

AN ACT

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.

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

SECTION 1. Chapter 264, Family Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. PARENTAL CHILD SAFETY PLACEMENTS

Sec. 264.901. DEFINITIONS. In this subchapter:

(1) "Caregiver" means an individual, other than a child's parent, conservator, or legal guardian, who is related to the child or has a long-standing and significant relationship with the child or the child's family.

(2) "Parental child safety placement" means a temporary out-of-home placement of a child with a caregiver that is made by a parent or other person with whom the child resides in accordance with a written agreement approved by the department that ensures the safety of the child:

(A) during an investigation by the department of alleged abuse or neglect of the child; or

(B) while the parent or other person is receiving services from the department.

(3) "Parental child safety placement agreement" means an agreement between a parent or other person making a parental

1 child safety placement and the caregiver that contains the terms of
2 the placement and is approved by the department.

3 Sec. 264.902. PARENTAL CHILD SAFETY PLACEMENT AGREEMENT.

4 (a) A parental child safety placement agreement must include terms
5 that clearly state:

6 (1) the respective duties of the person making the
7 placement and the caregiver, including a plan for how the caregiver
8 will access necessary medical treatment for the child and the
9 caregiver's duty to ensure that a school-age child is enrolled in
10 and attending school;

11 (2) conditions under which the person placing the
12 child may have access to the child, including how often the person
13 may visit and the circumstances under which the person's visit may
14 occur;

15 (3) the duties of the department;

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

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

21 (b) A parental child safety placement agreement must
22 contain the following statement in boldface type and capital
23 letters: "YOUR AGREEMENT TO THE PARENTAL CHILD SAFETY PLACEMENT IS
24 NOT AN ADMISSION OF CHILD ABUSE OR NEGLECT ON YOUR PART AND CANNOT
25 BE USED AGAINST YOU AS AN ADMISSION OF CHILD ABUSE OR NEGLECT."

26 (c) A parental child safety placement agreement must be in
27 writing and signed by the person making the placement and the

1 caregiver.

2 (d) The department must provide a written copy of the
3 parental child safety placement agreement to the person making the
4 placement and the caregiver.

5 Sec. 264.903. CAREGIVER EVALUATION. (a) The department
6 shall develop policies and procedures for evaluating a potential
7 caregiver's qualifications to care for a child under this
8 subchapter, including policies and procedures for evaluating:

9 (1) the criminal history of a caregiver;

10 (2) allegations of abuse or neglect against a
11 caregiver; and

12 (3) a caregiver's home environment and ability to care
13 for the child.

14 (b) A department caseworker who performs an evaluation of a
15 caregiver under this section shall document the results of the
16 evaluation in the department's case records.

17 (c) If, after performing an evaluation of a potential
18 caregiver, the department determines that it is not in the child's
19 best interest to be placed with the caregiver, the department shall
20 notify the person who proposed the caregiver and the proposed
21 caregiver of the reasons for the department's decision, but may not
22 disclose the specifics of any criminal history or allegations of
23 abuse or neglect unless the caregiver agrees to the disclosure.

24 Sec. 264.904. DEPARTMENT PROCEDURES FOR CLOSING CASE.

25 (a) Before closing a case in which the department has approved a
26 parental child safety placement, the department must develop a plan
27 with the person who made the placement and the caregiver for the

1 safe return of the child to the person who placed the child with the
2 caregiver or to another person legally entitled to possession of
3 the child, as appropriate.

4 (b) The department may close a case with a child still
5 living with the caregiver in a parental child safety placement if
6 the department has determined that the child could safely return to
7 the parent or person who made the parental child safety placement
8 but the parent or other person agrees in writing for the child to
9 continue to reside with the caregiver.

10 (c) If the department determines that the child is unable to
11 safely return to the parent or person who made the parental child
12 safety placement, the department shall determine whether the child
13 can remain safely in the home of the caregiver or whether the
14 department must seek legal conservatorship of the child in order to
15 ensure the child's safety.

16 (d) Before the department may close a case with a child
17 still living in a parental child safety placement, the department
18 must:

19 (1) determine and document in the case file that the
20 child can safely remain in the placement without the department's
21 supervision;

22 (2) obtain the written agreement of the parent or
23 person who made the parental child safety placement, if possible;

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

27 (4) develop a written plan for the child's care after

1 the department closes the case.

2 (e) The department is not required to comply with Subsection
3 (d) if the department has filed suit seeking to be named conservator
4 of the child under Chapter 262 and been denied conservatorship of
5 the child.

6 Sec. 264.905. REMOVAL OF CHILD BY DEPARTMENT. This
7 subchapter does not prevent the department from removing a child at
8 any time from a person who makes a parental child safety placement
9 or from a caregiver if removal is determined to be necessary by the
10 department for the safety and welfare of the child as provided by
11 Chapter 262.

12 Sec. 264.906. PLACEMENT PREFERENCE DURING CONSERVATORSHIP.
13 If, while a parental child safety placement agreement is in effect,
14 the department files suit under Chapter 262 seeking to be named
15 managing conservator of the child, the department shall give
16 priority to placing the child with the parental child safety
17 placement caregiver as long as the placement is safe and available.

