's education needs and goals
5-30 have been identified and addressed, and there have been major
5-31 changes in the child's school performance or there have been
5-32 serious disciplinary events;

5-33 (H) for a child 14 years of age or older, whether
5-34 services that are needed to assist the child in transitioning from
5-35 substitute care to independent living are available in the child's
5-36 community; ~~and~~

5-37 (I) for a child whose permanency goal is another
5-38 planned permanent living arrangement:

5-39 (i) the desired permanency outcome for the
5-40 child, by asking the child;

5-41 (ii) whether, as of the date of the hearing,
5-42 another planned permanent living arrangement is the best permanency
5-43 plan for the child and, if so, provide compelling reasons why it
5-44 continues to not be in the best interest of the child to:

5-45 (a) return home;

5-46 (b) be placed for adoption;

5-47 (c) be placed with a legal guardian;

5-48 or

5-49 (d) be placed with a fit and willing
5-50 relative;

5-51 (iii) whether the department has conducted
5-52 an independent living skills assessment under Section
5-53 264.121(a-3);

5-54 (iv) whether the department has addressed
5-55 the goals identified in the child's permanency plan, including the
5-56 child's housing plan, and the results of the independent living
5-57 skills assessment;

5-58 (v) if the youth is 16 years of age or
5-59 older, whether there is evidence that the department has provided
5-60 the youth with the documents and information listed in Section
5-61 264.121(e); and

5-62 (vi) if the youth is 18 years of age or
5-63 older or has had the disabilities of minority removed, whether
5-64 there is evidence that the department has provided the youth with
5-65 the documents and information listed in Section 264.121(e-1);

5-66 (J) based on the court's determination under
5-67 Section 263.002, whether continued placement is appropriate if the
5-68 child is placed in a residential treatment center; and

5-69 (K) based on the court's determination under

6-1 Section 263.00201, whether continued placement is appropriate if
6-2 the child is placed in a qualified residential treatment program;
6-3 (6) determine whether to return the child to the
6-4 child's parents if the child's parents are willing and able to
6-5 provide the child with a safe environment and the return of the
6-6 child is in the child's best interest;
6-7 (7) estimate a likely date by which the child may be
6-8 returned to and safely maintained in the child's home, placed for
6-9 adoption, or placed in permanent managing conservatorship; and
6-10 (8) announce in open court the dismissal date and the
6-11 date of any upcoming hearings.
6-12 SECTION 8. Section 263.5031(a), Family Code, is amended to
6-13 read as follows:
6-14 (a) At each permanency hearing after the court renders a
6-15 final order, the court shall:
6-16 (1) identify all persons and parties present at the
6-17 hearing;
6-18 (2) review the efforts of the department or other
6-19 agency in notifying persons entitled to notice under Section
6-20 263.0021;
6-21 (3) for a child placed with a relative of the child or
6-22 other designated caregiver, review the efforts of the department to
6-23 inform the caregiver of:
6-24 (A) the option to become verified by a licensed
6-25 child-placing agency to operate an agency foster home, if
6-26 applicable; and
6-27 (B) the permanency care assistance program under
6-28 Subchapter K, Chapter 264; and
6-29 (4) review the permanency progress report to
6-30 determine:
6-31 (A) the safety and well-being of the child and
6-32 whether the child's needs, including any medical or special needs,
6-33 are being adequately addressed;
6-34 (B) whether the child has been provided the
6-35 opportunity, in a developmentally appropriate manner, to identify
6-36 any adult, particularly an adult residing in the child's community,
6-37 who could be a relative or designated caregiver for the child;
6-38 (C) whether the department placed the child with
6-39 a relative or designated caregiver and the continuing necessity and
6-40 appropriateness of the placement of the child, including with
6-41 respect to a child who has been placed outside of this state,
6-42 whether the placement continues to be in the best interest of the
6-43 child;
6-44 (D) if the child is placed in institutional care,
6-45 whether efforts have been made to ensure that the child is placed in
6-46 the least restrictive environment consistent with the child's best
6-47 interest and special needs;
6-48 (E) the appropriateness of the primary and
6-49 alternative permanency goals for the child, whether the department
6-50 has made reasonable efforts to finalize the permanency plan,
6-51 including the concurrent permanency goals, in effect for the child,
6-52 and whether:
6-53 (i) the department has exercised due
6-54 diligence in attempting to place the child for adoption if parental
6-55 rights to the child have been terminated and the child is eligible
6-56 for adoption; or
6-57 (ii) another permanent placement,
6-58 including appointing a relative as permanent managing conservator
6-59 or returning the child to a parent, is appropriate for the child;
6-60 (F) for a child whose permanency goal is another
6-61 planned permanent living arrangement:
6-62 (i) the desired permanency outcome for the
6-63 child, by asking the child;
6-64 (ii) whether, as of the date of the hearing,
6-65 another planned permanent living arrangement is the best permanency
6-66 plan for the child and, if so, provide compelling reasons why it
6-67 continues to not be in the best interest of the child to:
6-68 (a) return home;
6-69 (b) be placed for adoption;

