

By: Naishtat, Madden

H.B. No. 1629

Substitute the following for H.B. No. 1629:

By: Rose

C.S.H.B. No. 1629

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the care and protection of foster children committed to  
3 or released under supervision by the Texas Youth Commission.

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

5 SECTION 1. Section 32.001(b), Family Code, is amended to  
6 read as follows:

7 (b) Except as otherwise provided by this subsection, the  
8 ~~[The]~~ Texas Youth Commission may consent to the medical, dental,  
9 psychological, and surgical treatment of a child committed to the  
10 Texas Youth Commission ~~[it]~~ under Title 3 when the person having the  
11 right to consent has been contacted and that person has not given  
12 actual notice to the contrary. Consent for medical, dental,  
13 psychological, and surgical treatment of a child for whom the  
14 Department of Family and Protective Services has been appointed  
15 managing conservator and who is committed to the Texas Youth  
16 Commission is governed by Sections 266.004, 266.009, and 266.010.

17 SECTION 2. Section 54.04, Family Code, is amended by adding  
18 Subsection (y) to read as follows:

19 (y) A juvenile court conducting a hearing under this section  
20 involving a child for whom the Department of Family and Protective  
21 Services has been appointed managing conservator may communicate  
22 with the court having continuing jurisdiction over the child before  
23 the disposition hearing. The juvenile court may allow the parties  
24 to the suit affecting the parent-child relationship in which the

1 Department of Family and Protective Services is a party to  
2 participate in the communication under this subsection.

3 SECTION 3. Part 1, Subchapter B, Chapter 107, Family Code,  
4 is amended by adding Section 107.0161 to read as follows:

5 Sec. 107.0161. AD LITEM APPOINTMENTS FOR CHILD COMMITTED TO  
6 TEXAS YOUTH COMMISSION. If an order appointing the Department of  
7 Family and Protective Services as managing conservator of a child  
8 does not continue the appointment of the child's guardian ad litem  
9 or attorney ad litem and the child is committed to the Texas Youth  
10 Commission or released under supervision by the Texas Youth  
11 Commission, the court may appoint a guardian ad litem or attorney ad  
12 litem for the child.

13 SECTION 4. Section 263.001(a)(4), Family Code, is amended  
14 to read as follows:

15 (4) "Substitute care" means the placement of a child  
16 who is in the conservatorship of the department or an authorized  
17 agency in care outside the child's home. The term includes foster  
18 care, institutional care, adoption, [~~or~~] placement with a relative  
19 of the child, or commitment to the Texas Youth Commission.

20 SECTION 5. Section 263.002, Family Code, is amended to read  
21 as follows:

22 Sec. 263.002. REVIEW OF PLACEMENTS BY COURT. In a suit  
23 affecting the parent-child relationship in which the department or  
24 an authorized agency has been appointed by the court or designated  
25 in an affidavit of relinquishment of parental rights as the  
26 temporary or permanent managing conservator of a child, the court  
27 shall hold a hearing to review:

1           (1) the conservatorship appointment and substitute  
2 care; and

3           (2) for a child committed to the Texas Youth  
4 Commission, the child's commitment in the Texas Youth Commission or  
5 release under supervision by the Texas Youth Commission.

6           SECTION 6. Section 263.302, Family Code, is amended to read  
7 as follows:

8           Sec. 263.302. CHILD'S ATTENDANCE AT HEARING. The child  
9 shall attend each permanency hearing unless the court specifically  
10 excuses the child's attendance. A child committed to the Texas  
11 Youth Commission may attend a permanency hearing in person, by  
12 telephone, or by videoconference. The court shall consult with  
13 the child in a developmentally appropriate manner regarding the  
14 child's permanency plan, if the child is four years of age or older  
15 and if the court determines it is in the best interest of the child.  
16 Failure by the child to attend a hearing does not affect the  
17 validity of an order rendered at the hearing.

18           SECTION 7. Section 263.303(b), Family Code, is amended to  
19 read as follows:

20           (b) The permanency progress report must:

21                   (1) recommend that the suit be dismissed; or

22                   (2) recommend that the suit continue, and:

23                           (A) identify the date for dismissal of the suit  
24 under this chapter;

25                           (B) provide:

26                                   (i) the name of any person entitled to  
27 notice under Chapter 102 who has not been served;

1 (ii) a description of the efforts by the  
2 department or another agency to locate and request service of  
3 citation; and

4 (iii) a description of each parent's  
5 assistance in providing information necessary to locate an unserved  
6 party;

7 (C) evaluate the parties' compliance with  
8 temporary orders and with the service plan;

9 (D) evaluate whether the child's placement in  
10 substitute care meets the child's needs and recommend other plans  
11 or services to meet the child's special needs or circumstances;

12 (E) describe the permanency plan for the child  
13 and recommend actions necessary to ensure that a final order  
14 consistent with that permanency plan is rendered before the date  
15 for dismissal of the suit under this chapter; ~~and~~

16 (F) with respect to a child 16 years of age or  
17 older, identify the services needed to assist the child in the  
18 transition to adult life; and

19 (G) with respect to a child committed to the  
20 Texas Youth Commission or released under supervision by the Texas  
21 Youth Commission:

22 (i) evaluate whether the child's needs for  
23 treatment and education are being met;

24 (ii) describe, using information provided  
25 by the Texas Youth Commission, the child's progress in any  
26 rehabilitation program administered by the Texas Youth Commission;

27 and

1                    (iii) recommend other plans or services to  
2 meet the child's needs.

3            SECTION 8. Section 263.306(a), Family Code, is amended to  
4 read as follows:

5            (a) At each permanency hearing the court shall:

6                    (1) identify all persons or parties present at the  
7 hearing or those given notice but failing to appear;

8                    (2) review the efforts of the department or another  
9 agency in:

10                            (A) attempting to locate all necessary persons;

11                            (B) requesting service of citation; and

12                            (C) obtaining the assistance of a parent in  
13 providing information necessary to locate an absent parent, alleged  
14 father, or relative of the child;

15                    (3) review the efforts of each custodial parent,  
16 alleged father, or relative of the child before the court in  
17 providing information necessary to locate another absent parent,  
18 alleged father, or relative of the child;

19                    (4) return the child to the parent or parents if the  
20 child's parent or parents are willing and able to provide the child  
21 with a safe environment and the return of the child is in the  
22 child's best interest;

23                    (5) place the child with a person or entity, other than  
24 a parent, entitled to service under Chapter 102 if the person or  
25 entity is willing and able to provide the child with a safe  
26 environment and the placement of the child is in the child's best  
27 interest;

1           (6) evaluate the department's efforts to identify  
2 relatives who could provide the child with a safe environment, if  
3 the child is not returned to a parent or another person or entity  
4 entitled to service under Chapter 102;

5           (7) evaluate the parties' compliance with temporary  
6 orders and the service plan;

7           (8) determine whether:

8                   (A) the child continues to need substitute care;

9                   (B) the child's current placement is appropriate  
10 for meeting the child's needs, including with respect to a child who  
11 has been placed outside of the state, whether that placement  
12 continues to be in the best interest of the child; and

13                   (C) other plans or services are needed to meet  
14 the child's special needs or circumstances;

15           (9) if the child is placed in institutional care,  
16 determine whether efforts have been made to ensure placement of the  
17 child in the least restrictive environment consistent with the best  
18 interest and special needs of the child;

19           (10) if the child is 16 years of age or older, order  
20 services that are needed to assist the child in making the  
21 transition from substitute care to independent living if the  
22 services are available in the community;

23           (11) determine plans, services, and further temporary  
24 orders necessary to ensure that a final order is rendered before the  
25 date for dismissal of the suit under this chapter; ~~and~~

26           (12) if the child is committed to the Texas Youth  
27 Commission or released under supervision by the Texas Youth

1 Commission, determine whether the child's needs for treatment,  
2 rehabilitation, and education are being met; and

3 (13) determine the date for dismissal of the suit  
4 under this chapter and give notice in open court to all parties of:

5 (A) the dismissal date;

6 (B) the date of the next permanency hearing; and

7 (C) the date the suit is set for trial.

8 SECTION 9. Section 263.501, Family Code, is amended by  
9 amending Subsection (f) and adding Subsection (g) to read as  
10 follows:

11 (f) The child shall attend each placement review hearing  
12 unless the court specifically excuses the child's attendance. A  
13 child committed to the Texas Youth Commission may attend a  
14 placement review hearing in person, by telephone, or by  
15 videoconference. The court shall consult with the child in a  
16 developmentally appropriate manner regarding the child's  
17 permanency or transition plan, if the child is four years of age or  
18 older. Failure by the child to attend a hearing does not affect the  
19 validity of an order rendered at the hearing.

20 (g) A court required to conduct placement review hearings  
21 for a child for whom the department has been appointed permanent  
22 managing conservator may not dismiss a suit affecting the  
23 parent-child relationship filed by the department regarding the  
24 child while the child is committed to the Texas Youth Commission or  
25 released under the supervision of the Texas Youth Commission,  
26 unless the child is adopted or permanent managing conservatorship  
27 of the child is awarded to an individual other than the department.

1           SECTION 10. Section 263.502(c), Family Code, is amended to  
2 read as follows:

3           (c) The placement review report must:

4                 (1) evaluate whether the child's current placement is  
5 appropriate for meeting the child's needs;

6                 (2) evaluate whether efforts have been made to ensure  
7 placement of the child in the least restrictive environment  
8 consistent with the best interest and special needs of the child if  
9 the child is placed in institutional care;

10                (3) contain a discharge plan for a child who is at  
11 least 16 years of age that identifies the services and specific  
12 tasks that are needed to assist the child in making the transition  
13 from substitute care to adult living and describes the services  
14 that are available through the Preparation for Adult Living Program  
15 operated by the department;

16                (4) evaluate whether the child's current educational  
17 placement is appropriate for meeting the child's academic needs;

18                (5) identify other plans or services that are needed  
19 to meet the child's special needs or circumstances; ~~and~~

20                (6) describe the efforts of the department or  
21 authorized agency to place the child for adoption if parental  
22 rights to the child have been terminated and the child is eligible  
23 for adoption, including efforts to provide adoption promotion and  
24 support services as defined by 42 U.S.C. Section 629a and other  
25 efforts consistent with the federal Adoption and Safe Families Act  
26 of 1997 (Pub. L. No. 105-89); and

27                (7) with respect to a child committed to the Texas



1 Youth Commission or released under supervision by the Texas Youth  
2 Commission:

3 (A) evaluate whether the child's needs for  
4 treatment and education are being met;

5 (B) describe, using information provided by the  
6 Texas Youth Commission, the child's progress in any rehabilitation  
7 program administered by the Texas Youth Commission; and

8 (C) recommend other plans or services to meet the  
9 child's needs.

10 SECTION 11. Section 263.503, Family Code, is amended to  
11 read as follows:

12 Sec. 263.503. PLACEMENT REVIEW HEARINGS; PROCEDURE. At  
13 each placement review hearing, the court shall determine whether:

14 (1) the child's current placement is necessary, safe,  
15 and appropriate for meeting the child's needs, including with  
16 respect to a child placed outside of the state, whether the  
17 placement continues to be appropriate and in the best interest of  
18 the child;

19 (2) efforts have been made to ensure placement of the  
20 child in the least restrictive environment consistent with the best  
21 interest and special needs of the child if the child is placed in  
22 institutional care;

23 (3) the services that are needed to assist a child who  
24 is at least 16 years of age in making the transition from substitute  
25 care to independent living are available in the community;

26 (4) other plans or services are needed to meet the  
27 child's special needs or circumstances;

1           (5) the department or authorized agency has exercised  
2 due diligence in attempting to place the child for adoption if  
3 parental rights to the child have been terminated and the child is  
4 eligible for adoption; ~~and~~

5           (6) the department or authorized agency has made  
6 reasonable efforts to finalize the permanency plan that is in  
7 effect for the child; and

8           (7) if the child is committed to the Texas Youth  
9 Commission or released under supervision by the Texas Youth  
10 Commission, the child's needs for treatment, rehabilitation, and  
11 education are being met.

12           SECTION 12. Section 264.0091, Family Code, is amended to  
13 read as follows:

14           Sec. 264.0091. USE           OF           TELECONFERENCING           AND  
15 VIDEOCONFERENCING TECHNOLOGY. Subject to the availability of  
16 funds, the department, in cooperation with district and county  
17 courts, shall expand the use of teleconferencing and  
18 videoconferencing to facilitate participation by medical experts,  
19 children, and other individuals in court proceedings, including  
20 children for whom the department, an authorized agency, or a  
21 licensed child-placing agency has been appointed managing  
22 conservator and who are committed to the Texas Youth Commission.

23           SECTION 13. Section 61.0731, Human Resources Code, is  
24 amended by adding Subsection (d) to read as follows:

25           (d) Notwithstanding Subsection (a), if the Department of  
26 Family and Protective Services has been appointed managing  
27 conservator for a child, the commission shall disclose records and

1 other information concerning the child to the department as  
2 provided by department rules.

3 SECTION 14. Section 61.0763, Human Resources Code, as added  
4 by Chapter 263 (S.B. 103), Acts of the 80th Legislature, Regular  
5 Session, 2007, is amended by adding Subsection (e) to read as  
6 follows:

7 (e) The commission shall ensure that if the Department of  
8 Family and Protective Services has been appointed managing  
9 conservator of a child, the department is given the same rights as  
10 the child's parent under the parent's bill of rights developed under  
11 this section.

12 SECTION 15. Subchapter E, Chapter 61, Human Resources Code,  
13 is amended by adding Sections 61.0766 and 61.0767 to read as  
14 follows:

15 Sec. 61.0766. REPORT CONCERNING FOSTER CHILDREN COMMITTED  
16 TO COMMISSION. (a) Not later than the 10th day before the date of a  
17 permanency hearing under Subchapter D, Chapter 263, Family Code, or  
18 a placement review hearing under Subchapter F, Chapter 263, Family  
19 Code, regarding a child for whom the Department of Family and  
20 Protective Services has been appointed managing conservator, a  
21 commission caseworker shall submit a written report regarding the  
22 child's commitment to the commission to:

- 23 (1) the court;  
24 (2) the Department of Family and Protective Services;  
25 (3) any attorney ad litem or guardian ad litem  
26 appointed for the child; and  
27 (4) any volunteer advocate appointed for the child.

1        (b) The report required by Subsection (a) must include:

2            (1) the results of any assessments of the child during  
3 the child's commitment to the commission, including assessments of  
4 the child's emotional, mental, educational, psychological,  
5 psychiatric, medical, or physical needs;

6            (2) information regarding the child's placement in  
7 particular programs administered by the commission; and

8            (3) a description of the child's progress in programs  
9 administered by the commission.

10        Sec. 61.0767. RULES REGARDING SERVICES FOR FOSTER CHILDREN.

11 (a) The commission and the executive commissioner of the Health and  
12 Human Services Commission shall jointly adopt rules to ensure that  
13 a child for whom the Department of Family and Protective Services  
14 has been appointed managing conservator receives appropriate  
15 services while the child is committed to the commission or released  
16 under supervision by the commission.

17        (b) The rules adopted under this section must require the  
18 commission and the Department of Family and Protective Services to  
19 cooperate in providing appropriate services to a child for whom the  
20 Department of Family and Protective Services has been appointed  
21 managing conservator while the child is committed to the commission  
22 or released under supervision by the commission, including:

23            (1) medical care, as defined by Section 266.001,  
24 Family Code;

25            (2) mental health treatment and counseling;

26            (3) education, including special education;

27            (4) case management;

1           (5) drug and alcohol abuse assessment or treatment;

2           (6) sex offender treatment; and

3           (7) trauma informed care.

4           (c) The rules adopted under this section must require:

5           (1) the Department of Family and Protective Services

6 to:

7                   (A) provide the commission with access to  
8 relevant health and education information regarding a child; and

9                   (B) require a child's caseworker to visit the  
10 child in person at least once each month while the child is  
11 committed to the commission;

12           (2) the commission to:

13                   (A) provide the Department of Family and  
14 Protective Services with relevant health and education information  
15 regarding a child;

16                   (B) permit communication, including in person,  
17 by telephone, and by mail, between a child committed to the  
18 commission and:

19                           (i) the Department of Family and Protective  
20 Services; and

21                           (ii) the attorney ad litem, the guardian ad  
22 litem, and the volunteer advocate for the child; and

23                   (C) provide the Department of Family and  
24 Protective Services and any attorney ad litem or guardian ad litem  
25 for the child with timely notice of the following events relating to  
26 the child:

27                           (i) a meeting designed to develop or revise

1 the individual case plan for the child;

2 (ii) in accordance with any participation  
3 protocols to which the Department of Family and Protective Services  
4 and the commission agree, a medical appointment at which a person  
5 authorized to consent to medical care must participate as required  
6 by Section 266.004(i), Family Code;

7 (iii) an education meeting, including  
8 admission, review, or dismissal meetings for a child receiving  
9 special education;

10 (iv) a grievance or disciplinary hearing  
11 for the child;

12 (v) a report of abuse or neglect of the  
13 child; and

14 (vi) a significant medical condition of the  
15 child, as defined by Section 266.005, Family Code; and

16 (3) the Department of Family and Protective Services  
17 and the commission to participate in transition planning for the  
18 child through release from detention, release under supervision,  
19 and discharge.

20 SECTION 16. (a) Not later than April 30, 2010, the executive  
21 commissioner of the Health and Human Services Commission and of the  
22 Texas Youth Commission shall adopt the rules required by Section  
23 61.0767, Human Resources Code, as added by this Act.

24 (b) The changes in law made by this Act apply to an  
25 individual for whom the Department of Family and Protective  
26 Services or another agency has been appointed managing conservator  
27 and who is in the custody of the Texas Youth Commission or released

1 under supervision by the Texas Youth Commission on or after the  
2 effective date of this Act, regardless of the date on which the  
3 person was committed to the Texas Youth Commission or released  
4 under supervision by the Texas Youth Commission.

5 SECTION 17. This Act takes effect immediately if it receives  
6 a vote of two-thirds of all the members elected to each house, as  
7 provided by Section 39, Article III, Texas Constitution. If this  
8 Act does not receive the vote necessary for immediate effect, this  
9 Act takes effect September 1, 2009.