

## **BILL ANALYSIS**

Senate Research Center

S.B. 993  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A parental child safety placement (PCSP) is used when a child cannot stay in the biological home due to a risk of abuse or neglect. In lieu of a formal removal, the Texas Department of Family and Protective Services (DFPS) allows the parent to choose, with DFPS approval, a relative willing to take the child in temporarily. Currently, there are no statutes or administrative code provisions governing PCSPs. This process is governed solely by DFPS internal policy.

S.B. 993 establishes minimum guidelines for PCSPs in the Texas Family Code covering required documentation, establishment of a visitation plan, providing for necessities such as health care and education, and a specific termination date for the PCSP.

S.B. 993 requires, in most cases, DFPS to develop a plan with both parties for the safe return of the child to the parent or another person legally entitled to possession of the child. In exceptional cases, DFPS may close a case while the child is still living with the caregiver if the caregiver is willing to continue to provide care, and DFPS has either unsuccessfully attempted to remove the child to foster care or has determined that a removal to foster care is not necessary for the protection of the child.

S.B. 993 amends current law relating to the removal of a child by the Department of Family and Protective Services, including certain arrangements to provide care for a child during an investigation of abuse or neglect.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 264, Family Code, by adding Subchapter L, as follows:

#### **SUBCHAPTER L. PARENTAL CHILD SAFETY PLACEMENTS**

Sec. 264.901. DEFINITIONS. Defines, in this subchapter, "caregiver," "parental child safety placement," and "parental child safety placement agreement."

Sec. 264.902. PARENTAL CHILD SAFETY PLACEMENT AGREEMENT. (a) Requires that a parental child safety placement (PCSP) agreement include terms that clearly state:

- (1) the respective duties of the person making the placement and the caregiver, including a plan for how the caregiver will access necessary medical treatment for the child and the caregiver's duty to ensure that a school-aged child is enrolled in and attending school;
- (2) conditions under which the person placing the child may have access to the child, including how often the person may visit and the circumstances under which the person's visit may occur;

(3) the duties of the Department of Family and Protective Services (DFPS);

(4) the date on which the agreement will terminate unless terminated sooner or extended to a subsequent date as provided under DFPS policy; and

(5) any other term DFPS determines necessary for the safety and welfare of the child.

(b) Requires that a PCSP agreement contain the following statement in boldface type and capital letters: "YOUR AGREEMENT TO THE PARENTAL CHILD SAFETY PLACEMENT IS NOT AN ADMISSION OF CHILD ABUSE OR NEGLECT ON YOUR PART AND CANNOT BE USED AGAINST YOU AS AN ADMISSION OF CHILD ABUSE OR NEGLECT."

(c) Requires that a PCSP agreement be in writing and signed by the person making the placement and the caregiver.

(d) Requires DFPS to provide a written copy of the PCSP agreement to the person making the placement and the caregiver.

Sec. 264.903. CAREGIVER EVALUATION. (a) Requires DFPS to develop policies and procedures for evaluating a potential caregiver's qualifications to care for a child under this subchapter, including policies and procedures for evaluating the criminal history of a caregiver, allegations of abuse or neglect against a caregiver, and a caregiver's home environment and ability to care for the child.

(b) Requires a DFPS caseworker who performs an evaluation of a caregiver under this section to document the results of the evaluation in DFPS' case records.

(c) Requires DFPS, if, after performing an evaluation of a potential caregiver, DFPS determines that it is not in the child's best interests to be placed with the caregiver, to notify the person who proposed the caregiver and the proposed caregiver of the reasons for DFPS' decision, but prohibits DFPS from disclosing the specifics of any criminal history or allegations of abuse or neglect unless the caregiver agrees to the disclosure.

Sec. 264.904. DEPARTMENT PROCEDURES FOR CLOSING CASE. (a) Requires DFPS, before closing a case in which DFPS has approved a PCSP, to develop a plan with the person who made the placement and the caregiver for the safe return of the child to the person who placed the child with the caregiver or to another person legally entitled to possession of the child, as appropriate.

(b) Authorizes DFPS to close a case with a child still living with the caregiver in a PCSP if DFPS has determined that the child could safely return with the parent or person who made the PCSP, but the parent or other person agrees in writing for the child to continue to reside with the caregiver.

