

By: Thompson, Parker

H.B. No. 3123

A BILL TO BE ENTITLED

AN ACT

1
2 relating to codifying federal foster care funding requirements to
3 locate and provide information to relatives and other adults
4 following the removal of a child by the Department of Family and
5 Protective Services, and court findings regarding those efforts.

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

7 SECTION 1. Subchapter B, Chapter 262, Family Code, is
8 amended by adding Section 262.115 to read as follows:

9 Sec. 262.115. DUTY TO INFORM ADULT RELATIVES AND OTHER
10 PERSONS FOLLOWING REMOVAL OF A CHILD. (a) Except as provided by
11 subsection (d), if a child is removed from home, the department
12 shall within 30 days of the removal exercise due diligence to
13 identify and provide information to the following persons:

14 (1) at minimum:

15 (i) all adult relatives related to the child
16 within the third degree of consanguinity or affinity as defined by
17 Chapter 573, Government Code, including the adult relatives of the
18 alleged father that the department determines is the most likely to
19 be the biological father; and

20 (ii) all adult persons identified in a child
21 placement resources form completed by a parent, a person having
22 legal custody of the child, an alleged father, or relative.

23 (2) at the department's discretion, any other adult
24 relatives or adult persons with a longstanding and significant

1 relationship with the child that the department has determined to
2 be a possible appropriate placement for the child.

3 (b) To identify and locate the persons under subsection (a),
4 the department shall seek information from the parent(s), alleged
5 father, relatives that have been located, and the child, in an
6 age-appropriate manner. A parent or alleged father's failure to
7 complete a child placement resources form does not satisfy the
8 department's duty to seek information from the parent under this
9 subsection.

10 (c) The information to persons under this section shall
11 provide:

12 (1) that the child has been removed from his or her
13 home;

14 (2) an explanation of the various options to
15 participate in the care and placement of the child and support for
16 the child's family, including any options that may be lost by
17 failing to respond; and

18 (3) the date, time, and location of the status hearing,
19 if one has been set, inviting the person's participation in the
20 case. If the status hearing has not been set, the department shall
21 subsequently provide these persons with the date, time, and
22 location of the status hearing.

23 (d) The department is not required to provide information to
24 a person under subsection (a)(1) if the person:

25 (1) has a history of family or domestic violence or a
26 criminal history that makes participation inappropriate; or

27 (2) has already received service of citation under

1 Section 102.009.

2 (e) Before the status hearing conducted under Subchapter C
3 of Chapter 263, the department shall file an report with the court
4 stating the efforts made to locate and provide information to
5 persons as required by this section and efforts made to locate an
6 alleged father of the child, regardless of whether that alleged
7 father has registered with the registry established under
8 Subchapter E, Chapter 160. The report shall list the names of
9 persons that have been located and provided information. If a
10 person under part (1) of subsection (a) has not been located or
11 provided information, the report shall state any reason for not
12 locating or providing information to that person.

13 (f) The court shall review the report, inquire into the
14 department's diligent efforts, and make orders directing the
15 department to continue efforts to locate certain persons if
16 appropriate.

17 SECTION 2. Section 263.103, Family Code, is amended to read
18 as follows:

19 Sec. 263.103. SERVICE PLAN: SIGNING AND TAKING EFFECT. (a)
20 The service plan shall be developed jointly by the parent(s) of the
21 child and a representative of the department or other agency. If the
22 parent is not able or willing to participate in the development of
23 the case plan, it should be so noted in the plan.

24 (a-1) Before the service plan is signed, the child's parents
25 and the representative of the department or other agency shall
26 discuss each term and condition of the plan.

27 (b) The child's parents and the person preparing the service

1 plan shall sign the plan, and the department shall give each parent
2 a copy of the service plan.

3 (c) If the department or other authorized agency determines
4 that the child's parents are unable or unwilling to participate in
5 the development of the service plan or sign the service plan, the
6 department may file the plan without the parents' signatures.

7 (d) The plan takes effect when:

8 (1) the child's parents and the appropriate
9 representative of the department or other authorized agency sign
10 the plan; or

11 (2) the court issues an order giving effect to a plan
12 [~~department or other authorized agency~~] filed[s the plan] with the
13 court without the parent(s)' signatures.

14 (e) The service plan is in effect until amended by the court
15 or by agreement of the parties.

16 SECTION 3. Section 263.201, Family Code, is amended to read
17 as follows:

18 Sec. 263.201. STATUS HEARING; TIME. (a) Not later than
19 the 60th day after the date the court renders a temporary order
20 appointing the department as temporary managing conservator of a
21 child, the court shall hold a status hearing to review the child's
22 status and the service plan developed for the child.

