

SENATE AMENDMENTS

2nd Printing

By: Castro

H.B. No. 1481

A BILL TO BE ENTITLED

AN ACT

relating to standing for certain individuals to file a suit affecting the parent-child relationship.

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

SECTION 1. Section 102.006, Family Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (b) and (c), if the parent-child relationship between the child and every living parent of the child has been terminated, an original suit may not be filed by:

(1) a former parent whose parent-child relationship with the child has been terminated by court order;

(2) the father of the child; or

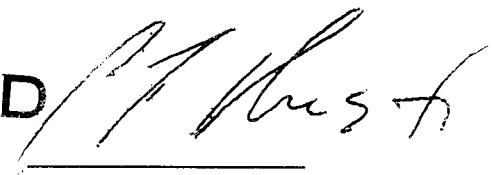
(3) a family member or relative by blood, adoption, or marriage of either a former parent whose parent-child relationship has been terminated or of the father of the child.

(c) The limitations on filing suit imposed by this section do not apply to an adult sibling of the child, a grandparent of the child, an aunt who is a sister of a parent of the child, or an uncle who is a brother of a parent of the child if the adult sibling, grandparent, aunt, or uncle files an original suit or a suit for modification requesting managing conservatorship of the child not later than the 90th day after the date the parent-child

1 relationship between the child and the parent is terminated in a
2 suit filed by the Department of Family and Protective Services
3 requesting the termination of the parent-child relationship.

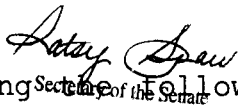
4 SECTION 2. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2007.

ADOPTED



FLOOR AMENDMENT NO. 1

BY:
MAY 22 2007



1 Amend H B. No. 1481 by adding ^{Secretary of the Senate} following appropriately
2 numbered SECTION to the bill and renumbering subsequent SECTIONS
3 of the bill accordingly:

4 SECTION ____ . Subchapter A, Chapter 263, Family Code, is
5 amended by adding Section 263.007 to read as follows:

6 Sec. 263.007. FOSTER CHILDREN'S BILL OF RIGHTS. (a) In
7 this section, "foster children's bill of rights" means the list
8 of rights prescribed by Subsection (b) to which each child in
9 substitute care is entitled.

10 (b) It is the policy of this state that each child in
11 substitute care has the right:

12 (1) to live in a safe, healthy, and comfortable home
13 where the child is treated with respect;

14 (2) to be free from physical, sexual, emotional, and
15 other abuse, including corporal punishment and any form of
16 discipline that humiliates or demeans the child;

17 (3) to be free from discrimination or harassment on
18 the basis of gender, race, ethnicity, religion, national origin,
19 disability, sexual orientation, or HIV status;

20 (4) to receive adequate and healthy food;

21 (5) to receive and keep adequate clothing suitable to
22 the child's age and size and comparable to the clothing of other
23 children in the community;

24 (6) to receive appropriate medical, dental, vision,
25 and mental health services;

26 (7) subject to Subdivisions (8) and (9), to not be
27 physically restrained for longer than one minute unless other
28 less restrictive behavioral interventions have been unsuccessful

1 and physical restraint is necessary to:

2 (A) prevent substantial physical harm or
3 imminent, probable death to the child or imminent physical harm
4 to another person; or

5 (B) administer medication or provide medical
6 treatment prescribed by a physician;

7 (8) to not be physically restrained for any period as
8 punishment, retribution, retaliation, or discipline, to obtain
9 compliance from the child, for the convenience of the foster
10 parent or other substitute care provider, or as a substitute for
11 effective treatment or rehabilitation;

12 (9) to not be locked or otherwise confined in any
13 room, building, or facility or placed in an area where the child
14 is physically prevented from leaving, unless the child is placed
15 in a residential treatment facility or a mental health facility
16 under an order of a physician or court;

17 (10) to be placed in substitute care with the child's
18 siblings unless that placement is not in the best interests of
19 the child or the child's sibling;

20 (11) if a sibling of the child is not placed in
21 substitute care with the child, to be informed in writing of the
22 name, address, and telephone number of the foster care home or
23 other child-care facility in which the sibling is placed, unless
24 prohibited by court order or the child's caseworker or a
25 department supervisor determines that it is not in the child's
26 best interests and the caseworker or supervisor, as applicable,
27 includes the reason for that determination in the child's case
28 records;

29 (12) to have a private storage space in the home or
30 facility in which the child resides to store the child's

1 personal belongings;

