

By: Zaffirini

S.B. No. 40

A BILL TO BE ENTITLED

AN ACT

1
2 relating to permanency planning procedures for children residing in
3 state institutions.

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

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

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

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

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

1 department is notified in advance that institutional care is
2 sought; or

3 (3) perform the department's duties regarding
4 permanency planning procedures using department personnel.

5 (d-1) A contract or memorandum of understanding under
6 Subsection (d) must include performance measures by which the
7 Department of Aging and Disability Services may evaluate the
8 effectiveness of a local mental retardation authority's or private
9 entity's permanency planning efforts.

10 (d-2) In implementing permanency planning procedures under
11 Subsection (a) to develop a permanency plan for each child, the
12 Department of Aging and Disability Services shall ~~[, to develop a~~
13 ~~permanency plan for that child; or~~

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

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

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

22 SECTION 2. Subchapter D-1, Chapter 531, Government Code, is
23 amended by adding Sections 531.1531 and 531.1532 to read as
24 follows:

25 Sec. 531.1531. ASSISTANCE WITH PERMANENCY PLANNING
26 EFFORTS. An institution in which a child resides shall assist with
27 providing effective permanency planning for the child by:

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

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

8 Sec. 531.1532. INTERFERENCE WITH PERMANENCY PLANNING
9 EFFORTS. An institution in which a child resides shall refrain from
10 providing the child's parent or guardian with inaccurate or
11 misleading information regarding the risks of moving the child to
12 another facility or community setting.

13 SECTION 3. Section 531.161, Government Code, is amended to
14 read as follows:

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

20 (1) the commission;

21 (2) appropriate health and human services agencies;

22 and

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

1 SECTION 4. If before implementing any provision of this Act
2 a state agency determines that a waiver or authorization from a
3 federal agency is necessary for implementation of that provision,
4 the agency affected by the provision shall request the waiver or
5 authorization and may delay implementing that provision until the
6 waiver or authorization is granted.

7 SECTION 5. This Act takes effect September 1, 2005.