

AN ACT

relating to the jurisdiction of a court over a child in the managing conservatorship of the state after the child's 18th birthday.

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

SECTION 1. Chapter 263, Family Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. EXTENDED JURISDICTION AFTER CHILD'S 18TH BIRTHDAY

Sec. 263.601. DEFINITIONS. In this subchapter:

(1) "Foster care" means a voluntary residential living arrangement with a foster parent or other residential child-care provider that is:

(A) licensed by the department or verified by a licensed child-placing agency; and

(B) paid under a contract with the department.

(2) "Guardianship services" means the services provided by the Department of Aging and Disability Services under Subchapter E, Chapter 161, Human Resources Code.

(3) "Institution" means a residential facility that is operated, licensed, registered, certified, or verified by a state agency other than the department. The term includes a residential service provider under a Medicaid waiver program authorized under Section 1915(c) of the federal Social Security Act that provides services at a residence other than the young adult's own home.

(4) "Young adult" means a person between 18 and 21

years of age who:

(A) was in the conservatorship of the department on the day before the person's 18th birthday; and

(B) after the person's 18th birthday, resides in foster care or receives transitional living services from the department.

Sec. 263.602. EXTENDED JURISDICTION. (a) A court that had continuing, exclusive jurisdiction over a young adult may, at the young adult's request, render an order that extends the court's jurisdiction over the young adult as provided by this subchapter.

(b) The extended jurisdiction of the court terminates on the earlier of:

(1) the young adult's 21st birthday; or

(2) the date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court.

Sec. 263.603. EXTENDED JURISDICTION TO DETERMINE GUARDIANSHIP. (a) Notwithstanding Section 263.602, if the court believes that a young adult may be incapacitated as defined by Section 601(14)(B), Texas Probate Code, the court may extend its jurisdiction on its own motion without the young adult's consent to allow the department to refer the young adult to the Department of Aging and Disability Services for guardianship services as required by Section 48.209, Human Resources Code.

(b) The extended jurisdiction of the court under this section terminates on the earliest of the date:

(1) the Department of Aging and Disability Services determines a guardianship is not appropriate under Chapter 161,

1 Human Resources Code;

2 (2) a court with probate jurisdiction denies the
3 application to appoint a guardian; or

4 (3) a guardian is appointed and qualifies under the
5 Texas Probate Code.

6 (c) If the Department of Aging and Disability Services
7 determines a guardianship is not appropriate, or the court with
8 probate jurisdiction denies the application to appoint a guardian,
9 the court under Subsection (a) may continue to extend its
10 jurisdiction over the young adult only as provided by Section
11 263.602.

12 Sec. 263.604. GUARDIAN'S CONSENT TO EXTENDED JURISDICTION.

13 (a) A guardian appointed for a young adult may request that the
14 court extend the court's jurisdiction over the young adult.

15 (b) A court that extends its jurisdiction over a young adult
16 for whom a guardian is appointed may not issue an order that
17 conflicts with an order entered by the probate court that has
18 jurisdiction over the guardianship proceeding.

19 Sec. 263.605. CONTINUED OR RENEWED APPOINTMENT OF ATTORNEY
20 AD LITEM, GUARDIAN AD LITEM, OR VOLUNTEER ADVOCATE. A court with
21 extended jurisdiction under this subchapter may continue or renew
22 the appointment of an attorney ad litem, guardian ad litem, or
23 volunteer advocate for the young adult to assist the young adult in
24 accessing services the young adult is entitled to receive from the
25 department or any other public or private service provider.

26 Sec. 263.606. DUTIES OF ATTORNEY OR GUARDIAN AD LITEM. An
27 attorney ad litem or guardian ad litem appointed for a young adult

1 who receives services in the young adult's own home from a service
2 provider or resides in an institution that is licensed, certified,
3 or verified by a state agency other than the department shall assist
4 the young adult as necessary to ensure that the young adult receives
5 appropriate services from the service provider or institution, or
6 the state agency that regulates the service provider or
7 institution.

8 Sec. 263.607. PROHIBITED APPOINTMENTS AND ORDERS. (a) The
9 court may not appoint the department or the Department of Aging and
10 Disability Services as the managing conservator or guardian of a
11 young adult.

12 (b) A court may not order the department to provide a
13 service to a young adult unless the department:

14 (1) is authorized to provide the service under state
15 law; and

16 (2) is appropriated money to provide the service in an
17 amount sufficient to comply with the court order and the
18 department's obligations to other young adults for whom the
19 department is required to provide similar services.

20 Sec. 263.608. RIGHTS OF YOUNG ADULT. A young adult who
21 consents to the continued jurisdiction of the court has the same
22 rights as any other adult of the same age.

23 Sec. 263.609. SERVICE REVIEW HEARINGS. (a) If the court's
24 jurisdiction is extended under this subchapter for a young adult
25 who remains in foster care, the court may hold periodic hearings to
26 review the services provided to the young adult.

27 (b) At the request of a young adult who is receiving

1 transitional living services from the department, the court may
2 hold a hearing to review the services the young adult is receiving.

3 (c) Before a review hearing scheduled under this section,
4 the department must provide the court with a copy of:

5 (1) the young adult's plan of service; and

6 (2) the voluntary foster care agreement if the young
7 adult is in foster care or the transition plan if the young adult is
8 receiving transitional living services from the department.

9 (d) The court shall review the plan of service and voluntary
10 foster care agreement or transition plan, as applicable, and shall
11 determine whether the department and any service provider under
12 contract with the department is providing the appropriate services
13 as provided in the plan or agreement.

14 (e) If the court believes that the young adult is entitled
15 to additional services under the department's rules or policies or
16 under a contract with a service provider, the court may order the
17 department to take appropriate action to ensure that the young
18 adult receives the additional services to which the young adult is
19 entitled.

20 SECTION 2. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 704 was passed by the House on April 24, 2009, by the following vote: Yeas 138, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 704 was passed by the Senate on May 12, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____
Date

Governor