2 (13) to not be subjected to unreasonable searches of
3 the child's personal belongings;

4 (14) to contact caseworkers, attorneys ad litem,
5 guardians ad litem, and court-appointed special advocates;

6 (15) to communicate with caseworkers, judges,
7 attorneys ad litem, guardians ad litem, court-appointed special
8 advocates, foster parents, and other providers in the child's
9 primary language, including in sign language;

10 (16) to regularly visit and regularly contact
11 siblings and to regularly contact other family members, unless
12 prohibited by court order or the child's caseworker or a
13 department supervisor determines that it is not in the child's
14 best interests and the caseworker or supervisor, as applicable,
15 includes the reason for that determination in the child's case
16 records;

17 (17) to never be denied contact or visitation with
18 siblings or other family members as a form of discipline;

19 (18) to attend religious services and activities of
20 the child's choice;

21 (19) to interact with persons outside of the foster
22 care system, including teachers, church members, mentors, and
23 friends;

24 (20) to make and receive confidential telephone calls
25 and to send and receive unopened mail, unless prohibited by
26 court order or the child's caseworker or a department supervisor
27 determines that it is not in the child's best interests and the
28 caseworker or supervisor, as applicable, includes the reason for
29 that determination in the child's case records;

30 (21) to receive an age-appropriate money allowance,

1 in an amount determined by the foster parent or other substitute
2 care provider, for the purpose of developing money management
3 skills, using money from the foster care payments made by the
4 department to the foster parent or other substitute care
5 provider for the care of the child;

6 (22) to maintain a personal bank account and manage
7 personal income consistent with the child's age and
8 developmental level, unless prohibited by the child's service
9 plan;

10 (23) to expect that the child's records will be kept
11 confidential in accordance with existing state and federal law,
12 including the child's medical, mental health, child protective
13 services, and educational records;

14 (24) to receive care and treatment in the least
15 restrictive environment that is most like a family setting,
16 consistent with the best interests and needs of the child;

17 (25) to not be unnecessarily or excessively
18 medicated;

19 (26) to not be admitted as a voluntary inpatient to a
20 mental health facility unless the child consents as required by
21 Section 572.001(c), Health and Safety Code;

22 (27) if the child is at least 14 years of age, to
23 request a medical review of the child's medical care, including
24 a review of the medications prescribed to the child, by a
25 medical review team, and to receive a copy of the results of any
26 medical review;

27 (28) to be informed before the child is 16 years of
28 age that the child, at 16 years of age, may request a court
29 hearing to determine if the child has the capacity to consent to
30 medical care under Section 266.010;

1 (29) if the child is at least 16 years of age, to
2 consent to all or some medical care, as authorized by the court
3 under Section 266.010;

4 (30) if the child is at least 12 years of age, to
5 participate in the development of the child's service plan and
6 permanency plan;

7 (31) if the child is at least 12 years of age, to
8 review and receive information regarding the child's service
9 plan and permanency plan, including any changes made to the
10 plans;

11 (32) to receive information about the child's foster
12 parent or other substitute care provider consistent with the
13 child's age and developmental level;

14 (33) to be appointed an attorney ad litem who is
15 competent and provides zealous legal representation of the
16 child's interests, and to meet, in person, with the child's
17 attorney ad litem before each hearing involving the child;

18 (34) to request the appointment of an attorney or
19 guardian ad litem to represent the child, if the child is not
20 already represented by an attorney or guardian ad litem;

21 (35) to attend a court hearing that affects the
22 conservatorship or placement of the child, including a status
23 hearing, a permanency review hearing, or a placement review
24 hearing;

25 (36) if the child is at least 14 years of age, to
26 remain in the courtroom during a court hearing that affects the
27 conservatorship or placement of the child, including a status
28 hearing, a permanency review hearing, or a placement review
29 hearing;

30 (37) regardless of the child's age, to speak

1 privately to the judge at a court hearing that affects the
2 conservatorship or placement of the child, including a status
3 hearing, a permanency review hearing, or a placement review
4 hearing;

5 (38) if the child has a disability, to be informed,
6 in writing, of the name, existence, purpose, telephone number,
7 and address of the protection and advocacy system established in
8 this state under the applicable federal developmental disability
9 laws, as defined by Section 112.001, Human Resources Code, for
10 the purpose of advocating for and protecting the rights of
11 persons with that disability;

12 (39) to attend school and participate in sports,
13 clubs, and other school-related extracurricular activities,
14 consistent with the child's age and developmental level;