(c) Requires DFPS, if DFPS determines that the child is unable to safely return to the parent or person who made the PCSP, to determine whether the child can remain safely in the home of the caregiver or whether DFPS is required to seek legal conservatorship of the child in order to ensure the child's safety.

(d) Requires DFPS, before DFPS is authorized to close a case with a child still living in a PCSP, to:

(1) determine and document in the case file that the child can safely remain in the placement without DFPS' supervision;

(2) obtain the written agreement of the parent or person who made the PCSP, if possible;

(3) obtain the caregiver's agreement in writing that the child can continue living in the placement after DFPS closes the case; and

(4) develop a written plan for the child's care after DFPS closes the case.

(e) Provides that DFPS is not required to comply with Subsection (d) if DFPS has filed suit seeking to be named conservator of the child under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) and been denied conservatorship of the child.

Sec. 264.905. REMOVAL OF CHILD BY DEPARTMENT. Provides that this subchapter does not prevent DFPS from removing a child at any time from a person who makes a PCSP or from a caregiver if removal is determined to be necessary by DFPS for the safety and welfare of the child as provided by Chapter 262.

Sec. 264.906. PLACEMENT PREFERENCE DURING CONSERVATORSHIP. Requires DFPS, if, while a PCSP agreement is in effect, DFPS files suit under Chapter 262 seeking to be named managing conservator of the child, to give priority to placing the child with the PCSP caregiver as long as the placement is safe and available.

SECTION 2. Amends Subchapter B, Chapter 262, Family Code, by adding Section 262.1095, as follows:

Sec. 262.1095. INFORMATION PROVIDED TO RELATIVES AND CERTAIN INDIVIDUALS; INVESTIGATION. (a) Provides that DFPS, when DFPS or another agency takes possession of a child under this chapter:

(1) is required to provide information as prescribed by this section to each adult DFPS is able to identify and locate who:

(A) is related to the child within the third degree by consanguinity as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, or is an adult relative of the alleged father of the child who DFPS determines is most likely to be the child's biological father; and

(B) is identified as a potential relative or designated caregiver, as defined by Section 264.751 (Definitions), on the proposed child placement resources form provided under Section 261.307 (Information Relating To Investigation Procedure); and

(2) is authorized to provide information as prescribed by this section to each adult DFPS is able to identify and locate who has a long-standing and significant relationship with the child.

(b) Requires that the information provided under Subsection (a):

(1) state that the child has been removed from the child's home and is in the temporary managing conservatorship of DFPS;

(2) explain the options available to the individual to participate in the care and placement of the child and the support of the child's family;

(3) state that some options available to the individual may be lost if the individual fails to respond in a timely manner; and

(4) include, if applicable, the date, time, and location of the hearing under Subchapter C (Status Hearing), Chapter 263.

(c) Provides that DFPS is not required to provide information to an individual if the individual has received service of citation under Section 102.009 (Service of Citation) or if DFPS determines providing information is inappropriate because the individual has a criminal history or a history of family violence.

(d) Requires DFPS to use due diligence to identify and locate all individuals described by Subsection (a) not later than the 30th day after the date DFPS files a suit affecting the parent-child relationship. Requires DFPS, in order to identify and locate the individuals described by Subsection (a), to seek information from each parent, relative, and alleged father of the child, and the child in an age-appropriate manner.

(e) Provides that the failure of a parent or alleged father of the child to complete the proposed child placement resources form does not relieve DFPS of its duty to seek information about the person under Subsection (d).

SECTION 3. Amends Subchapter A, Chapter 263, Family Code, by adding Section 263.007, as follows:

Sec. 263.007. REPORT REGARDING NOTIFICATION OF RELATIVES. Requires DFPS, not later than the 10th day before the date set for a hearing under Subchapter C, to file with the court a report regarding:

(1) the efforts DFPS made to identify, locate, and provide information to the individuals described by Section 262.1095;

(2) the name of each individual DFPS identified, located, or provided with information; and

(3) if applicable, an explanation of why DFPS was unable to identify, locate, or provide information to an individual described by Section 262.1095.

