

By: Zaffirini

S.B. No. 48

A BILL TO BE ENTITLED

AN ACT

relating to permanency planning procedures for children residing in state institutions.

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

SECTION 1. Section 531.153, Government Code, is amended by amending Subsection (d) and adding Subsections (d-1) and (d-2) to read as follows:

(d) In implementing permanency planning procedures under Subsection (a) to develop a permanency plan for each child, the Texas Department of Human Services and~~[7]~~ the Texas Department of Mental Health and Mental Retardation shall~~[7, and the Department of Protective and Regulatory Services may]~~:

(1) delegate each department's duty to develop a permanency plan to a local mental retardation authority, as defined by Section 531.002, Health and Safety Code, or enter into a memorandum of understanding with the local mental retardation authority to develop the permanency plan for each child who resides in an institution in this state or with respect to whom the department is notified in advance that institutional care is sought; or

(2) contract with a private entity, other than an entity that provides long-term institutional care, ~~[mental retardation services]~~ to develop a permanency plan for a child who resides in an institution in this state or with respect to whom the

department is notified in advance that institutional care is sought.

(d-1) A contract or memorandum of understanding under Subsection (d) must include performance measures by which the Texas Department of Human Services and the Texas Department of Mental Health and Mental Retardation may evaluate the effectiveness of a local mental retardation authority's or private entity's permanency planning efforts.

(d-2) In implementing permanency planning procedures under Subsection (a) to develop a permanency plan for each child, the Texas Department of Human Services, the Texas Department of Mental Health and Mental Retardation, and the Department of Protective and Regulatory Services shall~~[, to develop a permanency plan for that child, or~~

~~[(3)]~~ engage in ~~[other]~~ appropriate activities in addition to those required by Subsection (d) to minimize the potential conflicts of interest that, in developing the plan, may exist or arise between:

(1) ~~[(A)]~~ the institution in which the child resides or in which institutional care is sought for the child ~~[child's mental retardation services provider, if applicable]; and~~

(2) ~~[(B)]~~ the best interest of the child.

SECTION 2. Subchapter D, Chapter 531, Government Code, as added by Chapter 241, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 531.1531 to read as follows:

Sec. 531.1531. ASSISTANCE WITH PERMANENCY PLANNING

1 EFFORTS. An institution in which a child resides shall assist with
2 providing effective permanency planning for the child by:

3 (1) cooperating with the health and human services
4 agency, local mental retardation authority, or private entity
5 responsible for developing the child's permanency plan; and

6 (2) participating in meetings to review the child's
7 permanency plan as requested by a health and human services agency,
8 local mental retardation authority, or private entity responsible
9 for developing the child's permanency plan.

10 SECTION 3. Section 531.161, Government Code, is amended to
11 read as follows:

12 Sec. 531.161. ACCESS TO RECORDS. Each institution in which
13 a child resides shall allow the following to have [~~commission and~~
14 ~~appropriate health and human services agencies~~] access to the
15 child's records to assist [~~the commission or agency~~] in complying
16 with the requirements of this subchapter:

17 (1) the commission;

18 (2) appropriate health and human services agencies;

19 and

20 (3) to the extent not otherwise prohibited by state or
21 federal confidentiality laws, a local mental retardation authority
22 or private entity that enters into a contract or memorandum of
23 understanding under Section 531.153(d) to develop a permanency plan
24 for the child.

25 SECTION 4. If before implementing any provision of this Act
26 a state agency determines that a waiver or authorization from a
27 federal agency is necessary for implementation of that provision,

1 the agency affected by the provision shall request the waiver or
2 authorization and may delay implementing that provision until the
3 waiver or authorization is granted.

4 SECTION 5. (a) This Act takes effect September 1, 2003.

5 (b) The change in law made by this Act to Section 531.153,
6 Government Code, applies only to a permanency plan for a child for
7 which development of the plan is begun on or after the effective
8 date of this Act. A permanency plan for a child for which
9 development of the plan was begun before the effective date of this
10 Act is governed by the law in effect on the date the development was
11 begun, and the former law is continued in effect for that purpose.