15 (40) to participate in community activities,
16 including recreational and social activities, consistent with
17 the child's age and developmental level;

18 (41) to the extent possible, to have minimal
19 disruption in the child's education, including the right to
20 attend the same school if placed with an alternative substitute
21 care provider, unless otherwise ordered by the court;

22 (42) if the child participates in a special education
23 program, to meet and consult with the surrogate parent assigned
24 to the child in accordance with federal law, regarding the
25 child's individualized education program prior to each
26 admission, review, and dismissal committee meeting held
27 regarding the child;

28 (43) to participate in an organization that advocates
29 for or on behalf of foster youth;

30 (44) to work and develop job skills consistent with

1 the child's age in accordance with state and federal law;

2 (45) if the child is at least 16 years of age, to
3 have access to information regarding postsecondary educational
4 and vocational options available to the child, including
5 information regarding financial aid available for postsecondary
6 education and the course work or other requirements required to
7 complete vocational training and postsecondary educational
8 programs;

9 (46) to attend classes and receive other services
10 provided under the Preparation for Adult Living Program
11 established under Section 264.121;

12 (47) on, or as soon as possible after, the date of
13 the child's 18th birthday or the date the child's disabilities
14 of minority are removed, to be provided with the child's health
15 and education passport information, social security card, state-
16 issued personal identification card, and a certified copy of the
17 child's birth certificate;

18 (48) to be informed in writing of how the child may
19 obtain copies of the child's case records;

20 (49) to be informed in writing of the name, address,
21 and telephone number of the person at or the division or office
22 of the department that handles complaints regarding a violation
23 of the child's rights; and

24 (50) to make a confidential complaint with the
25 appropriate person at or the division or office of the
26 department, or to speak confidentially with an appropriate
27 person at the department, regarding a violation of the child's
28 rights without punishment or threat of punishment for making the
29 complaint.

30 (c) This section may not be construed to require a foster

1 parent or other substitute care provider to take any action that
2 would impair the health or safety of a child in substitute care.
3 Any action taken that is inconsistent with the foster children's
4 bill of rights must be included in the permanency progress
5 report or placement review report filed with a court.

6 (d) The department shall provide a written copy of the
7 foster children's bill of rights to each child placed in
8 substitute care in the child's primary language, if possible,
9 and shall inform the child of the rights provided by the foster
10 children's bill of rights:

11 (1) orally in the child's primary language, if
12 possible, and in simple, nontechnical terms; or

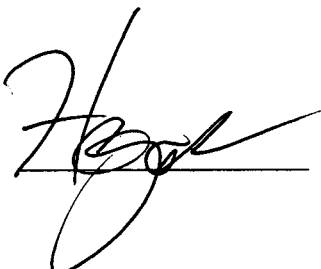
13 (2) for a child who has a disability, including an
14 impairment of vision or hearing, through any means that can
15 reasonably be expected to result in successful communication
16 with the child.


17 (e) A home or facility in which a child is placed in
18 substitute care shall provide a copy of the foster children's
19 bill of rights to a child on the child's request. The foster
20 children's bill of rights must be printed in English and in a
21 second language.

22 (f) The department shall promote the participation of
23 foster children and former foster children in educating other
24 foster children about the foster children's bill of rights.

ADOPTED

FLOOR AMENDMENT NO. 2

MAY 22 2007 BY: 


Secretary of the Senate

1 Amend H.B. 1481 (senate committee printing) by adding the
2 following appropriately number SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:
4 SECTION ____ . Sections 263.401(a), (b), and (c), Family Code,
5 are amended to read as follows:

6 (a) Unless the court has commenced the trial on the merits
7 ~~[rendered a final order]~~ or granted an extension under
8 Subsection (b), on the first Monday after the first anniversary
9 of the date the court rendered a temporary order appointing the
10 department as temporary managing conservator, the court shall
11 dismiss the suit affecting the parent-child relationship filed
12 by the department that requests termination of the parent-child
13 relationship or requests that the department be named
14 conservator of the child.

