

By: Dutton, Edwards

H.B. No. 384

A BILL TO BE ENTITLED

1 AN ACT

2 relating to placement of a child with a noncustodial parent or  
3 relative to further the best interest of the child.

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

5 SECTION 1. Section 262.109(c), Family Code, is amended to  
6 read as follows:

7 (c) The written notice must include:

8 (1) the reasons why the department or agency is taking  
9 possession of the child and the facts that led the department to  
10 believe that the child should be taken into custody;

11 (2) the name of the person at the department or agency  
12 that the parent, conservator, or other custodian may contact for  
13 information relating to the child or a legal proceeding relating to  
14 the child;

15 (3) a summary of legal rights of a parent,  
16 conservator, guardian, or other custodian under this chapter and an  
17 explanation of the probable legal procedures relating to the child;  
18 ~~and~~

19 (4) a statement that the parent, conservator, or other  
20 custodian has the right to hire an attorney; and

21 (5) a proposed child placement resources form that:

22 (A) instructs the parent, conservator, or other  
23 custodian to complete and submit the form to the department with the  
24 identification of any relative of the child or other individual who

1 has a significant, long-standing relationship with the child or the  
2 child's family with whom the child could be placed; and

3 (B) informs the parent, conservator, or other  
4 custodian of a location that is available to the person to submit  
5 the information in the form 24 hours a day either in person or by  
6 facsimile machine or by e-mail.

7 SECTION 2. Section 262.201(e), Family Code, is amended to  
8 read as follows:

9 (e) The court shall place a child removed from the child's  
10 custodial parent with the child's noncustodial parent or with a  
11 relative of the child if placement with the noncustodial parent is  
12 inappropriate, unless the department overcomes the presumption  
13 that placement with the noncustodial parent or a relative is [not]  
14 in the best interest of the child.

15 SECTION 3. Section 262.205(e), Family Code, is amended to  
16 read as follows:

17 (e) Unless the department overcomes the presumption that  
18 the placement [it] is [not] in the best interest of the child, the  
19 court shall place a child who has been removed under this section  
20 with:

- 21 (1) the child's noncustodial parent; or  
22 (2) another relative of the child if placement with  
23 the noncustodial parent is inappropriate.

24 SECTION 4. Section 263.404(a), Family Code, is amended to  
25 read as follows:

26 (a) The court may render a final order appointing the  
27 department as managing conservator of the child without terminating

1 the rights of the parent of the child if the court finds that:

2 (1) appointment of a parent as managing conservator  
3 would not be in the best interest of the child because the  
4 appointment would significantly impair the child's physical health  
5 or emotional development; and

6 (2) the department has overcome the presumption that  
7 it would [~~not~~] be in the best interest of the child to appoint a  
8 relative of the child or another person as managing conservator.

9 SECTION 5. The Department of Family and Protective Services  
10 shall develop the proposed child placement resources form required  
11 to be provided under Section 262.109, Family Code, as amended by  
12 this Act, not later than November 1, 2005.

13 SECTION 6. The change in law made by this Act to Section  
14 262.109(c), Family Code, applies only in cases in which the  
15 Department of Family and Protective Services or another agency  
16 takes possession of a child under Chapter 262, Family Code, on or  
17 after November 1, 2005. The notice required to be provided in cases  
18 in which the department or agency takes possession of a child before  
19 that date is governed by the law as it existed before amendment by  
20 this Act, and the former law is continued in effect for that  
21 purpose.

22 SECTION 7. The change in law made by this Act to Sections  
23 262.201, 262.205, and 263.404, Family Code, applies only to a suit  
24 affecting the parent-child relationship filed on or after the  
25 effective date of this Act. A suit affecting the parent-child  
26 relationship filed before the effective date of this Act is  
27 governed by the law in effect on the date suit was filed, and the

1 former law is continued in effect for that purpose.

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