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S.B. No. 1411

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 and to certain training for caregivers of
5 children.

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

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

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

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

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

24 (3) participating in a program or activity that

1 promotes, or removes barriers to, employment;

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

3 (5) incapable of doing any of the activities described
4 by Subdivisions (1)-(4) due to a documented medical 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. Subchapter A, Chapter 264, Family Code, is
14 amended by adding Section 264.015 to read as follows:

15 Sec. 264.015. TRAINING. The department shall include
16 training in trauma-informed programs and services in any training
17 the department provides to foster parents, adoptive parents,
18 kinship caregivers, and department caseworkers. The department
19 shall pay for the training provided under this section with gifts,
20 donations, and grants and any federal money available through the
21 Fostering Connections to Success and Increasing Adoptions Act of
22 2008 (Pub. L. No. 110-351).

23 SECTION 3. Section 264.101, Family Code, is amended by
24 amending Subsections (a-1) and (d) and adding Subsection (a-2) to
25 read as follows:

26 (a-1) The department shall continue to pay the cost of
27 foster care for a child for whom the department provides care,

1 including medical care, until the last day of the month in which
2 ~~[later of:~~

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

7 (1) regularly attending~~[, or~~
8 ~~[(2) the date the child graduates from]~~ high school or
9 ~~[ceases to be]~~ enrolled in a ~~[secondary school in a]~~ program leading
10 toward a high school diploma or high school equivalency
11 certificate;

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

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

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

17 (5) incapable of performing the activities described
18 by Subdivisions (1)-(4) due to a documented medical condition.

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

21 (1) Subsection (a-1)(1) until the last day of the
22 month in which the child attains the age of 22; and

23 (2) Subsections (a-1)(2)-(5) until the last day of the
24 month the child attains the age of 21.

25 (d) The executive commissioner of the Health and Human
26 Services Commission may adopt rules that establish criteria and
27 guidelines for the payment of foster care, including medical care,

1 for a child and for providing care for a child after the child
2 becomes 18 years of age if the child meets the requirements for
3 continued foster care under Subsection (a-1) [~~is regularly~~
4 ~~attending an institution of higher education or a vocational or~~
5 ~~technical program~~].

6 SECTION 4. Subdivisions (1) and (3), Section 264.751,
7 Family Code, are amended to read as follows:

8 (1) "Designated caregiver" means an individual who has
9 a longstanding and significant relationship with a child for whom
10 the department has been appointed managing conservator and who:

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

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

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

20 (A) provides substitute care for a child for whom
21 the department has been appointed managing conservator, but who is
22 not licensed by the department or verified by a licensed
23 child-placing agency or the department [~~certified~~] to operate a
24 foster home, foster group home, agency foster home, or agency
25 foster group home under Chapter 42, Human Resources Code; or

26 (B) is subsequently appointed permanent managing
27 conservator of the child after providing the care described by

1 Paragraph (A).

2 SECTION 5. Subchapter I, Chapter 264, Family Code, is
3 amended by adding Section 264.760 to read as follows:

4 Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND
5 PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of
6 this subchapter, a relative or other designated caregiver who
7 becomes licensed by the department or verified by a licensed
8 child-placing agency or the department to operate a foster home,
9 foster group home, agency foster home, or agency foster group home
10 under Chapter 42, Human Resources Code, may receive foster care
11 payments in lieu of the benefits provided by this subchapter,
12 beginning with the first month in which the relative or other
13 designated caregiver becomes licensed or is verified.

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

16 SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

17 Sec. 264.851. DEFINITIONS. In this subchapter:

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

20 (2) "Kinship provider" means a relative of a foster
21 child, or another adult with a longstanding and significant
22 relationship with a foster child before the child was placed with
23 the person by the department, with whom the child resides for at
24 least six consecutive months after the person becomes licensed by
25 the department or verified by a licensed child-placing agency or
26 the department to provide foster care.

27 (3) "Permanency care assistance agreement" means a

1 written agreement between the department and a kinship provider for
2 the payment of permanency care assistance benefits as provided by
3 this subchapter.

