

By: Zaffirini

S.B. No. 40

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,~~ the [Texas] Department of Aging and Disability Services ~~[Mental Health and Mental Retardation]~~ shall ~~[, and the Department of Protective and Regulatory Services may]~~:

(1) delegate the ~~[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

1 resides in an institution in this state or with respect to whom the  
2 department is notified in advance that institutional care is  
3 sought; or

4 (3) delegate the department's duty to agency staff.

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 the permanency planning efforts of the local  
9 mental retardation authority, private entity, or agency staff.

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, Chapter 531, Government Code, as  
23 added by Chapter 241, Acts of the 75th Legislature, Regular  
24 Session, 1997, is amended by adding Section 531.1531 to read as  
25 follows:

26 Sec. 531.1531. ASSISTANCE WITH PERMANENCY PLANNING  
27 EFFORTS. An institution in which a child resides shall assist with

1 providing effective permanency planning for the child by:

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

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

9 (3) refraining from providing parents with  
10 misinformation regarding the risks of moving their children to a  
11 different facility.

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

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

19 (1) the commission;

20 (2) appropriate health and human services agencies;

21 and

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

27 SECTION 4. If before implementing any provision of this Act

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

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

13 SECTION 6. This Act takes effect September 1, 2005.