

1-1 By: Nelson, Davis, Uresti S.B. No. 493
1-2 (In the Senate - Filed January 15, 2009; February 17, 2009,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 30, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 March 30, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 493 By: Huffman

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

1-10 relating to benefits and services for children in the
1-11 conservatorship of the Department of Family and Protective
1-12 Services.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 54.211, Education Code, is amended to
1-15 read as follows:

1-16 Sec. 54.211. EXEMPTIONS FOR STUDENTS IN FOSTER OR OTHER
1-17 RESIDENTIAL CARE. (a) A student is exempt from the payment of
1-18 tuition and fees authorized in this chapter if the student:

1-19 (1) was in ~~[foster care or other residential care~~
1-20 ~~under]~~ the conservatorship of the Department of Family and
1-21 Protective Services ~~[on or after]~~:

1-22 (A) on the day preceding the student's 18th
1-23 birthday;

1-24 (B) on or after the day of the student's 14th
1-25 birthday, if the student was also eligible for adoption on or after
1-26 that day; ~~[or]~~

1-27 (C) on the day the student graduated from high
1-28 school or received the equivalent of a high school diploma; or

1-29 (D) on the day preceding:

1-30 (i) the date the student is adopted; or

1-31 (ii) the date permanent managing
1-32 conservatorship of the student is awarded to a person other than the
1-33 student's parent; and

1-34 (2) enrolls in an institution of higher education as
1-35 an undergraduate student not later than ~~[+]~~

1-36 ~~[(A) the third anniversary of the date the~~
1-37 ~~student was discharged from the foster or other residential care,~~
1-38 ~~the date the student graduated from high school, or the date the~~
1-39 ~~student received the equivalent of a high school diploma, whichever~~
1-40 ~~date is earliest, or~~

1-41 ~~[(B)]~~ the student's 25th ~~[21st]~~ birthday.

1-42 (b) The Texas Education Agency and the Texas Higher
1-43 Education Coordinating Board shall develop outreach programs to
1-44 ensure that students in the conservatorship of the Department of
1-45 Family and Protective Services and ~~[foster or other residential~~
1-46 ~~care]~~ in grades 9-12 are aware of the availability of the exemption
1-47 from the payment of tuition and fees provided by this section.

1-48 SECTION 2. Subsection (b), Section 261.312, Family Code, is
1-49 amended to read as follows:

1-50 (b) A review team consists of at least five members who
1-51 serve staggered two-year terms. Review team members are appointed
1-52 by the director of the department and consist of volunteers who live
1-53 in and are broadly representative of the region in which the review
1-54 team is established and have expertise in the prevention and
1-55 treatment of child abuse and neglect. At least two members of a
1-56 review team ~~[community representatives and private citizens who~~
1-57 ~~live in the region for which the team is established. Each member]~~
1-58 must be parents ~~[a parent]~~ who have ~~[has]~~ not been convicted of or
1-59 indicted for an offense involving child abuse or neglect, have
1-60 ~~[has]~~ not been determined by the department to have engaged in child
1-61 abuse or neglect, and are ~~[or is]~~ not under investigation by the
1-62 department for child abuse or neglect. A member of a review team is
1-63 a department volunteer for the purposes of Section 411.114,

2-1 Government Code.

2-2 SECTION 3. Section 263.3025, Family Code, is amended by
2-3 adding Subsection (d) to read as follows:

2-4 (d) In accordance with department rules, a child's
2-5 permanency plan must include concurrent permanency goals
2-6 consisting of a primary permanency goal and at least one alternate
2-7 permanency goal.

2-8 SECTION 4. Subchapter D, Chapter 263, Family Code, is
2-9 amended by adding Section 263.3026 to read as follows:

2-10 Sec. 263.3026. PERMANENCY GOALS; LIMITATION. (a) The
2-11 department's permanency plan for a child may include as a goal:

2-12 (1) the reunification of the child with a parent or
2-13 other individual from whom the child was removed;

2-14 (2) the termination of parental rights and adoption of
2-15 the child by a relative or other suitable individual;

2-16 (3) the award of permanent managing conservatorship of
2-17 the child to a relative or other suitable individual; or

2-18 (4) another planned, permanent living arrangement for
2-19 the child.

2-20 (b) If the goal of the department's permanency plan for a
2-21 child is to find another planned, permanent living arrangement for
2-22 the child, the department shall document that there is a compelling
2-23 reason why the other permanency goals identified in Subsection (a)
2-24 are not in the child's best interest.