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

7 (5) "Relative" means a person related to a foster
8 child by consanguinity or affinity.

9 Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS.

10 (a) The department shall enter into a permanency care assistance
11 agreement with a kinship provider who is eligible to receive
12 permanency care assistance benefits.

13 (b) The department may enter into a permanency care
14 assistance agreement with a kinship provider who is the prospective
15 managing conservator of a foster child only if the kinship provider
16 meets the eligibility criteria under federal and state law and
17 department rule.

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

23 (d) A permanency care assistance agreement may provide for
24 reimbursement of the nonrecurring expenses a kinship provider
25 incurs in obtaining permanent managing conservatorship of a foster
26 child, including attorney's fees and court costs. The
27 reimbursement of the nonrecurring expenses under this subsection

1 may not exceed \$2,000.

2 Sec. 264.853. RULES. The executive commissioner shall
3 adopt rules necessary to implement the permanency care assistance
4 program. The rules must:

5 (1) establish eligibility requirements to receive
6 permanency care assistance benefits under the program; and

7 (2) ensure that the program conforms to the
8 requirements for federal assistance as required by the Fostering
9 Connections to Success and Increasing Adoptions Act of 2008 (Pub.
10 L. No. 110-351).

11 Sec. 264.854. MAXIMUM PAYMENT AMOUNT. The executive
12 commissioner shall set the maximum monthly amount of assistance
13 payments under a permanency care assistance agreement in an amount
14 that does not exceed the amount of the monthly foster care
15 maintenance payment the department would pay to a foster care
16 provider caring for the child for whom the kinship provider is
17 caring.

18 Sec. 264.855. CONTINUED ELIGIBILITY FOR PERMANENCY CARE
19 ASSISTANCE BENEFITS AFTER AGE 18. If the department first entered
20 into a permanency care assistance agreement with a foster child's
21 kinship provider after the child's 16th birthday, the department
22 may continue to provide permanency care assistance payments until
23 the last day of the month of the child's 21st birthday, provided the
24 child is:

25 (1) regularly attending high school or enrolled in a
26 program leading toward a high school diploma or high school
27 equivalency certificate;

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

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

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

6 (5) incapable of any of the activities described by
7 Subdivisions (1)-(4) due to a documented medical condition.

8 Sec. 264.856. APPROPRIATION REQUIRED. The department is
9 not required to provide permanency care assistance benefits under
10 this subchapter unless the department is specifically appropriated
11 money for purposes of this subchapter.

12 SECTION 7. (a) Not later than April 1, 2010, the executive
13 commissioner of the Health and Human Services Commission shall
14 adopt rules to implement and administer the changes to Sections
15 162.3041 and 264.101, Family Code, as amended by this Act, and
16 Subchapter K, Chapter 264, Family Code, as added by this Act.

17 (b) The rules adopted under Subsection (a) of this section
18 shall provide that no payment for adoption assistance or permanency
19 care assistance can be paid on behalf of a child over the age of 17
20 for any month prior to October 1, 2010.

21 (c) The rules adopted under Subsection (a) of this section
22 shall provide that no payment of foster care benefits can be made
23 under the amendments to Section 264.101, Family Code, with respect
24 to a child over the age of 17 for any month prior to October 1, 2010,
25 unless the child was eligible for foster care benefits after age 17
26 under the law and rules as they existed prior to the effective date
27 of this Act.

1 SECTION 8. If before implementing any provision of this Act
2 a state agency determines that a waiver or authorization from a
3 federal agency is necessary for implementation of that provision,
4 the agency affected by the provision shall request the waiver or
5 authorization and may delay implementing that provision until the
6 waiver or authorization is granted.

7 SECTION 9. This Act does not make an appropriation. A
8 provision in this Act that creates a new governmental program,
9 creates a new entitlement, or imposes a new duty on a governmental
10 entity is not mandatory during a fiscal period for which the
11 legislature has not made a specific appropriation to implement the
12 provision.

13 SECTION 10. This Act takes effect September 1, 2009.