7-1 (c) be placed with a legal guardian;
7-2 or
7-3 (d) be placed with a fit and willing
7-4 relative;
7-5 (iii) whether the department has conducted
7-6 an independent living skills assessment under Section
7-7 264.121(a-3);
7-8 (iv) whether the department has addressed
7-9 the goals identified in the child's permanency plan, including the
7-10 child's housing plan, and the results of the independent living
7-11 skills assessment;
7-12 (v) if the youth is 16 years of age or
7-13 older, whether there is evidence that the department has provided
7-14 the youth with the documents and information listed in Section
7-15 264.121(e); and
7-16 (vi) if the youth is 18 years of age or
7-17 older or has had the disabilities of minority removed, whether
7-18 there is evidence that the department has provided the youth with
7-19 the documents and information listed in Section 264.121(e-1);
7-20 (G) if the child is 14 years of age or older,
7-21 whether services that are needed to assist the child in
7-22 transitioning from substitute care to independent living are
7-23 available in the child's community;
7-24 (H) whether the child is receiving appropriate
7-25 medical care and has been provided the opportunity, in a
7-26 developmentally appropriate manner, to express the child's opinion
7-27 on any medical care provided;
7-28 (I) for a child receiving psychotropic
7-29 medication, whether the child:
7-30 (i) has been provided appropriate
7-31 nonpharmacological interventions, therapies, or strategies to meet
7-32 the child's needs; or
7-33 (ii) has been seen by the prescribing
7-34 physician, physician assistant, or advanced practice nurse at least
7-35 once every 90 days;
7-36 (J) whether an education decision-maker for the
7-37 child has been identified, the child's education needs and goals
7-38 have been identified and addressed, and there are major changes in
7-39 the child's school performance or there have been serious
7-40 disciplinary events;
7-41 (K) for a child for whom the department has been
7-42 named managing conservator in a final order that does not include
7-43 termination of parental rights, whether to order the department to
7-44 provide services to a parent for not more than six months after the
7-45 date of the permanency hearing if:
7-46 (i) the child has not been placed with a
7-47 relative or other individual, including a foster parent, who is
7-48 seeking permanent managing conservatorship of the child; and
7-49 (ii) the court determines that further
7-50 efforts at reunification with a parent are:
7-51 (a) in the best interest of the child;
7-52 and
7-53 (b) likely to result in the child's
7-54 safe return to the child's parent; ~~and~~
7-55 (L) whether the department has identified a
7-56 family or other caring adult who has made a permanent commitment to
7-57 the child;
7-58 (M) based on the court's determination under
7-59 Section 263.002, whether continued placement is appropriate if the
7-60 child is placed in a residential treatment center; and
7-61 (N) based on the court's determination under
7-62 Section 263.00201, whether continued placement is appropriate if
7-63 the child is placed in a qualified residential treatment program.
7-64 SECTION 9. Section 264.018(a)(5), Family Code, is amended
7-65 to read as follows:
7-66 (5) "Significant event" means:
7-67 (A) a placement change, including failure by the
7-68 department to locate an appropriate placement for at least one
7-69 night;

- 8-1 (B) a significant change in medical condition;
- 8-2 (C) an initial prescription of a psychotropic
- 8-3 medication or a change in dosage of a psychotropic medication;
- 8-4 (D) a major change in school performance or a
- 8-5 serious disciplinary event at school;
- 8-6 (E) a placement in a qualified residential
- 8-7 treatment program as that term is defined by 42 U.S.C. Section
- 8-8 672(k)(4) or placement in a residential treatment center as defined
- 8-9 by Section [263.001](#), including meetings or conferences to determine
- 8-10 the appropriateness of such a placement; or
- 8-11 (F) any event determined to be significant under
- 8-12 department rule.

8-13 SECTION 10. This Act takes effect September 1, 2023.

8-14 * * * * *