23 (b) A status hearing is not required if the court holds an
24 initial permanency hearing under Section 262.2015 before the date a
25 status hearing is required by this section and the court makes the
26 findings required by this subchapter during the permanency hearing.

27 SECTION 4. Section 263.202(a), Family Code, is amended to

1 read as follows:

2 Sec. 263.202. STATUS HEARING; FINDINGS. (a) If all
3 parties or persons entitled to service of citation and notice of the
4 status hearing [~~under this chapter~~] were not served, the court
5 shall make findings as to whether:

6 (1) the department [~~or other agency~~] has exercised due
7 diligence to locate all necessary persons, including an alleged
8 father of the child, regardless of whether that alleged father has
9 registered with the registry established under Subchapter E,
10 Chapter 160; and

11 (2) that each [custodial] parent, alleged father, [or]
12 relative of the child, and child before the court has furnished to
13 the department all available information necessary to locate
14 another absent parent, alleged father, or relative of the child
15 through exercise of due diligence.

16 (b) The court shall review the report filed by the
17 department, as provided by Section 262.115, inquire into the
18 department's diligent efforts, and determine whether the
19 department has satisfied its duty to locate and provide information
20 to all adult relatives and other persons, as required by Section
21 262.115. The court shall order the department to continue making
22 diligent efforts to locate and provide information to certain
23 persons, if appropriate.

24 (c) The court shall require each parent, alleged father, or
25 relative of the child before the court to submit the child placement
26 resources form provided under Section 261.307 at the status
27 hearing, if the form has not previously been submitted.

1 (d) ~~[Except as provided by Subsection (e), a status hearing~~
2 ~~shall be limited to matters related to]~~ The court shall review the
3 contents and execution of the service plan filed with the court~~[-~~
4 ~~The court shall review the service plan that the department or other~~
5 ~~agency filed under this chapter]~~ for reasonableness, accuracy, and
6 compliance with requirements of court orders. The court shall
7 ~~[and]~~ make findings as to whether:

8 (1) a plan that has the goal of returning the child to
9 the child's parents adequately ensures that reasonable efforts are
10 made to enable the child's parents to provide a safe environment for
11 the child; ~~[and]~~

12 (2) the plan is reasonably tailored to address
13 specific issues identified by the department;

14 (3) the child's parents have reviewed and understand
15 the service plan; and

16 (4) the child's parent and representative of the
17 department or other authorized agency have signed the plan. ~~[have~~
18 ~~been advised that unless the parents are willing and able to provide~~
19 ~~the child with a safe environment, even with the assistance of a~~
20 ~~service plan, within the reasonable period of time specified in the~~
21 ~~plan, the parents' parental and custodial duties and rights may be~~
22 ~~subject to restriction or to termination under this code or the~~
23 ~~child may not be returned to the parents.]~~

24 ~~(e) The court shall advise the parties that progress under~~
25 ~~the service plan will be reviewed at all subsequent hearings,~~
26 ~~including a review of whether the parties have acquired or learned~~
27 ~~any specific skills or knowledge stated in the service plan.~~

1 ~~(d) If a service plan with respect to a parent has not been~~
2 ~~filed with the court, the court shall consider whether to waive the~~
3 ~~service plan under Section 262.2015.~~

4 (e) The court shall give the parent or parents an opportunity
5 to express any concerns relating to the plan.

6 ~~(ef)~~ At the status hearing, the court shall make a finding
7 as to whether the court has identified the individual who has the
8 right to consent for the child under Section 266.003.

9 SECTION 5. Subchapter C, Chapter 263, Family Code is
10 amended by adding Section 263.203 to read as follows:

11 Sec. 263.203. STATUS HEARING; ADMONISHMENTS. (a) If any
12 person eligible for an appointed attorney ad litem under Chapter
13 107 has not already received an appointed attorney or hired
14 counsel, the court should advise that person of the right to court
15 appointed counsel if the requirements of those sections are met.
16 The court shall appoint an attorney for any eligible persons.

17 (b) The court shall inform each parent in open court that
18 parental and custodial rights and duties may be subject to
19 restriction or to termination unless the parent or parents are
20 willing and able to provide the child with a safe environment.

21 (c) The court shall advise the parties that progress under
22 the service plan will be reviewed at all subsequent hearings,
23 including a review of whether the parties have acquired or learned
24 any specific skills or knowledge stated in the service plan.

25 SECTION 6. Section 263.104, Family Code, is repealed.

26 SECTION 7. This Act takes effect September 1, 2011.