

BILL ANALYSIS

C.S.H.B. 384
By: Dutton
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, placing a child with a relative for temporary custody, when the parental rights have been temporarily terminated, is at the discretion of Child Protective Services. Often times, relatives are not considered for various reasons, whether it is financial instability, antiquated criminal history, or the lack of home furnishings.

C.S.H.B. 384 would require the department to overcome the presumption that placement with the noncustodial parent or relative is in the best interest of the child, otherwise, the court shall place the child with a noncustodial parent or relative.

Additionally, C.S.H.B. 384 would require the custodial parent to submit an identification form identifying any relative or other individual with whom the child could be placed.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

- SECTION 1.** Amends Section 262.109(c) of the Family Code by providing the written notice must include a proposed child placement resources form that instructs the parent, conservator, or other custodian to complete and submit the form to the court with the identification of any relative of the child or other individual with whom the child could be placed.
- SECTION 2.** Amends Section 262.201(e), Family Code, to provide that the court shall place a child removed from the child's custodial parent with the noncustodial parent or with a relative of the child if placement with the noncustodial parent is inappropriate, unless the department overcomes the presumption that placement with the noncustodial parent or a relative is in the best interest of the child.
- SECTION 3.** Amends Section 262.205(e), Family Code, to provide that unless the department overcomes the presumption that the placement is in the best interest of the child, the court shall place a child with the child's noncustodial parent; or another relative of the child if placement with the noncustodial parent is inappropriate.
- SECTION 4.** Amends Section 263.404(a), Family Code, to provide for the court to render a final order appointing the department as managing conservator of the child without terminating the rights of the parent of the child if the court finds that the department has overcome the presumption that it would be in the best interest of the child to appoint a relative of the child or another person as managing conservator.
- SECTION 5.** The Department of Family and Protective Services shall develop the proposed child placement resources form required to be provided under Section 262.109, Family Code as amended by this Act, not later than November 1, 2005.
- SECTION 6.** The change in law made by this Act to Section 262.109(c), Family Code, applies only in cases in which the Department of Family and Protective Services or another agency takes possession of a child under Chapter 262, Family Code, on or

after November 1, 2005. The notice required to be provided in cases in which the department or agency takes possession of a child before that date is governed by the law as it existed before amendment by this Act, and the former law is continued in effect for that purpose.

SECTION 7. The change in law made by this Act to Sections 262.201, 262.205, and 263.404, Family Code applies only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date suit was filed, and the former law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 384 modifies the original H.B. 384 by adding language to provide that the written notice must include a proposed child placement resources form that instructs the parent, conservator, or other custodian to complete and submit the form to the court with the identification of any relative of the child or other individual with whom the child could be placed. Additionally, C.S.H.B. 384 directs the Department of Family and Protective Services to develop the proposed child placement resources form required to be provided under Section 262.109, Family Code as amended by this Act, not later than November 1, 2005.