

BILL ANALYSIS

Senate Research Center

S.B. 352
By: West
Jurisprudence
7/16/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Research and practice indicates that frequent and quality contact between children and their parents positively impacts infant and toddler brain development, promotes well-being in children, and increases the possibility of reunification if a child has been removed from the home.

To ensure appropriate attachment and bonding for children who are in the temporary managing conservatorship of the Department of Family and Protective Services (DFPS), and for whom the permanency goal is to reunify them with their parents, frequent and quality visitation, initiated early after a child is removed, should take place.

S.B. 352 calls for an initial visit between a child and parent within three days of DFPS being named temporary managing conservator, if DFPS has determined that reunification is the goal. The bill also calls for a visitation plan that allows the most visits between the child and each parent.

S.B. 352 amends current law relating to visitation for certain children in the temporary managing conservatorship of the Department of Family and Protective Services.

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 Subchapter B, Chapter 262, Family Code, by adding Section 262.115, as follows:

Sec. 262.115. VISITATION WITH CERTAIN CHILDREN; TEMPORARY VISITATION SCHEDULE. (a) Defines "department" in this section.

(b) Provides that this section applies only to a child who is in the temporary managing conservatorship of the Department of Family and Protective Services (DFPS), and for whom DFPS's goal is reunification of the child with the child's parent.

(c) Requires DFPS to ensure that a parent who is otherwise entitled to possession of the child has an opportunity to visit the child not later than the third day after the date DFPS is named temporary managing conservator of the child unless:

- (1) DFPS determines that visitation is not in the child's best interests; or
- (2) visitation with the parent would conflict with a court order relating to possession of or access to the child.

(d) Requires DFPS in collaboration with each parent of the child, before a hearing conducted under Subchapter C (Adversary Hearing), to develop a

temporary visitation schedule for the child's visits with each parent. Authorizes the visitation schedule to conform to DFPS's minimum visitation policies. Requires DFPS to consider the factors listed in Section 263.107(c) in developing the temporary visitation schedule. Provides that the schedule remains in effect, unless modified by court order, until a visitation plan is developed under Section 263.107.

(e) Authorizes DFPS to include the temporary visitation schedule in any report DFPS submits to the court before or during a hearing under Subchapter C. Authorizes the court to render any necessary order regarding the temporary visitation schedule.

SECTION 2. Amends the heading to Chapter 263, Family Code, to read as follows:

CHAPTER 263. REVIEW OF PLACEMENT OF CHILDREN UNDER CARE OF
DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

SECTION 3. Amends the heading to Subchapter B, Chapter 263, Family Code, to read as follows:

SUBCHAPTER B. SERVICE PLAN AND VISITATION PLAN

SECTION 4. Amends Subchapter B, Chapter 263, Family Code, by adding Sections 263.107, 263.108, and 263.109, as follows:

Sec. 263.107. VISITATION PLAN. (a) Provides that this section applies only to a child in the temporary managing conservatorship of DFPS for whom DFPS's goal is reunification of the child with the child's parent.

(b) Requires DFPS in collaboration with each parent of the child, not later than the 30th day after the date DFPS is named temporary managing conservator of a child, to develop a visitation plan.

(c) Requires DFPS, in determining the frequency and circumstances of visitation under this section, to consider the safety and best interest of the child, the age of the child, the desires of each parent regarding visitation with the child, the location of each parent and the child, and the resources available to DFPS, including resources to ensure that visitation is properly supervised by a DFPS employee or an available and willing volunteer DFPS determines suitable after conducting a background and criminal history check, and provide transportation to and from visits.

(d) Requires DFPS, not later than the 10th day before the date of a status hearing under Section 263.201 (Status Hearing; Time), to file with the court a copy of the visitation plan developed under this section.

(e) Authorizes DFPS to amend the visitation plan on mutual agreement of the child's parents and DFPS or as DFPS considers necessary to ensure the safety of the child. Requires that an amendment to the visitation plan be in the child's best interest. Requires DFPS to file a copy of any amended visitation plan with the court.

(f) Prohibits a visitation plan developed under this section from conflicting with a court order relating to possession of or access to the child.

Sec. 263.108. REVIEW OF VISITATION PLAN; MODIFICATION. (a) Requires the court, at the first hearing held under this chapter after the date an original or amended visitation plan is filed with the court under Section 263.107, to review the visitation plan, taking into consideration the factors specified in Section 263.107(c).

(b) Authorizes the court to modify, or order DFPS to modify, an original or amended visitation plan at any time.

(c) Authorizes a parent who is entitled to visitation under a visitation plan to at any time file a motion with the court to request review and modification of an original or amended visitation plan.

Sec. 263.109. COURT IMPLEMENTATION OF VISITATION PLAN. (a) Requires the court, after reviewing an original or amended visitation plan, to render an order regarding a parent's visitation with a child that the court determines appropriate.

(b) Requires the court, if the court finds that visitation between a child and a parent is not in the child's best interest, to render an order that states the reasons for finding that visitation is not in the child's best interest, and outlines specific steps the parent is required to take to be allowed to have visitation with the child.

(c) Requires that the order, if the order regarding visitation between a child and a parent requires supervised visitation to protect the health and safety of the child, outline specific steps the parent is required to take to have the level of supervision reduced.

SECTION 5. Amends Section 263.306(a), Family Code, as follows:

(a) Requires the court at each permanency hearing to:

(1)-(3) Makes no change to these subdivisions;

(4) review any visitation plan or amended plan required under Section 263.107 and render any orders for visitation the court determines necessary;

(5)-(12) Makes nonsubstantive changes;

(13) if the child is committed to the Texas Juvenile Justice Department (TJJD) or released under supervision by TJJD, determine whether the child's needs for treatment, rehabilitation, and education are being met, rather than if the child is committed to the Texas Youth Commission (TYC) or released under supervision by TYC, determine whether the child's needs for treatment, rehabilitation, and education are being met; and

(14) Makes a nonsubstantive change.

SECTION 6. Reenacts Section 411.114(a)(3), Government Code, as amended by Chapters 598 (S.B. 218), 1056 (S.B. 221), and 1082 (S.B. 1178), Acts of the 82nd Legislature, Regular Session, 2011, and amends it to entitle DFPS to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to certain persons, including a person who volunteers to supervise visitation under Subchapter B, Chapter 263, Family Code.

SECTION 7. Makes application of the changes in law made by this Act prospective.

SECTION 8. Provides that to the extent of any conflict, this Act prevails over any other Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 9. Effective date: September 1, 2013.