18 SECTION 2. Subchapter B, Chapter 262, Family Code, is
19 amended by adding Section 262.1095 to read as follows:

20 Sec. 262.1095. INFORMATION PROVIDED TO RELATIVES AND
21 CERTAIN INDIVIDUALS; INVESTIGATION. (a) When the Department of
22 Family and Protective Services or another agency takes possession
23 of a child under this chapter, the department:

24 (1) shall provide information as prescribed by this
25 section to each adult the department is able to identify and locate
26 who:

27 (A) is related to the child within the third

1 degree by consanguinity as determined under Chapter 573, Government
2 Code, or is an adult relative of the alleged father of the child who
3 the department determines is most likely to be the child's
4 biological father; and

5 (B) is identified as a potential relative or
6 designated caregiver, as defined by Section 264.751, on the
7 proposed child placement resources form provided under Section
8 261.307; and

9 (2) may provide information as prescribed by this
10 section to each adult the department is able to identify and locate
11 who has a long-standing and significant relationship with the
12 child.

13 (b) The information provided under Subsection (a) must:

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

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

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

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

25 (c) The department is not required to provide information to
26 an individual if the individual has received service of citation
27 under Section 102.009 or if the department determines providing

1 information is inappropriate because the individual has a criminal
2 history or a history of family violence.

3 (d) The department shall use due diligence to identify and
4 locate all individuals described by Subsection (a) not later than
5 the 30th day after the date the department files a suit affecting
6 the parent-child relationship. In order to identify and locate the
7 individuals described by Subsection (a), the department shall seek
8 information from:

9 (1) each parent, relative, and alleged father of the
10 child; and

11 (2) the child in an age-appropriate manner.

12 (e) The failure of a parent or alleged father of the child to
13 complete the proposed child placement resources form does not
14 relieve the department of its duty to seek information about the
15 person under Subsection (d).

16 SECTION 3. Subchapter A, Chapter 263, Family Code, is
17 amended by adding Section 263.007 to read as follows:

18 Sec. 263.007. REPORT REGARDING NOTIFICATION OF RELATIVES.
19 Not later than the 10th day before the date set for a hearing under
20 Subchapter C, the department shall file with the court a report
21 regarding:

22 (1) the efforts the department made to identify,
23 locate, and provide information to the individuals described by
24 Section 262.1095;

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

27 (3) if applicable, an explanation of why the

1 department was unable to identify, locate, or provide information
2 to an individual described by Section 262.1095.

3 SECTION 4. The heading to Section 263.105, Family Code, is
4 amended to read as follows:

5 Sec. 263.105. REVIEW OF SERVICE PLAN; MODIFICATION.

6 SECTION 5. Section 263.105, Family Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) The court may modify an original or amended service plan
9 at any time.

10 SECTION 6. Subsection (b), Section 263.201, Family Code, is
11 amended to read as follows:

12 (b) A status hearing is not required if the court holds an
13 initial permanency hearing under Section 262.2015 and makes
14 findings required by Section 263.202 before the date a status
15 hearing is required by this section.

16 SECTION 7. Section 263.202, Family Code, is amended by
17 amending Subsections (a) and (b) and adding Subsections (b-1), (f),
18 (g), and (h) to read as follows:

19 (a) If all persons [~~parties~~] entitled to citation and notice
20 of a status hearing under this chapter were not served, the court
21 shall make findings as to whether:

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

27 (2) the child and each [~~custodial~~] parent, alleged

1 father, or relative of the child before the court have [~~has~~]
2 furnished to the department all available information necessary to
3 locate an [~~another~~] absent parent, alleged father, or relative of
4 the child through exercise of due diligence.

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

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

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

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

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

27 (b-1) After reviewing the service plan and making any

1 necessary modifications, the court shall incorporate the service
2 plan into the orders of the court and may render additional
3 appropriate orders to implement or require compliance with the
4 plan.

5 (f) The court shall review the report filed by the
6 department under Section 263.007 and inquire into the sufficiency
7 of the department's efforts to identify, locate, and provide
8 information to each adult described by Section 262.1095(a). The
9 court shall order the department to make further efforts to
10 identify, locate, and provide information to each adult described
11 by Section 262.1095(a) if the court determines that the
12 department's efforts have not been sufficient.

13 (g) The court shall give the child's parents an opportunity
14 to comment on the service plan.

15 (h) If a proposed child placement resources form as
16 described by Section 261.307 has not been submitted, the court
17 shall require each parent, alleged father, or other person to whom
18 the department is required to provide a form to submit a completed
19 form.

20 SECTION 8. Subchapter C, Chapter 263, Family Code, is
21 amended by adding Section 263.203 to read as follows:

22 Sec. 263.203. APPOINTMENT OF ATTORNEY AD LITEM;
23 ADMONISHMENTS. (a) The court shall advise the parties of the
24 provisions regarding the mandatory appointment of an attorney ad
25 litem under Subchapter A, Chapter 107, and shall appoint an
26 attorney ad litem to represent the interests of any person eligible
27 if the appointment is required by that subchapter.

1 (b) The court shall advise the parties that progress under
2 the service plan will be reviewed at all subsequent hearings,
3 including a review of whether the parties have acquired or learned
4 any specific skills or knowledge stated in the plan.

5 SECTION 9. Subsections (c) and (d), Section 263.202, Family
6 Code, are repealed.

7 SECTION 10. The changes in law made by this Act to Chapters
8 262 and 263, Family Code, apply only to a child taken into
9 possession by the Department of Family and Protective Services or
10 another agency on or after the effective date of this Act. A child
11 taken into possession before that date is governed by the law in
12 effect on the date the child is taken into possession, and the
13 former law is continued in effect for that purpose.

14 SECTION 11. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 993 passed the Senate on April 21, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 993 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor