

By: Dukes

H.B. No. 2860

A BILL TO BE ENTITLED

AN ACT

1
2 relating to financial assistance programs in connection with
3 certain children in the conservatorship of the Department of Family
4 and Protective Services.

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

6 SECTION 1. Section 162.3041, Family Code, is amended by
7 adding Subsection (a-1) and amending Subsection (d) to read as
8 follows:

9 (a-1) Notwithstanding Subsection (a), if the department
10 first entered into an adoption assistance agreement with a child's
11 adoptive parents after the child's 16th birthday, the department
12 shall, in accordance with rules adopted by the executive
13 commissioner of the Health and Human Services Commission, offer
14 adoption assistance after the child's 18th birthday to the child's
15 adoptive parents under an existing adoption agreement until the
16 first day of the month of the child's 21st birthday, provided the
17 child is:

18 (1) regularly attending high school or enrolled in a
19 program leading toward a high school diploma or high school
20 equivalency certificate;

21 (2) regularly attending an institution of higher
22 education or a postsecondary vocational or technical program;

23 (3) participating in a program or activity that
24 promotes, or removes barriers to, employment;

1 (4) employed for at least 80 hours a month; or

2 (5) incapable of doing any of the activities described
3 by Subdivisions (1) through (4) due to a documented medical
4 condition.

5 (d) If the legislature does not appropriate sufficient
6 money to provide adoption assistance to the adoptive parents of all
7 children described by Subsection (a), the department shall provide
8 adoption assistance only to the adoptive parents of children
9 described by Subsection (a)(1). The department is not required to
10 provide adoption assistance benefits under Subsection (a-1) unless
11 the department is specifically appropriated funds for purposes of
12 that subsection.

13 SECTION 2. Section 264.101, Family Code, is amended by
14 amending Subsections (a-1) and (d) and adding Subsection (a-2) to
15 read as follows:

16 (a-1) The department shall continue to pay the cost of
17 foster care for a child for whom the department provides care,
18 including medical care, until the first day of the month in which
19 ~~[later of:~~

20 ~~[(1) the date]~~ the child attains the age of 18. The
21 department shall continue to pay the cost of foster care for a child
22 after the month in which the child attains the age of 18 as long as
23 the child is:

24 (1) regularly attending~~[, or~~

25 ~~[(2) the date the child graduates from]~~ high school or
26 ~~[ceases to be]~~ enrolled in a ~~[secondary school in a]~~ program leading
27 toward a high school diploma or high school equivalency

1 certificate;

2 (2) regularly attending an institution of higher
3 education or a postsecondary vocational or technical program;

4 (3) participating in a program or activity that
5 promotes, or removes barriers to, employment;

6 (4) employed for at least 80 hours a month; or

7 (5) incapable of performing the activities described
8 by Subdivisions (1) through (4) due to a documented medical
9 condition.

10 (a-2) The department shall continue to pay the cost of
11 foster care under:

12 (1) Subsection (a-1)(1) until the first day of the
13 month in which the child attains the age of 22; and

14 (2) Subsections (a-1)(2) through (5) until the first
15 day of the month the child attains the age of 21.

16 (d) The executive commissioner of the Health and Human
17 Services Commission may adopt rules that establish criteria and
18 guidelines for the payment of foster care, including medical care,
19 for a child and for providing care for a child after the child
20 becomes 18 years of age if the child meets the requirements for
21 continued foster care under Subsection (a-1) [~~is regularly~~
22 ~~attending an institution of higher education or a vocational or~~
23 ~~technical program~~].

24 SECTION 3. Sections 264.751(1) and (3), Family Code, are
25 amended to read as follows:

26 (1) "Designated caregiver" means an individual who has
27 a longstanding and significant relationship with a child for whom

1 the department has been appointed managing conservator and who:

2 (A) is appointed to provide substitute care for
3 the child, but is not licensed by the department or verified by a
4 licensed child-placing agency [~~certified~~] to operate a foster home,
5 foster group home, agency foster home, or agency foster group home
6 under Chapter 42, Human Resources Code; or

7 (B) is subsequently appointed permanent managing
8 conservator of the child after providing the care described by
9 Paragraph (A).

10 (3) "Relative caregiver" means a relative who:

11 (A) provides substitute care for a child for whom
12 the department has been appointed managing conservator, but who is
13 not licensed by the department or verified by a licensed
14 child-placing agency [~~certified~~] to operate a foster home, foster
15 group home, agency foster home, or agency foster group home under
16 Chapter 42, Human Resources Code; or

17 (B) is subsequently appointed permanent managing
18 conservator of the child after providing the care described by
19 Paragraph (A).

20 SECTION 4. Subchapter I, Chapter 264, Family Code, is
21 amended by adding Section 264.760 to read as follows:

22 Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND
23 PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of
24 this subchapter, a relative or other designated caregiver who
25 becomes licensed by the department or verified by a licensed
26 child-placing agency to operate a foster home, foster group home,
27 agency foster home, or agency foster group home under Chapter 42,

1 Human Resources Code, may receive foster care payments in lieu of
2 the benefits provided by this subchapter, beginning with the first
3 month in which the relative or other designated caregiver becomes
4 licensed or is verified.

5 SECTION 5. Chapter 264, Family Code, is amended by adding
6 Subchapter K to read as follows:

7 SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

8 Sec. 264.851. DEFINITIONS. In this subchapter:

9 (1) "Foster child" means a child who is or was in the
10 temporary or permanent managing conservatorship of the department.

11 (2) "Kinship provider" means a relative of a foster
12 child or another adult with a longstanding and significant
13 relationship with a foster child before the child was placed with
14 the person by the department and with whom the child resides for at
15 least six consecutive months while the person becomes licensed by
16 the department or verified by a licensed child-placing agency to
17 provide foster care.

18 (3) "Permanency care assistance agreement" means a
19 written agreement between the department and a kinship provider for
20 the payment of permanency care assistance benefits as provided by
21 this subchapter.

22 (4) "Permanency care assistance benefits" means
23 monthly payments paid by the department to a kinship provider under
24 a permanency care assistance agreement.

25 (5) "Relative" has the meaning assigned by Section
26 264.751.

27 Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS. (a)

1 The department shall enter into a permanency care assistance
2 agreement with a kinship provider who is eligible to receive
3 permanency care assistance benefits.

4 (b) The department may enter into a permanency care
5 assistance agreement with a kinship provider who is the prospective
6 managing conservator of a foster child only if the kinship provider
7 meets the eligibility criteria under federal and state law and
8 department rule.

9 (c) A court may not order the department to enter into a
10 permanency care assistance agreement with a kinship provider unless
11 the kinship provider meets the eligibility criteria under federal
12 and state law and department rule, including requirements relating
13 to the criminal history background check of a kinship provider.

14 (d) A permanency care assistance agreement may provide for
15 reimbursement of the expenses a kinship provider incurs in
16 obtaining permanent managing conservatorship of a foster child,
17 including attorney's fees and court costs. The reimbursement of
18 the expenses under this subsection may not exceed \$2,000.

19 Sec. 264.853. RULES. (a) The executive commissioner shall
20 adopt rules necessary to implement the permanency care assistance
21 program. The rules must:

22 (1) establish eligibility requirements to receive
23 permanency care assistance benefits under the program;

24 (2) provide for the amount of permanency care
25 assistance payments under the program; and

26 (3) ensure that the program conforms to the
27 requirements for federal assistance as required by the Fostering

1 Connections to Success and Increasing Adoptions Act of 2008 (Pub.
2 L. No. 110-351).

3 (b) In adopting rules regarding permanency care assistance
4 payments, the executive commissioner shall ensure that permanency
5 care assistance payments do not exceed the monetary assistance
6 available for a foster care provider caring for the child for whom
7 the kinship provider is caring.

8 Sec. 264.854. CONTINUED ELIGIBILITY FOR PERMANENCY CARE
9 ASSISTANCE BENEFITS AFTER AGE 18. If the department first entered
10 into a permanency care assistance agreement with a foster child's
11 kinship provider after the child's 16th birthday, the department
12 may continue to provide permanency care assistance payments until
13 the first day of the month of the child's 21st birthday, provided
14 the child is:

15 (1) regularly attending high school or enrolled in a
16 program leading toward a high school diploma or high school
17 equivalency certificate;

18 (2) regularly attending an institution of higher
19 education or a postsecondary vocational or technical program;

20 (3) participating in a program or activity that
21 promotes, or removes barriers to, employment;

22 (4) employed for at least 80 hours a month; or

23 (5) incapable of any of the activities described by
24 Subdivisions (1) through (4) due to a documented medical condition.

25 Sec. 264.855. APPROPRIATION REQUIRED. The department is
26 not required to provide permanency care assistance benefits under
27 this subchapter unless the department is specifically appropriated

1 money for purposes of this subchapter.

2 SECTION 6. Not later than December 1, 2009, the executive
3 commissioner of the Health and Human Services Commission shall
4 adopt rules to implement and administer the permanency care
5 assistance program under Subchapter K, Chapter 264, Family Code, as
6 added by this Act.

7 SECTION 7. If before implementing any provision of this Act
8 a state agency determines that a waiver or authorization from a
9 federal agency is necessary for implementation of that provision,
10 the agency affected by the provision shall request the waiver or
11 authorization and may delay implementing that provision until the
12 waiver or authorization is granted.

13 SECTION 8. This Act takes effect September 1, 2009.