

1-1 By: Zaffirini S.B. No. 40
1-2 (In the Senate - Filed November 8, 2004; January 31, 2005,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 29, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 March 29, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 40 By: Zaffirini

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to permanency planning procedures for children residing in
1-11 state institutions.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 531.153, Government Code, is amended by
1-14 amending Subsection (d) and adding Subsections (d-1) and (d-2) to
1-15 read as follows:

1-16 (d) In implementing permanency planning procedures under
1-17 Subsection (a) to develop a permanency plan for each child, the
1-18 [~~Texas~~] Department of Aging and Disability [~~Human~~] Services shall~~[-~~
1-19 ~~the Texas Department of Mental Health and Mental Retardation, and~~
1-20 ~~the Department of Protective and Regulatory Services may]~~:

1-21 (1) delegate the [~~each~~] department's duty to develop a
1-22 permanency plan to a local mental retardation authority, as defined
1-23 by Section 531.002, Health and Safety Code, or enter into a
1-24 memorandum of understanding with the local mental retardation
1-25 authority to develop the permanency plan for each child who resides
1-26 in an institution in this state or with respect to whom the
1-27 department is notified in advance that institutional care is
1-28 sought;

1-29 (2) contract with a private entity, other than an
1-30 entity that provides long-term institutional care, [mental
1-31 retardation services] to develop a permanency plan for a child who
1-32 resides in an institution in this state or with respect to whom the
1-33 department is notified in advance that institutional care is
1-34 sought; or

1-35 (3) perform the department's duties regarding
1-36 permanency planning procedures using department personnel.

1-37 (d-1) A contract or memorandum of understanding under
1-38 Subsection (d) must include performance measures by which the
1-39 Department of Aging and Disability Services may evaluate the
1-40 effectiveness of a local mental retardation authority's or private
1-41 entity's permanency planning efforts.

1-42 (d-2) In implementing permanency planning procedures under
1-43 Subsection (a) to develop a permanency plan for each child, the
1-44 Department of Aging and Disability Services shall~~[-~~ to develop a
1-45 permanency plan for that child, or

1-46 [~~(3)~~] engage in [other] appropriate activities in
1-47 addition to those required by Subsection (d) to minimize the
1-48 potential conflicts of interest that, in developing the plan, may
1-49 exist or arise between:

1-50 (1) [~~(A)~~] the institution in which the child resides
1-51 or in which institutional care is sought for the child [child's
1-52 mental retardation services provider, if applicable]; and

1-53 (2) [~~(B)~~] the best interest of the child.

1-54 SECTION 2. Subchapter D-1, Chapter 531, Government Code, is
1-55 amended by adding Sections 531.1531 and 531.1532 to read as
1-56 follows:

1-57 Sec. 531.1531. ASSISTANCE WITH PERMANENCY PLANNING
1-58 EFFORTS. An institution in which a child resides shall assist with
1-59 providing effective permanency planning for the child by:

1-60 (1) cooperating with the health and human services
1-61 agency, local mental retardation authority, or private entity
1-62 responsible for developing the child's permanency plan; and

1-63 (2) participating in meetings to review the child's

2-1 permanency plan as requested by a health and human services agency,
2-2 local mental retardation authority, or private entity responsible
2-3 for developing the child's permanency plan.

2-4 Sec. 531.1532. INTERFERENCE WITH PERMANENCY PLANNING
2-5 EFFORTS. An institution in which a child resides shall refrain from
2-6 providing the child's parent or guardian with inaccurate or
2-7 misleading information regarding the risks of moving the child to
2-8 another facility or community setting.

2-9 SECTION 3. Section 531.161, Government Code, is amended to
2-10 read as follows:

2-11 Sec. 531.161. ACCESS TO RECORDS. Each institution in which
2-12 a child resides shall allow the following to have [~~commission and~~
2-13 ~~appropriate health and human services agencies~~] access to the
2-14 child's records to assist [~~the commission or agency~~] in complying
2-15 with the requirements of this subchapter:

2-16 (1) the commission;

2-17 (2) appropriate health and human services agencies;

2-18 and

2-19 (3) to the extent not otherwise prohibited by state or
2-20 federal confidentiality laws, a local mental retardation authority
2-21 or private entity that enters into a contract or memorandum of
2-22 understanding under Section 531.153(d) to develop a permanency plan
2-23 for the child.

2-24 SECTION 4. If before implementing any provision of this Act
2-25 a state agency determines that a waiver or authorization from a
2-26 federal agency is necessary for implementation of that provision,
2-27 the agency affected by the provision shall request the waiver or
2-28 authorization and may delay implementing that provision until the
2-29 waiver or authorization is granted.

2-30 SECTION 5. This Act takes effect September 1, 2005.

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