SECTION 4. Amends the heading to Section 263.105, Family Code, to read as follows:

Sec. 263.105. REVIEW OF SERVICE PLAN; MODIFICATION.

SECTION 5. Amends Section 263.105, Family Code, by adding Subsection (c) to authorize the court to modify an original or amended service plan at any time.

SECTION 6. Amends Section 263.201(b), Family Code, to provide that a status hearing is not required if the court holds an initial permanency hearing under Section 262.2015 and makes findings required by Section 263.202 before the date a status hearing is required by this section.

SECTION 7. Amends Section 263.202, Family Code, by amending Subsections (a) and (b) and adding Subsections (b-1), (f), (g), and (h), as follows:

(a) Requires the court, if all persons entitled to citation and notice of a status hearing under this chapter were not served, rather than if all parties entitled to citation and notice under this chapter were not served, to make findings as to whether:

(1) DFPS or other agency has exercised due diligence to locate all necessary persons, including an alleged father of the child, regardless of whether the alleged father is registered with the registry of paternity under Section 160.402; and

(2) the child and each parent, alleged father, or relative of the child before the court have furnished to DFPS all available information necessary to locate an absent parent, alleged father, or relative of the child through exercise of due

diligence, rather than each custodial parent, alleged father, or relative of the child has furnished to DFPS all available information necessary to locate another absent parent, alleged father, or relative of the child through exercise of due diligence.

(b) Requires a status hearing, except as otherwise provided by this subchapter, rather than except as provided by Subsection (e), to be limited to matters related to the contents and execution of the service plan filed with the court. Requires the court to review the service plan that DFPS or other agency filed under this chapter for reasonableness, accuracy, and compliance with requirements of court orders and make findings as to whether:

(1) a plan that has the goal of returning the child to the child's parents adequately ensures that reasonable efforts are made to enable the child's parents to provide a safe environment for the child;

(2) the child's parents have reviewed and understand the plan, rather than the service plan, and have been advised that unless the parents are willing and able to provide the child with a safe environment, even with the assistance of a service plan, within the reasonable period of time specified in the plan, the parents' parental and custodial duties and rights may be subject to restriction or to termination under this code or the child may not be returned to the parents;

(3) the plan is reasonably tailored to address any specific issues identified by DFPS or other agency; and

(4) the child's parents and the representative of DFPS or other agency have signed the plan.

(b-1) Provides that the court, after reviewing the service plan and making any necessary modifications, is required to incorporate the service plan into the orders of the court and is authorized to render additional appropriate orders to implement or require compliance with the plan.

(f) Requires the court to review the report filed by DFPS under Section 263.007 and inquire into the sufficiency of DFPS's efforts to identify, locate, and provide information to each adult described by Section 262.1095(a). Requires the court to order DFPS to make further efforts to identify, locate, and provide information to each adult described by Section 262.1095(a) if the court determines that DFPS' efforts have not been sufficient.

(g) Requires the court to give the child's parents an opportunity to comment on the service plan.

(h) Requires the court, if a proposed child placement resources form as described by Section 261.307 has not been submitted, to require each parent, alleged father, or other person to whom DFPS is required to provide a form to submit a completed form.

SECTION 8. Amends Subchapter C, Chapter 263, Family Code, by adding Section 263.203, as follows:

Sec. 263.203. APPOINTMENT OF ATTORNEY AD LITEM; ADMONISHMENTS.

(a) Requires the court to advise the parties of the provisions regarding the mandatory appointment of an attorney ad litem under Subchapter A (Court-Ordered Representation in Suits Affecting the Parent-Child Relationship), Chapter 107, and to appoint an attorney ad litem to represent the interests of any person eligible if the appointment is required by that subchapter.

(b) Requires the court to advise the parties that progress under the service plan will be reviewed at all subsequent hearings, including a review of whether the

parties have acquired or learned any specific skills or knowledge stated in the plan.

SECTION 9. Repealers: Sections 263.202(c) (relating to reviewing progress under the service plan at all subsequent hearings) and (d) (relating to waiving the service plan under certain circumstances), Family Code.

SECTION 10. Makes application of the changes in law made by this Act to Chapters 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) and 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services), Family Code, prospective.

SECTION 11. Effective date: September 1, 2011.