2-25 SECTION 5. Subsection (b), Section 263.303, Family Code, is
2-26 amended to read as follows:

2-27 (b) The permanency progress report must:

2-28 (1) recommend that the suit be dismissed; or

2-29 (2) recommend that the suit continue, and:

2-30 (A) identify the date for dismissal of the suit
2-31 under this chapter;

2-32 (B) provide:

2-33 (i) the name of any person entitled to
2-34 notice under Chapter 102 who has not been served;

2-35 (ii) a description of the efforts by the
2-36 department or another agency to locate and request service of
2-37 citation; and

2-38 (iii) a description of each parent's
2-39 assistance in providing information necessary to locate an unserved
2-40 party;

2-41 (C) evaluate the parties' compliance with
2-42 temporary orders and with the service plan;

2-43 (D) evaluate whether the child's placement in
2-44 substitute care meets the child's needs and recommend other plans
2-45 or services to meet the child's special needs or circumstances;

2-46 (E) describe the permanency plan for the child
2-47 and recommend actions necessary to ensure that a final order
2-48 consistent with that permanency plan, including the concurrent
2-49 permanency goals contained in that plan, is rendered before the
2-50 date for dismissal of the suit under this chapter; and

2-51 (F) with respect to a child 16 years of age or
2-52 older, identify the services needed to assist the child in the
2-53 transition to adult life.

2-54 SECTION 6. Subsection (b), Section 263.306, Family Code, is
2-55 amended to read as follows:

2-56 (b) The court shall also review the service plan, permanency
2-57 report, and other information submitted at the hearing to:

2-58 (1) determine:

2-59 (A) the safety of the child;

2-60 (B) the continuing necessity and appropriateness
2-61 of the placement;

2-62 (C) the extent of compliance with the case plan;
2-63 ~~[and]~~

2-64 (D) the extent of progress that has been made
2-65 toward alleviating or mitigating the causes necessitating the
2-66 placement of the child in foster care; and

2-67 (E) whether the department has made reasonable
2-68 efforts to finalize the permanency plan that is in effect for the
2-69 child, including the concurrent permanency goals for the child; and

(2) project a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship.

SECTION 7. Subsection (b), Section 263.501, Family Code, is amended to read as follows:

(b) If the department has been named as a child's managing conservator in a final order that terminates a parent's parental rights, the court shall conduct a placement review hearing not later than the 90th day after the date the court renders the final order. The court shall conduct additional [a] placement review hearings [hearing] at least once every six months until the date the child is adopted or the child becomes an adult.

SECTION 8. Section 263.502, Family Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The placement review report must identify the department's permanency goal for the child and must:

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

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

(3) contain a transition [discharge] plan for a child who is at least 16 years of age that identifies the services and specific tasks that are needed to assist the child in making the transition from substitute care to adult living and describes the services that are being provided [available] through the Transitional Living Services [Preparation for Adult Living] Program operated by the department;

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

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

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

(7) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, describe the efforts of the department to find a permanent placement for the child, including efforts to:

(A) work with the caregiver with whom the child is placed to determine whether that caregiver is willing to become a permanent placement for the child;

(B) locate a relative or other suitable individual to serve as permanent managing conservator of the child; and

(C) evaluate any change in a parent's circumstances to determine whether:

(i) the child can be returned to the parent; or

(ii) parental rights should be terminated.

(d) If the goal of the department's permanency plan for a child is to find another planned, permanent living arrangement, the placement review report must document a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent are not in the child's best interest.

SECTION 9. Section 263.503, Family Code, is amended to read as follows:

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

(1) the child's current placement is necessary, safe,

and appropriate for meeting the child's needs, including with respect to a child placed outside of the state, whether the placement continues to be appropriate and in the best interest of the child;

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

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

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

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

(6) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, a permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;

(7) for a child whose permanency goal is another planned, permanent living arrangement, the department has:

(A) documented a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent is not in the child's best interest; and

(B) identified a family or other caring adult who has made a permanent commitment to the child; and

(8) the department or authorized agency has made reasonable efforts to finalize the permanency plan that is in effect for the child.

(b) For a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, the court may order the department to provide services to a parent for not more than six months after the date of the placement review hearing if:

(1) the child has not been placed with a relative or other individual, including a foster parent, who is seeking permanent managing conservatorship of the child; and

(2) the court determines that further efforts at reunification with a parent are:

(A) in the best interest of the child; and

(B) likely to result in the child's safe return to the child's parent.

SECTION 10. (a) The changes in law made by this Act to Section 54.211, Education Code, apply beginning with tuition and fees imposed by a public institution of higher education for the 2009 fall semester. Tuition and fees for a term or semester before the 2009 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act to Section 54.211, Education Code, apply only to a child who is in the conservatorship of the Department of Family and Protective Services on or after the effective date of this Act. A child who left the conservatorship of the Department of Family and Protective Services before the effective date of this Act is governed by the law in effect on the date the child left the department's conservatorship, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act to Subsection (b), Section 263.501, Family Code, applies only to a child in the conservatorship of the Department of Family and Protective Services for whom a final order in a suit affecting the parent-child relationship is rendered on or after the effective date of this Act. A child in the conservatorship of the Department of Family and Protective Services for whom a final order in a suit affecting the parent-child relationship is rendered before the effective date of

5-1 this Act is governed by the law in effect on the date the final order
5-2 was rendered, and the former law is continued in effect for that
5-3 purpose.

5-4 SECTION 11. This Act takes effect immediately if it
5-5 receives a vote of two-thirds of all the members elected to each
5-6 house, as provided by Section 39, Article III, Texas Constitution.
5-7 If this Act does not receive the vote necessary for immediate
5-8 effect, this Act takes effect September 1, 2009.

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