

By: Dutton, Edwards

H.B. No. 384

Substitute the following for H.B. No. 384:

By: Strama

C.S.H.B. No. 384

A BILL TO BE ENTITLED

AN ACT

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

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

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

(c) The written notice must include:

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

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

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

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

(5) 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

1 be placed.

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

4 (e) The court shall place a child removed from the child's
5 custodial parent with the child's noncustodial parent or with a
6 relative of the child if placement with the noncustodial parent is
7 inappropriate, unless the department overcomes the presumption
8 that placement with the noncustodial parent or a relative is [~~not~~]
9 in the best interest of the child.

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

12 (e) Unless the department overcomes the presumption that
13 the placement [~~it~~] is [~~not~~] in the best interest of the child, the
14 court shall place a child who has been removed under this section
15 with:

- 16 (1) the child's noncustodial parent; or
17 (2) another relative of the child if placement with
18 the noncustodial parent is inappropriate.

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

21 (a) The court may render a final order appointing the
22 department as managing conservator of the child without terminating
23 the rights of the parent of the child if the court finds that:

- 24 (1) appointment of a parent as managing conservator
25 would not be in the best interest of the child because the
26 appointment would significantly impair the child's physical health
27 or emotional development; and

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

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

8 SECTION 6. The change in law made by this Act to Section
9 262.109(c), Family Code, applies only in cases in which the
10 Department of Family and Protective Services or another agency
11 takes possession of a child under Chapter 262, Family Code, on or
12 after November 1, 2005. The notice required to be provided in cases
13 in which the department or agency takes possession of a child before
14 that date is governed by the law as it existed before amendment by
15 this Act, and the former law is continued in effect for that
16 purpose.

17 SECTION 7. The change in law made by this Act to Sections
18 262.201, 262.205, and 263.404, Family Code, applies only to a suit
19 affecting the parent-child relationship filed on or after the
20 effective date of this Act. A suit affecting the parent-child
21 relationship filed before the effective date of this Act is
22 governed by the law in effect on the date suit was filed, and the
23 former law is continued in effect for that purpose.

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