15 (b) Unless the court has commenced the trial on the
16 merits, the ~~[The]~~ court may not retain the suit on the court's
17 docket after the time described by Subsection (a) unless the
18 court finds that extraordinary circumstances necessitate the
19 child remaining in the temporary managing conservatorship of the
20 department and that continuing the appointment of the department
21 as temporary managing conservator is in the best interest of the
22 child. If the court makes those findings, the court may retain
23 the suit on the court's docket for a period not to exceed 180
24 days after the time described by Subsection (a). If the court
25 retains the suit on the court's docket, the court shall render
26 an order in which the court:

27 (1) schedules the new date on which the suit will be
28 dismissed if the trial on the merits has not commenced, which
29 date must be ~~[for dismissal of the suit]~~ not later than the

1 180th day after the time described by Subsection (a);

2 (2) makes further temporary orders for the safety and
3 welfare of the child as necessary to avoid further delay in
4 resolving the suit; and

5 (3) sets the trial on the merits [~~a final hearing~~] on
6 a date not later than the date specified under Subdivision (1)
7 [~~that allows the court to render a final order before the~~
8 ~~required date for dismissal of the suit under this subsection~~].

9 (c) If the court grants an extension but does not commence
10 the trial on the merits [~~render a final order or dismiss the~~
11 ~~suit on or~~] before the required date for dismissal under
12 Subsection (b), the court shall dismiss the suit. The court may
13 not grant an additional extension that extends the suit beyond
14 the required date for dismissal under Subsection (b).

15 SECTION ____ . Section 263.402(b), Family Code, is amended
16 to read as follows:

17 (b) A party to a suit under this chapter who fails to make
18 a timely motion to dismiss the suit [~~or to make a motion~~
19 ~~requesting the court to render a final order before the deadline~~
20 ~~for dismissal~~] under this subchapter waives the right to object
21 to the court's failure to dismiss the suit. A motion to dismiss
22 under this subsection is timely if the motion is made before the
23 [~~department has introduced all of the department's evidence,~~
24 ~~other than rebuttal evidence, at the~~] trial on the merits
25 commences.

26 SECTION ____ . Sections 263.403(b) and (c), Family Code, are
27 amended to read as follows:

28 (b) If the court renders an order under this section, the
29 court shall:

30 (1) include in the order specific findings regarding
31 the grounds for the order; and

1 (2) schedule a new date, not later than the 180th day
2 after the date the temporary order is rendered, for dismissal of
3 the suit unless a trial on the merits has commenced.

4 (c) If a child placed with a parent under this section
5 must be moved from that home by the department before the
6 dismissal of the suit or the commencement of the trial on the
7 merits [~~rendering of a final order~~], the court shall, at the
8 time of the move, schedule a new date for dismissal of the suit
9 unless a trial on the merits has commenced. The new dismissal
10 date may not be later than the original dismissal date
11 established under Section 263.401 or the 180th day after the
12 date the child is moved under this subsection, whichever date is
13 later.

14 SECTION _____. Section 263.401(d), Family Code, is repealed.

15 SECTION _____. The changes in law made by this Act apply
16 only to a suit affecting the parent-child relationship filed on
17 or after the effective date of this Act. A suit affecting the
18 parent-child relationship filed before the effective date of
19 this Act is governed by the law in effect at the time the suit
20 was filed, and the former law is continued in effect for that
21 purpose.

22

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1481 by Castro (Relating to standing for certain individuals to file a suit affecting the parent-child relationship.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would allow an adult sibling, grandparent, aunt or uncle of a child to file an original suit or a suit for modification requesting managing conservatorship of the child not later than the 90th day after the date the parent-child relationship is terminated in a case filed by the Department of Family and Protective Services.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If the bill does not receive the necessary votes it takes effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 530 Family and Protective Services, Department of
LBB Staff: JOB, MN, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 23, 2007

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1481** by Castro (Relating to standing for certain individuals to file a suit affecting the parent-child relationship.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would allow an adult sibling, grandparent, aunt or uncle of a child to file an original suit or a suit for modification requesting managing conservatorship of the child not later than the 90th day after the date the parent-child relationship is terminated in a case filed by the Department of Family and Protective Services.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If the bill does not receive the necessary votes it takes effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 530 Family and Protective Services, Department of

LBB Staff: JOB, MN, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 20, 2007

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1481 by Castro (Relating to standing for certain individuals to file a suit affecting the parent-child relationship.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would allow an adult sibling, grandparent, aunt or uncle of a child to file suit requesting managing conservatorship of the child not later than the 30th day after the date of the termination of the parent-child relationship if the Department of Family and Protective Services failed to notify them of the department's suit requesting the termination of the parent-child relationship.

The department expects these notifications to be in the form of certified letters and anticipates the additional expense of handling, preparing and sending these notifications could be absorbed within existing resources. The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If the bill does not receive the necessary votes it takes effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 530 Family and Protective Services, Department of

LBB Staff: JOB, MN, SD

